S. HRG. 109–576

# THE THOMASINA JORDAN INDIAN TRIBES OF VIRGINIA FEDERAL RECOGNITION ACT AND THE GRAND RIVER BAND OF OTTAWA INDIANS OF MICHIGAN REFERRAL ACT

## HEARING

BEFORE THE

## COMMITTEE ON INDIAN AFFAIRS
## UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

SECOND SESSION

ON

## S. 437

TO EXPEDITE REVIEW OF THE GRAND RIVER BAND OF OTTAWA INDIANS OF MICHIGAN TO SECURE A TIMELY AND JUST DETERMINATION OF WHETHER THAT GROUP IS ENTITLED TO RECOGNITION AS A FEDERAL INDIAN TRIBE

## S. 480

TO EXTEND FEDERAL RECOGNITION TO THE CHICKAHOMINY INDIAN TRIBE, THE CHICKAHOMINY INDIAN TRIBE—EASTERN DIVISION, THE UPPER MATTAPONI TRIBE, THE RAPPAHANNOCK TRIBE, INC., THE MONACAN INDIAN NATION, AND THE NANSEMOND INDIAN TRIBE

JUNE 21, 2006
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# THE THOMASINA E. JORDAN INDIAN TRIBES OF VIRGINIA FEDERAL RECOGNITION ACT AND THE GRAND RIVER BAND OF OTTAWA INDIANS OF MICHIGAN REFERRAL ACT

**WEDNESDAY, JUNE 21, 2006**

U.S. SENATE,
COMMITTEE ON INDIAN AFFAIRS,
*Washington, DC.*

The committee met, pursuant to notice, at 9:30 a.m. in room 485, Senate Russell Office Building, Hon. John McCain (chairman of the committee) presiding.

Present: Senators McCain, Dorgan, and Thomas

## STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA, CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. Good morning. We are here today to receive testimony on two bills, S. 437, the Grand River Band of Ottawa Indians of Michigan Referral Act, and S. 480, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2005.

These bills, if enacted, would allow the mentioned Indian groups to bypass the Department of the Interior Federal acknowledgement process regulations. According to a status report sent to the committee by the DOI Office of Federal Acknowledgement, each of the groups listed in the bills have submitted petitions for recognition through the DOI regulations.

The solemnity of Federal recognition which establishes a government-to-government relationship between the United States and an Indian tribe demands not only a fair and transparent process but a process that is above reproach. And, while the relationship established is Federal, the impacts are felt locally, as well, as has been reported to this Committee by States attorneys general and local communities.

Hearings held by this committee in the past have indicated that the regulatory process, although well intentioned, can be criticized as too slow, too costly, and too opaque. Recognition by legislation, on the other hand, has been justly criticized for being too summary and arbitrary. Therefore, it is Congress' responsibility to ensure that the decision whether to extend recognition to an Indian group be conducted in a fair and transparent fashion, in keeping with the gravity of that decision.

It has long been my view that Congress is ill equipped to conduct the rigorous review needed to provide the basis for such a decision.

It is also my view that is substantively unfair to provide a legislative path short-circuiting the process for some tribes while others labor for years to get through the regulations. On the other hand, there are, from time to time, extenuating circumstances for particular Indian groups that require Congressional resolution, and I have supported legislation in those circumstances.

The witnesses today will provide testimony, both pro and con, as to the unique history of each of the groups listed in these bills and whether the extenuating circumstances exist such that Congressional recognition is warranted.

I also welcome our colleagues from the Senate who are here and those from the House who have sponsored this legislation.

[Text of S. 437 and S. 480 follow:]

II

109TH CONGRESS
1ST SESSION

# S. 437

To expedite review of the Grand River Band of Ottawa Indians of Michigan to secure a timely and just determination of whether that group is entitled to recognition as a Federal Indian tribe.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2005

Mr. LEVIN (for himself and Ms. STABENOW) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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# A BILL

To expedite review of the Grand River Band of Ottawa Indians of Michigan to secure a timely and just determination of whether that group is entitled to recognition as a Federal Indian tribe.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Grand River Band of Ottawa Indians of Michigan Referral Act''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—REFERRAL TO THE SECRETARY

Sec. 101. Purpose.
Sec. 102. Report.
Sec. 103. Action by Congress.

TITLE II—MEMBERSHIP; JURISDICTION; LAND

Sec. 201. Recognition.
Sec. 202. Membership.
Sec. 203. Federal services and benefits.
Sec. 204. Rights of the Tribe.
Sec. 205. Tribal funds.
Sec. 206. Jurisdiction of trust land.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) BAND; TRIBE.—The terms ''Band'' and ''Tribe'' mean the Grand River Band of the Ottawa Indians of Michigan.

(2) DATE OF RECOGNITION.—The term ''date of recognition'' means the date on which recognition of the Tribe by the Secretary was published in the Federal Register under section 201.

(3) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

# TITLE I—REFERRAL TO THE SECRETARY

**SEC. 101. PURPOSE.**

The purpose of this title is to obtain an expedited review of the petition of the Band in order to secure a timely and just determination of whether the Band is entitled to recognition as a Federal Indian tribe under the rules that govern the recognition of a new group as an Indian tribe.

**SEC. 102. REPORT.**

(a) IN GENERAL.—Not later than August 31, 2005, the Secretary shall review the petition of the Band and submit to Congress a report describing the findings of the Secretary regarding whether—

(1) the majority of members of the Band are descendants of, and political successors to, signatories of—

(A) the treaty made and concluded at Chicago, in the State of Illinois, between Lewis Cass and Solomon Sibley, Commissioners of the United States, and the Ottawa, Chippewa, and Pottawatamie, Nations of Indians on August 29, 1821 (7 Stat. 218);

(B) the treaty made and concluded at the city of Washington in the District of Columbia,

between Henry R. Schoolcraft, commissioner on the part of the United States, and the Ottawa and Chippewa nations of Indians, by their chiefs and delegates on March 28, 1836 (7 Stat. 491); and

(C) the articles of agreement and convention made and concluded at the city of Detroit, in the State of Michigan, July 31, 1855, between George W. Manypenny and Henry C. Gilbert, commissioners on the part of the United States, and the Ottawa and Chippewa Indians of Michigan, parties to the treaty of March 28, 1836;

(2) the history of the Band parallels the history of Indian tribes the members of which are descendants of the signatories to the treaties described in subparagraphs (B) and (C) of paragraph (1), including—

(A) the Grand Traverse Band of Ottawa and Chippewa Indians;

(B) the Sault Ste. Marie Tribe of Chippewa Indians;

(C) the Bay Mills Band of Chippewa Indians;

(D) the Little Traverse Bay Band of Odawa Indians; and

(E) the Little River Band of Ottawa Indians;

(3) the majority of members of the Band continue to reside in the ancestral homeland of the Band (which is now the Western lower quadrant of the State of Michigan), as recognized in the treaties described in paragraph (1);

(4)(A) the Band filed for reorganization of the tribal government of the Band in 1935 under the Act of June 18, 1934 (commonly referred to as the ''Indian Reorganization Act'') (25 U.S.C. 461 et seq.);

(B) the Commissioner of Indian Affairs attested to the continued social and political existence of the Band and concluded that the Band was eligible for reorganization; and

(C) due to a lack of Federal appropriations to implement the provisions of the Indian Reorganization Act, the Band was denied the opportunity to reorganize;

(5)(A) the Band continued political and social existence as a viable tribal government during the participation of the Band in the Northern Michigan

Ottawa Association in 1948, which subsequently pursued a successful land claim with the Indian Claims Commission; and

(B) the Band carried out tribal governmental functions through the Northern Michigan Ottawa Association while retaining control over local decisions;

(6) the Federal Government, the government of the State of Michigan, and local governments have had continuous dealings with recognized political leaders of the Band from 1836 to the present; and

(7) the Band was included in the Michigan Indian Land Claims Settlement Act (Public Law 105–143; 111 Stat. 2652) and was required to submit a fully documented petition not later than December 15, 2000, to qualify for land claim funds set aside for the Band, which the Secretary segregated and holds in trust for the Band pending recognition as the respective share of funds of the Band under that Act.

(b) CONSULTATION.—In carrying out this section, the Secretary shall consult with and request information from—

(1) elected leaders of the Band; and

(2) anthropologists, ethno-historians, and genealogists associated with the Band;

(3) attorneys of the Band; and

(4) other experts, as the Secretary determines appropriate.

(c) CONCLUSION.—

(1) POSITIVE REPORT.—Not later than August 31, 2005, if the Secretary determines by a preponderance of the evidence that the Band satisfies each condition of subsection (a), the Secretary shall submit to Congress a positive report indicating that determination.

(2) NEGATIVE REPORT.—Not later than August 31, 2005, if the Secretary determines by a preponderance of the evidence that the Band fails to satisfy a condition of subsection (a), the Secretary shall submit to Congress a negative report indicating that determination.

(d) FAILURE TO SUBMIT REPORT.—If the Secretary fails to submit to Congress a report in accordance with subsection (c)—

(1) not later than November 30, 2005, the Secretary shall recognize the Band as an Indian tribe; and

(2) title II shall apply to the Band.

**SEC. 103. ACTION BY CONGRESS.**

(a) ACTION BY DEADLINE.—

(1) IN GENERAL.—If Congress acts on the report of the Secretary under section 102(c) by the date that is 60 days after the date of receipt of the report, the Secretary shall carry out the actions described in this subsection.

(2) POSITIVE REPORT.—If the Secretary submitted a positive report under section 102(c)(1)—

(A) not later than November 30, 2005, the Secretary shall recognize the Band as an Indian tribe; and

(B) title II shall apply to the Band.

(3) NEGATIVE REPORT.—If the Secretary submitted a negative report under section 102(c)(2), the Secretary shall—

(A) return the petition of the Band to the list maintained by the Office of Federal Acknowledgment; and

(B) grant the Band any opportunity available to the Band to prove the status of the Band as an Indian tribe.

(b) FAILURE TO ACT BY DEADLINE.—

(1) IN GENERAL.—If Congress fails to act on the report of the Secretary under section 102(c) by the date that is 60 days after the date of receipt of

the report, the Secretary shall carry out the actions described in this subsection.

(2) POSITIVE REPORT.—If the Secretary submitted a positive report under section 102(c)(1)—

(A) not later than November 30, 2005, the Secretary shall recognize the Band as an Indian tribe; and

(B) title II shall apply to the Band.

(3) NEGATIVE REPORT.—If the Secretary submitted a negative report under section 102(c)(2), the Secretary shall—

(A) return the petition of the Band to the list maintained by the Office of Federal Acknowledgment; and

(B) grant the Band any opportunity available to the Band to prove the status of the Band as an Indian tribe.

# TITLE II—MEMBERSHIP; JURISDICTION; LAND

**SEC. 201. RECOGNITION.**

Not later than November 30, 2005, if subsection (a)(2) or (b)(2) of section 103 applies, the Secretary shall—

(1) recognize the Tribe; and

(2) publish notice of the recognition by the Secretary in the Federal Register.

**SEC. 202. MEMBERSHIP.**

(a) LIST OF PRESENT MEMBERSHIP.—Not later than 120 days after the date of recognition, the Tribe shall submit to the Secretary a list of all individuals that were members of the Tribe on the date of recognition.

(b) LIST OF INDIVIDUALS ELIGIBLE FOR MEMBERSHIP.—

(1) IN GENERAL.—Not later than the date that is 18 months after the date of recognition, the Tribe shall submit to the Secretary a membership roll listing all individuals enrolled for membership in the Tribe.

(2) QUALIFICATIONS.—The qualifications for inclusion on the membership roll of the Tribe shall be determined by the Tribe, in consultation with the Secretary, based on the membership clause in the governing document of the Tribe.

(3) PUBLICATION OF NOTICE.—On receiving the membership roll under paragraph (1), the Secretary shall publish notice of the membership roll in the Federal Register.

(c) MAINTENANCE OF ROLLS.—The Tribe shall ensure that the membership roll of the Tribe is maintained.

**SEC. 203. FEDERAL SERVICES AND BENEFITS.**

(a) IN GENERAL.—Not later than October 31, 2005, the Tribe and each member of the Tribe shall be eligible for all services and benefits provided by the Federal Government to Indians because of their status as Indians without regard to—

(1) the existence of a reservation; or

(2) the location of the residence of a member on or near an Indian reservation.

(b) JURISDICTION.—

(1) IN GENERAL.—Subject to paragraph (2), for the purpose of delivering a Federal service to an enrolled member of the Tribe, the jurisdiction of the Tribe extends to—

(A) all land and water designated to the Ottawa in the treaties described in subparagraphs (A) and (B) of section 102(a)(1); and

(B) all land and water described in any other treaty that provides for a right of the Tribe.

(2) EFFECT OF FEDERAL LAW.—Notwithstanding paragraph (1), the jurisdiction of the Tribe shall be consistent with Federal law.

**SEC. 204. RIGHTS OF THE TRIBE.**

(a) ABROGATED AND DIMINISHED RIGHTS.—Any right or privilege of the Tribe or any member of the Tribe

that was abrogated or diminished before the date of recognition under section 201 is reaffirmed.

(b) EXISTING RIGHTS OF TRIBE.—

(1) IN GENERAL.—This Act does not diminish any right or privilege of the Tribe or any member of the Tribe that existed prior to the date of recognition.

(2) LEGAL AND EQUITABLE CLAIMS.—Except as otherwise provided in this Act, nothing in this Act alters or affects any legal or equitable claim of the Tribe to enforce any right or privilege reserved by or granted to the Tribe that was wrongfully denied to or taken from the Tribe prior to the date of recognition.

(c) FUTURE APPLICATIONS.—This Act does not address the merits of, or affect the right of the Tribe to submit, any future application regarding—

(1) placing land into trust; or

(2) gaming (as defined in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)).

**SEC. 205. TRIBAL FUNDS.**

Notwithstanding section 110 of the Michigan Indian Land Claims Settlement Act (111 Stat. 2663), effective beginning on the date of enactment of this Act, any funds

set aside by the Secretary for use by the Tribe shall be made available to the Tribe.

**SEC. 206. JURISDICTION OF TRUST LAND.**

(a) IN GENERAL.—The Tribe shall have jurisdiction over all land taken into trust by the Secretary for the benefit of the Tribe, to the maximum extent allowed by law.

(b) SERVICE AREA.—The Tribe shall have jurisdiction over all members of the Tribe that reside in the service area of the Tribe in matters pursuant to the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.), as if the members resided on a reservation (as defined in that Act).

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II

109TH CONGRESS
1ST SESSION

# S. 480

To extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe.

---

IN THE SENATE OF THE UNITED STATES

MARCH 1, 2005

Mr. ALLEN (for himself and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

---

# A BILL

To extend Federal recognition to the Chickahominy Indian Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2005''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CHICKAHOMINY INDIAN TRIBE

Sec. 101. Findings.
Sec. 102. Definitions.
Sec. 103. Federal recognition.
Sec. 104. Membership; governing documents.
Sec. 105. Governing body.
Sec. 106. Reservation of the Tribe.
Sec. 107. Hunting, fishing, trapping, gathering, and water rights.

TITLE II—CHICKAHOMINY INDIAN TRIBE—EASTERN DIVISION

Sec. 201. Findings.
Sec. 202. Definitions.
Sec. 203. Federal recognition.
Sec. 204. Membership; governing documents.
Sec. 205. Governing body.
Sec. 206. Reservation of the Tribe.
Sec. 207. Hunting, fishing, trapping, gathering, and water rights.

TITLE III—UPPER MATTAPONI TRIBE

Sec. 301. Findings.
Sec. 302. Definitions.
Sec. 303. Federal recognition.
Sec. 304. Membership; governing documents.
Sec. 305. Governing body.
Sec. 306. Reservation of the Tribe.
Sec. 307. Hunting, fishing, trapping, gathering, and water rights.

TITLE IV—RAPPAHANNOCK TRIBE, INC.

Sec. 401. Findings.
Sec. 402. Definitions.
Sec. 403. Federal recognition.
Sec. 404. Membership; governing documents.
Sec. 405. Governing body.
Sec. 406. Reservation of the Tribe.
Sec. 407. Hunting, fishing, trapping, gathering, and water rights.

TITLE V—MONACAN INDIAN NATION

Sec. 501. Findings.
Sec. 502. Definitions.
Sec. 503. Federal recognition.
Sec. 504. Membership; governing documents.
Sec. 505. Governing body.
Sec. 506. Reservation of the Tribe.
Sec. 507. Hunting, fishing, trapping, gathering, and water rights.

TITLE VI—NANSEMOND INDIAN TRIBE

Sec. 601. Findings.
Sec. 602. Definitions.
Sec. 603. Federal recognition.
Sec. 604. Membership; governing documents.
Sec. 605. Governing documents.
Sec. 606. Governing body.
Sec. 607. Reservation of the Tribe.
Sec. 608. Hunting, fishing, trapping, gathering, and water rights.

# TITLE I—CHICKAHOMINY INDIAN TRIBE

**SEC. 101. FINDINGS.**

Congress finds that—

(1) in 1607, when the English settlers set shore along the Virginia coastline, the Chickahominy Indian Tribe was 1 of about 30 tribes that received them;

(2) in 1614, the Chickahominy Indian Tribe entered into a treaty with Sir Thomas Dale, Governor of the Jamestown Colony, under which—

(A) the Chickahominy Indian Tribe agreed to provide 2 bushels of corn per man and send warriors to protect the English; and

(B) Sir Thomas Dale agreed in return to allow the Tribe to continue to practice its own tribal governance;

(3) in 1646, a treaty was signed which forced the Chickahominy from their homeland to the area around the York River in present-day King William County, leading to the formation of a reservation;

(4) in 1677, following Bacon's Rebellion, the Queen of Pamunkey signed the Treaty of Middle Plantation on behalf of the Chickahominy;

(5) in 1702, the Chickahominy were forced from their reservation, which caused the loss of a land base;

(6) in 1711, the College of William and Mary in Williamsburg established a grammar school for Indians called Brafferton College;

(7) a Chickahominy child was 1 of the first Indians to attend Brafferton College;

(8) in 1750, the Chickahominy Indian Tribe began to migrate from King William County back to the area around the Chickahominy River in New Kent and Charles City Counties;

(9) in 1793, a Baptist missionary named Bradby took refuge with the Chickahominy and took a Chickahominy woman as his wife;

(10) in 1831, the names of the ancestors of the modern-day Chickahominy Indian Tribe began to appear in the Charles City County census records;

(11) in 1901, the Chickahominy Indian Tribe formed Samaria Baptist Church;

(12) from 1901 to 1935, Chickahominy men were assessed a tribal tax so that their children could receive an education;

(13) the Tribe used the proceeds from the tax to build the first Samaria Indian School, buy supplies, and pay a teacher's salary;

(14) in 1919, C. Lee Moore, Auditor of Public Accounts for Virginia, told Chickahominy Chief O.W. Adkins that he had instructed the Commissioner of Revenue for Charles City County to record Chickahominy tribal members on the county tax rolls as Indian, and not as white or colored;

(15) during the period of 1920 through 1930, various Governors of the Commonwealth of Virginia wrote letters of introduction for Chickahominy Chiefs who had official business with Federal agencies in Washington, D.C.;

(16) in 1934, Chickahominy Chief O.W. Adkins wrote to John Collier, Commissioner of Indian Affairs, requesting money to acquire land for the Chickahominy Indian Tribe's use, to build school, medical, and library facilities and to buy tractors, implements, and seed;

(17) in 1934, John Collier, Commissioner of Indian Affairs, wrote to Chickahominy Chief O.W.

Adkins, informing him that Congress had passed the Act of June 18, 1934 (commonly known as the ''Indian Reorganization Act'') (25 U.S.C. 461 et seq.), but had not made the appropriation to fund the Act;

(18) in 1942, Chickahominy Chief O.W. Adkins wrote to John Collier, Commissioner of Indian Affairs, asking for help in getting the proper racial designation on Selective Service records for Chickahominy soldiers;

(19) in 1943, John Collier, Commissioner of Indian Affairs, asked Douglas S. Freeman, editor of the Richmond News-Leader newspaper of Richmond, Virginia, to help Virginia Indians obtain proper racial designation on birth records;

(20) Collier stated that his office could not officially intervene because it had no responsibility for the Virginia Indians, ''as a matter largely of historical accident'', but was ''interested in them as descendants of the original inhabitants of the region'';

(21) in 1948, the Veterans' Education Committee of the Virginia State Board of Education approved Samaria Indian School to provide training to veterans;

(22) that school was established and run by the Chickahominy Indian Tribe;

(23) in 1950, the Chickahominy Indian Tribe purchased and donated to the Charles City County School Board land to be used to build a modern school for students of the Chickahominy and other Virginia Indian tribes;

(24) the Samaria Indian School included students in grades 1 through 8;

(25) In 1961, Senator Sam Ervin, Chairman of the Subcommittee on Constitutional Rights of the Committee on the Judiciary of the Senate, requested Chickahominy Chief O.W. Adkins to provide assistance in analyzing the status of the constitutional rights of Indians ''in your area'';

(26) in 1967, the Charles City County school board closed Samaria Indian School and converted the school to a countywide primary school as a step toward full school integration of Indian and non-Indian students;

(27) in 1972, the Charles City County school board began receiving funds under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.) on behalf of Chickahominy students, which funding is provided as of the date of enactment of this Act under title V of the Indian

Self-Determination and Education Assistance Act (25 U.S.C. 458aaa et seq.);

(28) in 1974, the Chickahominy Indian Tribe bought land and built a tribal center using monthly pledges from tribal members to finance the transactions;

(29) in 1983, the Chickahominy Indian Tribe was granted recognition as an Indian tribe by the Commonwealth of Virginia, along with 5 other Indian tribes; and

(30) in 1985, Governor Gerald Baliles was the special guest at an intertribal Thanksgiving Day dinner hosted by the Chickahominy Indian Tribe.

**SEC. 102. DEFINITIONS.**

In this title:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) TRIBAL MEMBER.—The term ''tribal member'' means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—The term ''Tribe'' means the Chickahominy Indian Tribe.

**SEC. 103. FEDERAL RECOGNITION.**

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to—

(A) the existence of a reservation for the Tribe; or

(B) the location of the residence of any tribal member on or near any Indian reservation.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of Charles City County, Virginia.

**SEC. 104. MEMBERSHIP; GOVERNING DOCUMENTS.**

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

**SEC. 105. GOVERNING BODY.**

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

**SEC. 106. RESERVATION OF THE TRIBE.**

(a) IN GENERAL.—Notwithstanding any other provision of law, if, not later than 25 years after the date of enactment of this Act, the Tribe transfers to the Secretary land within the boundaries of the Virginia counties of Charles City, James City, or Henrico, the Secretary shall take the land into trust for the benefit of the Tribe.

(b) GAMING.—No reservation or tribal land or land taken into trust for the benefit of the Tribe shall be eligi-

ble to satisfy the terms for an exception under section 20(b)(1)(B) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)(1)(B)) to the prohibition on gaming on land acquired by the Secretary in trust for the benefit of an Indian tribe after October 17, 1988, under section 20(a) of that Act (25 U.S.C. 2719(a)).

**SEC. 107. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.**

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

# TITLE II—CHICKAHOMINY INDIAN TRIBE—EASTERN DIVISION

**SEC. 201. FINDINGS.**

Congress finds that—

(1) in 1607, when the English settlers set shore along the Virginia coastline, the Chickahominy Indian Tribe was 1 of about 30 tribes that received them;

(2) in 1614, the Chickahominy Indian Tribe entered into a treaty with Sir Thomas Dale, Governor of the Jamestown Colony, under which—

(A) the Chickahominy Indian Tribe agreed to provide 2 bushels of corn per man and send warriors to protect the English; and

(B) Sir Thomas Dale agreed in return to allow the Tribe to continue to practice its own tribal governance;

(3) in 1646, a treaty was signed which forced the Chickahominy from their homeland to the area around the York River in present-day King William County, leading to the formation of a reservation;

(4) in 1677, following Bacon's Rebellion, the Queen of Pamunkey signed the Treaty of Middle Plantation on behalf of the Chickahominy;

(5) in 1702, the Chickahominy were forced from their reservation, which caused the loss of a land base;

(6) in 1711, the College of William and Mary in Williamsburg established a grammar school for Indians called Brafferton College;

(7) a Chickahominy child was 1 of the first Indians to attend Brafferton College;

(8) in 1750, the Chickahominy Indian Tribe began to migrate from King William County back to the area around the Chickahominy River in New Kent and Charles City Counties;

(9) in 1793, a Baptist missionary named Bradby took refuge with the Chickahominy and took a Chickahominy woman as his wife;

(10) in 1831, the names of the ancestors of the modern-day Chickahominy Indian Tribe began to appear in the Charles City County census records;

(11) in 1870, a census revealed an enclave of Indians in New Kent County that is believed to be the beginning of the Chickahominy Indian Tribe—Eastern Division;

(12) other records were destroyed when the New Kent County courthouse was burned, leaving a State census as the only record covering that period;

(13) in 1901, the Chickahominy Indian Tribe formed Samaria Baptist Church;

(14) from 1901 to 1935, Chickahominy men were assessed a tribal tax so that their children could receive an education;

(15) the Tribe used the proceeds from the tax to build the first Samaria Indian School, buy supplies, and pay a teacher's salary;

(16) in 1910, a 1-room school covering grades 1 through 8 was established in New Kent County for the Chickahominy Indian Tribe—Eastern Division;

(17) during the period of 1920 through 1921, the Chickahominy Indian Tribe—Eastern Division began forming a tribal government;

(18) E.P. Bradby, the founder of the Tribe, was elected to be Chief;

(19) in 1922, Tsena Commocko Baptist Church was organized;

(20) in 1925, a certificate of incorporation was issued to the Chickahominy Indian Tribe—Eastern Division;

(21) in 1950, the 1-room Indian school in New Kent County was closed and students were bused to Samaria Indian School in Charles City County;

(22) in 1967, the Chickahominy Indian Tribe and the Chickahominy Indian Tribe—Eastern Division lost their schools as a result of the required integration of students;

(23) during the period of 1982 through 1984, Tsena Commocko Baptist Church built a new sanctuary to accommodate church growth;

(24) in 1983 the Chickahominy Indian Tribe—Eastern Division was granted State recognition along with 5 other Virginia Indian tribes;

(25) in 1985—

(A) the Virginia Council on Indians was organized as a State agency; and

(B) the Chickahominy Indian Tribe—Eastern Division was granted a seat on the Council;

(26) in 1988, a nonprofit organization known as the ''United Indians of Virginia'' was formed; and

(27) Chief Marvin ''Strongoak'' Bradby of the Eastern Band of the Chickahominy presently chairs the organization.

**SEC. 202. DEFINITIONS.**

In this title:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) TRIBAL MEMBER.—The term ''tribal member'' means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—The term ''Tribe'' means the Chickahominy Indian Tribe—Eastern Division.

**SEC. 203. FEDERAL RECOGNITION.**

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all future services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to—

(A) the existence of a reservation for the Tribe; or

(B) the location of the residence of any tribal member on or near any Indian reservation.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of New Kent County, Virginia.

**SEC. 204. MEMBERSHIP; GOVERNING DOCUMENTS.**

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

**SEC. 205. GOVERNING BODY.**

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

**SEC. 206. RESERVATION OF THE TRIBE.**

(a) IN GENERAL.—Notwithstanding any other provision of law, if, not later than 25 years after the date of enactment of this Act, the Tribe transfers to the Secretary any land within the boundaries of New Kent County, James City County, or Henrico County, Virginia, the Secretary shall take the land into trust for the benefit of the Tribe.

(b) GAMING.—No reservation or tribal land or land taken into trust for the benefit of the Tribe shall be eligible to satisfy the terms for an exception under section 20(b)(1)(B) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)(1)(B)) to the prohibition on gaming on land acquired by the Secretary in trust for the benefit of

an Indian tribe after October 17, 1988, under section 20(a) of that Act (25 U.S.C. 2719(a)).

**SEC. 207. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.**

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

# TITLE III—UPPER MATTAPONI TRIBE

**SEC. 301. FINDINGS.**

Congress finds that—

(1) during the period of 1607 through 1646, the Chickahominy Indian Tribes—

(A) lived approximately 20 miles from Jamestown; and

(B) were significantly involved in English-Indian affairs;

(2) Mattaponi Indians, who later joined the Chickahominy Indians, lived a greater distance from Jamestown;

(3) in 1646, the Chickahominy Indians moved to Mattaponi River basin, away from the English;

(4) in 1661, the Chickahominy Indians sold land at a place known as ''the cliffs'' on the Mattaponi River;

(5) in 1669, the Chickahominy Indians—

(A) appeared in the Virginia Colony's census of Indian bowmen; and

(B) lived in ''New Kent'' County, which included the Mattaponi River basin at that time;

(6) in 1677, the Chickahominy and Mattaponi Indians were subjects of the Queen of Pamunkey, who was a signatory to the Treaty of 1677 with the King of England;

(7) in 1683, after a Mattaponi town was attacked by Seneca Indians, the Mattaponi Indians took refuge with the Chickahominy Indians, and the history of the 2 groups was intertwined for many years thereafter;

(8) in 1695, the Chickahominy and Mattaponi Indians—

(A) were assigned a reservation by the Virginia Colony; and

(B) traded land of the reservation for land at the place known as ''the cliffs'' (which, as of the date of enactment of this Act, is the Mattaponi Indian Reservation), which had been owned by the Mattaponi Indians before 1661;

(9) in 1711, a Chickahominy boy attended the Indian School at the College of William and Mary;

(10) in 1726, the Virginia Colony discontinued funding of interpreters for the Chickahominy and Mattaponi Indian Tribes;

(11) James Adams, who served as an interpreter to the Indian tribes known as of the date of enactment of this Act as the ''Upper Mattaponi Indian Tribe'' and ''Chickahominy Indian Tribe'', elected to stay with the Upper Mattaponi Indians;

(12) today, a majority of the Upper Mattaponi Indians have ''Adams'' as their surname;

(13) in 1787, Thomas Jefferson, in Notes on the Commonwealth of Virginia, mentioned the Mattaponi Indians on a reservation in King William County and said that Chickahominy Indians were ''blended'' with the Mattaponi Indians and nearby Pamunkey Indians;

(14) in 1850, the census of the United States revealed a nucleus of approximately 10 families, all ancestral to modern Upper Mattaponi Indians, living in central King William County, Virginia, approximately 10 miles from the reservation;

(15) during the period of 1853 through 1884, King William County marriage records listed Upper Mattaponis as ''Indians'' in marrying people residing on the reservation;

(16) during the period of 1884 through the present, county marriage records usually refer to Upper Mattaponis as ''Indians'';

(17) in 1901, Smithsonian anthropologist James Mooney heard about the Upper Mattaponi Indians but did not visit them;

(18) in 1928, University of Pennsylvania anthropologist Frank Speck published a book on modern Virginia Indians with a section on the Upper Mattaponis;

(19) from 1929 until 1930, the leadership of the Upper Mattaponi Indians opposed the use of a ''colored'' designation in the 1930 United States census and won a compromise in which the Indian ancestry of the Upper Mattaponis was recorded but questioned;

(20) during the period of 1942 through 1945—

(A) the leadership of the Upper Mattaponi Indians, with the help of Frank Speck and others, fought against the induction of young men of the Tribe into ''colored'' units in the Armed Forces of the United States; and

(B) a tribal roll for the Upper Mattaponi Indians was compiled;

(21) from 1945 to 1946, negotiations took place to admit some of the young people of the Upper Mattaponi to high schools for Federal Indians (especially at Cherokee) because no high school coursework was available for Indians in Virginia schools; and

(22) in 1983, the Upper Mattaponi Indians applied for and won State recognition as an Indian tribe.

**SEC. 302. DEFINITIONS.**

In this title:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) TRIBAL MEMBER.—The term ''tribal member'' means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—The term ''Tribe'' means the Upper Mattaponi Tribe.

**SEC. 303. FEDERAL RECOGNITION.**

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to—

(A) the existence of a reservation for the Tribe; or

(B) the location of the residence of any tribal member on or near any Indian reservation.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area within 25 miles of the Sharon Indian

School at 13383 King William Road, King William, Virginia.

**SEC. 304. MEMBERSHIP; GOVERNING DOCUMENTS.**

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

**SEC. 305. GOVERNING BODY.**

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

**SEC. 306. RESERVATION OF THE TRIBE.**

(a) IN GENERAL.—Notwithstanding any other provision of law, if, not later than 25 years after the date of enactment of this Act, the Tribe transfers to the Secretary land within the boundaries of King William County, Virginia, the Secretary shall take the land into trust for the benefit of the Tribe.

(b) GAMING.—No reservation or tribal land or land taken into trust for the benefit of the Tribe shall be eligible to satisfy the terms for an exception under section 20(b)(1)(B) of the Indian Gaming Regulatory Act (25

U.S.C. 2719(b)(1)(B)) to the prohibition on gaming on land acquired by the Secretary in trust for the benefit of an Indian tribe after October 17, 1988, under section 20(a) of that Act (25 U.S.C. 2719(a)).

**SEC. 307. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.**

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

# TITLE IV—RAPPAHANNOCK TRIBE, INC.

**SEC. 401. FINDINGS.**

Congress finds that—

(1) during the initial months after Virginia was settled, the Rappahannock Indians had 3 encounters with Captain John Smith;

(2) the first encounter occurred when the Rappahannock weroance (headman)—

(A) traveled to Quiyocohannock (a principal town across the James River from Jamestown), where he met with Smith to determine whether Smith had been the ''great man'' who had previously sailed into the Rappahannock River, killed a Rappahannock weroance, and kidnapped Rappahannock people; and

(B) determined that Smith was too short to be that ''great man'';

(3) on a second meeting, during John Smith's captivity (December 16, 1607 to January 8, 1608), Smith was taken to the Rappahannock principal village to show the people that Smith was not the ''great man'';

(4) a third meeting took place during Smith's exploration of the Chesapeake Bay (July to September 1608), when, after the Moraughtacund Indians had stolen 3 women from the Rappahannock King, Smith was prevailed upon to facilitate a peaceful truce between the Rappahannock and the Moraughtacund Indians;

(5) in the settlement, Smith had the 2 Indian tribes meet on the spot of their first fight;

(6) when it was established that both groups wanted peace, Smith told the Rappahannock King to select which of the 3 stolen women he wanted;

(7) the Moraughtacund King was given second choice among the 2 remaining women, and Mosco, a Wighcocomoco (on the Potomac River) guide, was given the third woman;

(8) in 1645, Captain William Claiborne tried unsuccessfully to establish treaty relations with the

Rappahannocks, as the Rappahannocks had not participated in the Pamunkey-led uprising in 1644, and the English wanted to ''treat with the Rappahannocks or any other Indians not in amity with Opechancanough, concerning serving the county against the Pamunkeys'';

(9) in April 1651, the Rappahannocks conveyed a tract of land to an English settler, Colonel Morre Fauntleroy;

(10) the deed for the conveyance was signed by Accopatough, weroance of the Rappahannock Indians;

(11) in September 1653, Lancaster County signed a treaty with Rappahannock Indians, the terms of which treaty—

(A) gave Rappahannocks the rights of Englishmen in the county court; and

(B) attempted to make the Rappahannocks more accountable under English law;

(12) in September 1653, Lancaster County defined and marked the bounds of its Indian settlements;

(13) according to the Lancaster clerk of court, ''the tribe called the great Rappahannocks lived on

the Rappahannock Creek just across the river above Tappahannock'';

(14) in September 1656, (Old) Rappahannock County (which, as of the date of enactment of this Act, is comprised of Richmond and Essex Counties, Virginia) signed a treaty with Rappahannock Indians that—

(A) mirrored the Lancaster County treaty from 1653; and

(B) stated that—

(i) Rappahannocks were to be rewarded, in Roanoke, for returning English fugitives; and

(ii) the English encouraged the Rappahannocks to send their children to live among the English as servants, who the English promised would be well-treated;

(15) in 1658, the Virginia Assembly revised a 1652 Act stating that ''there be no grants of land to any Englishman whatsoever de futuro until the Indians be first served with the proportion of 50 acres of land for each bowman'';

(16) in 1669, the colony conducted a census of Virginia Indians;

(17) as of the date of that census—

(A) the majority of the Rappahannocks were residing at their hunting village on the north side of the Mattaponi River; and

(B) at the time of the visit, census-takers were counting only the Indian tribes along the rivers, which explains why only 30 Rappahannock bowmen were counted on that river;

(18) the Rappahannocks used the hunting village on the north side of the Mattaponi River as their primary residence until the Rappahannocks were removed in 1684;

(19) in May 1677, the Treaty of Middle Plantation was signed with England;

(20) the Pamunkey Queen Cockacoeske signed on behalf of the Rappahannocks, ''who were supposed to be her tributaries'', but before the treaty could be ratified, the Queen of Pamunkey complained to the Virginia Colonial Council ''that she was having trouble with Rappahannocks and Chickahominies, supposedly tributaries of hers'';

(21) in November 1682, the Virginia Colonial Council established a reservation for the Rappahannock Indians of 3,474 acres ''about the town where they dwelt'';

(22) the Rappahannock ''town'' was the hunting village on the north side of the Mattaponi River, where the Rappahannocks had lived throughout the 1670s;

(23) the acreage allotment of the reservation was based on the 1658 Indian land act, which translates into a bowman population of 70, or an approximate total Rappahannock population of 350;

(24) in 1683, following raids by Iroquoian warriors on both Indian and English settlements, the Virginia Colonial Council ordered the Rappahannocks to leave their reservation and unite with the Nanzatico Indians at Nanzatico Indian Town, which was located across and up the Rappahannock River some 30 miles;

(25) between 1687 and 1699, the Rappahannocks migrated out of Nanzatico, returning to the south side of the Rappahannock River at Portobacco Indian Town;

(26) in 1706, by order of Essex County, Lieutenant Richard Covington ''escorted'' the Portobaccos and Rappahannocks out of Portobacco Indian Town, out of Essex County, and into King and Queen County where they settled along the ridgeline between the Rappahannock and Mattaponi

Rivers, the site of their ancient hunting village and 1682 reservation;

(27) during the 1760s, 3 Rappahannock girls were raised on Thomas Nelson's Bleak Hill Plantation in King William County;

(28) of those girls—

(A) 1 married a Saunders man;

(B) 1 married a Johnson man; and

(C) 1 had 2 children, Edmund and Carter Nelson, fathered by Thomas Cary Nelson;

(29) in the 19th century, those Saunders, Johnson, and Nelson families are among the core Rappahannock families from which the modern Tribe traces its descent;

(30) in 1819 and 1820, Edward Bird, John Bird (and his wife), Carter Nelson, Edmund Nelson, and Carter Spurlock (all Rappahannock ancestors) were listed on the tax roles of King and Queen County and taxed at the county poor rate;

(31) Edmund Bird was added to the tax roles in 1821;

(32) those tax records are significant documentation because the great majority of pre-1864 records for King and Queen County were destroyed by fire;

(33) beginning in 1819, and continuing through the 1880s, there was a solid Rappahannock presence in the membership at Upper Essex Baptist Church;

(34) that was the first instance of conversion to Christianity by at least some Rappahannock Indians;

(35) while 26 identifiable and traceable Rappahannock surnames appear on the pre-1863 membership list, and 28 were listed on the 1863 membership roster, the number of surnames listed had declined to 12 in 1878 and had risen only slightly to 14 by 1888;

(36) a reason for the decline is that in 1870, a Methodist circuit rider, Joseph Mastin, secured funds to purchase land and construct St. Stephens Baptist Church for the Rappahannocks living nearby in Caroline County;

(37) Mastin referred to the Rappahannocks during the period of 1850 to 1870 as ''Indians, having a great need for moral and Christian guidance'';

(38) St. Stephens was the dominant tribal church until the Rappahannock Indian Baptist Church was established in 1964;

(39) at both churches, the core Rappahannock family names of Bird, Clarke, Fortune, Johnson, Nelson, Parker, and Richardson predominate;

(40) during the early 1900's, James Mooney, noted anthropologist, maintained correspondence with the Rappahannocks, surveying them and instructing them on how to formalize their tribal government;

(41) in November 1920, Speck visited the Rappahannocks and assisted them in organizing the fight for their sovereign rights;

(42) in 1921, the Rappahannocks were granted a charter from the Commonwealth of Virginia formalizing their tribal government;

(43) Speck began a professional relationship with the Tribe that would last more than 30 years and document Rappahannock history and traditions as never before;

(44) in April 1921, Rappahannock Chief George Nelson asked the Governor of Virginia, Westmoreland Davis, to forward a proclamation to the President of the United States, along with an appended list of tribal members and a handwritten copy of the proclamation itself;

(45) the letter concerned Indian freedom of speech and assembly nationwide;

(46) in 1922, the Rappahannocks established a formal school at Lloyds, Essex County, Virginia;

(47) prior to establishment of the school, Rappahannock children were taught by a tribal member in Central Point, Caroline County, Virginia;

(48) in December 1923, Rappahannock Chief George Nelson testified before Congress appealing for a $50,000 appropriation to establish an Indian school in Virginia;

(49) in 1930, the Rappahannocks were engaged in an ongoing dispute with the Commonwealth of Virginia and the United States Census Bureau about their classification in the 1930 Federal census;

(50) in January 1930, Rappahannock Chief Otho S. Nelson wrote to Leon Truesdell, Chief Statistician of the United States Census Bureau, asking that the 218 enrolled Rappahannocks be listed as Indians;

(51) in February 1930, Truesdell replied to Nelson saying that ''special instructions'' were being given about classifying Indians;

(52) in April 1930, Nelson wrote to William M. Steuart at the Census Bureau asking about the enumerators' failure to classify his people as Indians, saying that enumerators had not asked the question about race when they interviewed his people;

(53) in a followup letter to Truesdell, Nelson reported that the enumerators were ''flatly denying'' his people's request to be listed as Indians and that the race question was completely avoided during interviews;

(54) the Rappahannocks had spoken with Caroline and Essex County enumerators, and with John M.W. Green at that point, without success;

(55) Nelson asked Truesdell to list people as Indians if he sent a list of members;

(56) the matter was settled by William Steuart, who concluded that the Bureau's rule was that people of Indian descent could be classified as ''Indian'' only if Indian ''blood'' predominated and ''Indian'' identity was accepted in the local community;

(57) the Virginia Vital Statistics Bureau classed all nonreservation Indians as ''Negro'', and it failed to see why ''an exception should be made'' for the Rappahannocks;

(58) therefore, in 1925, the Indian Rights Association took on the Rappahannock case to assist the Rappahannocks in fighting for their recognition and rights as an Indian tribe;

(59) during the Second World War, the Pamunkeys, Mattaponis, Chickahominies, and

Rappahannocks had to fight the draft boards with respect to their racial identities;

(60) the Virginia Vital Statistics Bureau insisted that certain Indian draftees be inducted into Negro units;

(61) finally, 3 Rappahannocks were convicted of violating the Federal draft laws and, after spending time in a Federal prison, were granted conscientious objector status and served out the remainder of the war working in military hospitals;

(62) in 1943, Frank Speck noted that there were approximately 25 communities of Indians left in the Eastern United States that were entitled to Indian classification, including the Rappahannocks;

(63) in the 1940s, Leon Truesdell, Chief Statistician, of the United States Census Bureau, listed 118 members in the Rappahannock Tribe in the Indian population of Virginia;

(64) on April 25, 1940, the Office of Indian Affairs of the Department of the Interior included the Rappahannocks on a list of Indian tribes classified by State and by agency;

(65) in 1948, the Smithsonian Institution Annual Report included an article by William Harlen Gilbert entitled, ''Surviving Indian Groups of the

Eastern United States'', which included and described the Rappahannock Tribe;

(66) in the late 1940s and early 1950s, the Rappahannocks operated a school at Indian Neck;

(67) the State agreed to pay a tribal teacher to teach 10 students bused by King and Queen County to Sharon Indian School in King William County, Virginia;

(68) in 1965, Rappahannock students entered Marriott High School (a white public school) by executive order of the Governor of Virginia;

(69) in 1972, the Rappahannocks worked with the Coalition of Eastern Native Americans to fight for Federal recognition;

(70) in 1979, the Coalition established a pottery and artisans company, operating with other Virginia tribes;

(71) in 1980, the Rappahannocks received funding through the Administration for Native Americans of the State of Virginia to develop an economic program for the Tribe; and

(72) in 1983, the Rappahannocks received State recognition as an Indian tribe.

**SEC. 402. DEFINITIONS.**

In this title:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) TRIBAL MEMBER.—The term ''tribal member'' means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—

(A) IN GENERAL.—The term ''Tribe'' means the organization possessing the legal name Rappahannock Tribe, Inc.

(B) EXCLUSIONS.—The term ''Tribe'' does not include any other Indian tribe, subtribe, band, or splinter group the members of which represent themselves as Rappahannock Indians.

**SEC. 403. FEDERAL RECOGNITION.**

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or

bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to—

(A) the existence of a reservation for the Tribe; or

(B) the location of the residence of any tribal member on or near any Indian reservation.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of King and Queen, Caroline, and Essex Counties, Virginia.

**SEC. 404. MEMBERSHIP; GOVERNING DOCUMENTS.**

The membership roll and governing documents of the Tribe shall be the most recent membership roll and governing documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

**SEC. 405. GOVERNING BODY.**

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

**SEC. 406. RESERVATION OF THE TRIBE.**

(a) IN GENERAL.—Notwithstanding any other provision of law, if the Tribe transfers the land described in subsection (b) and any other land within the boundaries of King and Queen County, Essex County, and Caroline County, Virginia, to the Secretary, the Secretary shall take such land into trust for the benefit of the Tribe.

(b) GAMING.—No reservation or tribal land or land taken into trust for the benefit of the Tribe shall be eligible to satisfy the terms for an exception under section 20(b)(1)(B) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)(1)(B)) to the prohibition on gaming on land acquired by the Secretary in trust for the benefit of an Indian tribe after October 17, 1988, under section 20(a) of that Act (25 U.S.C. 2719(a)).

**SEC. 407. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.**

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

# TITLE V—MONACAN INDIAN NATION

**SEC. 501. FINDINGS.**

Congress finds that—

(1) In 1677, the Monacan Tribe signed the Treaty of Middle Plantation between Charles II of England and 12 Indian ''Kings and Chief Men'';

(2) in 1722, in the Treaty of Albany, Governor Spotswood negotiated to save the Virginia Indians from extinction at the hands of the Iroquois;

(3) specifically mentioned in the negotiations were the Monacan tribes of the Totero (Tutelo), Saponi, Ocheneeches (Occaneechi), Stengenocks, and Meipontskys;

(4) in 1790, the first national census recorded Benjamin Evans and Robert Johns, both ancestors of the present Monacan community, listed as ''white'' with mulatto children;

(5) in 1782, tax records also began for those families;

(6) in 1850, the United States census recorded 29 families, mostly large, with Monacan surnames, the members of which are genealogically related to the present community;

(7) in 1870, a log structure was built at the Bear Mountain Indian Mission;

(8) in 1908, the structure became an Episcopal Mission and, as of the date of enactment of this Act, the structure is listed as a landmark on the National Register of Historic Places;

(9) in 1920, 304 Amherst Indians were identified in the United States census;

(10) from 1930 through 1931, numerous letters from Monacans to the Bureau of the Census resulted from the decision of Dr. Walter Plecker, former head of the Bureau of Vital Statistics of the State of Virginia, not to allow Indians to register as Indians for the 1930 census;

(11) the Monacans eventually succeeded in being allowed to claim their race, albeit with an asterisk attached to a note from Dr. Plecker stating that there were no Indians in Virginia;

(12) in 1947, D'Arcy McNickle, a Salish Indian, saw some of the children at the Amherst Mis-

sion and requested that the Cherokee Agency visit them because they appeared to be Indian;

(13) that letter was forwarded to the Department of the Interior, Office of Indian Affairs, Chicago, Illinois;

(14) Chief Jarrett Blythe of the Eastern Band of Cherokee did visit the Mission and wrote that he ''would be willing to accept these children in the Cherokee school'';

(15) in 1979, a Federal Coalition of Eastern Native Americans established the entity known as ''Monacan Co-operative Pottery'' at the Amherst Mission;

(16) some important pieces were produced at Monacan Co-operative Pottery, including a piece that was sold to the Smithsonian Institution;

(17) the Mattaponi-Pamunkey-Monacan Consortium, established in 1981, has since been organized as a nonprofit corporation that serves as a vehicle to obtain funds for those Indian tribes from the Department of Labor under Native American programs under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(18) in 1989, the Monacan Tribe was recognized by the State of Virginia, which enabled the

Tribe to apply for grants and participate in other programs; and

(19) in 1993, the Monacan Tribe received tax-exempt status as a nonprofit corporation from the Internal Revenue Service.

**SEC. 502. DEFINITIONS.**

In this title:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) TRIBAL MEMBER.—The term ''tribal member'' means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—The term ''Tribe'' means the Monacan Indian Nation.

**SEC. 503. FEDERAL RECOGNITION.**

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general ap-

plicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to—

(A) the existence of a reservation for the Tribe; or

(B) the location of the residence of any tribal member on or near any Indian reservation.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of all land within 25 miles from the center of Amherst, Virginia.

**SEC. 504. MEMBERSHIP; GOVERNING DOCUMENTS.**

The membership roll and governing documents of the Tribe shall be the most recent membership roll and gov-

erning documents, respectively, submitted by the Tribe to the Secretary before the date of enactment of this Act.

**SEC. 505. GOVERNING BODY.**

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

**SEC. 506. RESERVATION OF THE TRIBE.**

(a) IN GENERAL.—Notwithstanding any other provision of law, if the Tribe transfers to the Secretary a parcel of land consisting of approximately 10 acres located on Kenmore Road in Amherst County, Virginia, and a parcel of land consisting of approximately 165 acres located at the foot of Bear Mountain in Amherst County, Virginia, the Secretary shall take the land into trust for the benefit of the Tribe.

(b) GAMING.—No reservation or tribal land or land taken into trust for the benefit of the Tribe shall be eligible to satisfy the terms for an exception under section 20(b)(1)(B) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)(1)(B)) to the prohibition on gaming on land acquired by the Secretary in trust for the benefit of

an Indian tribe after October 17, 1988, under section 20(a) of that Act (25 U.S.C. 2719(a)).

**SEC. 507. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.**

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

# TITLE VI—NANSEMOND INDIAN TRIBE

**SEC. 601. FINDINGS.**

Congress finds that—

(1) from 1607 until 1646, Nansemond Indians—

(A) lived approximately 30 miles from Jamestown; and

(B) were significantly involved in English-Indian affairs;

(2) after 1646, there were 2 sections of Nansemonds in communication with each other, the Christianized Nansemonds in Norfolk County, who lived as citizens, and the traditionalist Nansemonds, who lived further west;

(3) in 1638, according to an entry in a 17th century sermon book still owned by the Chief's fam-

ily, a Norfolk County Englishman married a Nansemond woman;

(4) that man and woman are lineal ancestors of all of members of the Nansemond Indian tribe alive as of the date of enactment of this Act, as are some of the traditionalist Nansemonds;

(5) in 1669, the 2 Nansemond sections appeared in Virginia Colony's census of Indian bowmen;

(6) in 1677, Nansemond Indians were signatories to the Treaty of 1677 with the King of England;

(7) in 1700 and 1704, the Nansemonds and other Virginia Indian tribes were prevented by Virginia Colony from making a separate peace with the Iroquois;

(8) Virginia represented those Indian tribes in the final Treaty of Albany, 1722;

(9) in 1711, a Nansemond boy attended the Indian School at the College of William and Mary;

(10) in 1727, Norfolk County granted William Bass and his kinsmen the ''Indian privileges'' of clearing swamp land and bearing arms (which privileges were forbidden to other nonwhites) because of their Nansemond ancestry, which meant that Bass

and his kinsmen were original inhabitants of that land;

(11) in 1742, Norfolk County issued a certificate of Nansemond descent to William Bass;

(12) from the 1740s to the 1790s, the traditionalist section of the Nansemond tribe, 40 miles west of the Christianized Nansemonds, was dealing with reservation land;

(13) the last surviving members of that section sold out in 1792 with the permission of the State of Virginia;

(14) in 1797, Norfolk County issued a certificate stating that William Bass was of Indian and English descent, and that his Indian line of ancestry ran directly back to the early 18th century elder in a traditionalist section of Nansemonds on the reservation;

(15) in 1833, Virginia enacted a law enabling people of European and Indian descent to obtain a special certificate of ancestry;

(16) the law originated from the county in which Nansemonds lived, and mostly Nansemonds, with a few people from other counties, took advantage of the new law;

(17) a Methodist mission established around 1850 for Nansemonds is currently a standard Methodist congregation with Nansemond members;

(18) in 1901, Smithsonian anthropologist James Mooney—

(A) visited the Nansemonds; and

(B) completed a tribal census that counted 61 households and was later published;

(19) in 1922, Nansemonds were given a special Indian school in the segregated school system of Norfolk County;

(20) the school survived only a few years;

(21) in 1928, University of Pennsylvania anthropologist Frank Speck published a book on modern Virginia Indians that included a section on the Nansemonds; and

(22) the Nansemonds were organized formally, with elected officers, in 1984, and later applied for and received State recognition.

**SEC. 602. DEFINITIONS.**

In this title:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(2) TRIBAL MEMBER.—The term ''tribal member'' means—

(A) an individual who is an enrolled member of the Tribe as of the date of enactment of this Act; and

(B) an individual who has been placed on the membership rolls of the Tribe in accordance with this title.

(3) TRIBE.—The term ''Tribe'' means the Nansemond Indian Tribe.

**SEC. 603. FEDERAL RECOGNITION.**

(a) FEDERAL RECOGNITION.—

(1) IN GENERAL.—Federal recognition is extended to the Tribe.

(2) APPLICABILITY OF LAWS.—All laws (including regulations) of the United States of general applicability to Indians or nations, Indian tribes, or bands of Indians (including the Act of June 18, 1934 (25 U.S.C. 461 et seq.)) that are not inconsistent with this title shall be applicable to the Tribe and tribal members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—On and after the date of enactment of this Act, the Tribe and tribal members shall be eligible for all services and benefits provided by the Federal Government to federally recognized Indian tribes without regard to—

(A) the existence of a reservation for the Tribe; or

(B) the location of the residence of any tribal member on or near any Indian reservation.

(2) SERVICE AREA.—For the purpose of the delivery of Federal services to tribal members, the service area of the Tribe shall be considered to be the area comprised of the cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, and Virginia Beach, Virginia.

**SEC. 604. MEMBERSHIP; GOVERNING DOCUMENTS.**

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Tribe shall submit to the Secretary a membership roll consisting of all individuals currently enrolled for membership in the Tribe.

(b) QUALIFICATIONS.—The qualifications for inclusion on the membership roll of the Tribe shall be determined by the Tribe in accordance with the membership clauses in the governing document of the Tribe and in consultation with the Secretary.

(c) PUBLICATION.—Not later than 90 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register notice of the membership roll of the Tribe.

(d) MAINTENANCE OF MEMBERSHIP ROLL.—The Tribe shall ensure that the membership roll of the Tribe is maintained and kept current.

**SEC. 605. GOVERNING DOCUMENTS.**

The governing documents of the Tribe in effect on the date of enactment of this Act shall be the interim governing documents for the Tribe until those documents are modified in accordance with the documents.

**SEC. 606. GOVERNING BODY.**

The governing body of the Tribe shall be—

(1) the governing body of the Tribe in place as of the date of enactment of this Act; or

(2) any subsequent governing body elected in accordance with the election procedures specified in the governing documents of the Tribe.

**SEC. 607. RESERVATION OF THE TRIBE.**

(a) IN GENERAL.—Notwithstanding any other provision of law, if the Tribe transfers any land acquired by the Tribe to the Secretary, the Secretary may take the land into trust for the benefit of the Tribe.

(b) GAMING.—No reservation or tribal land or land taken into trust for the benefit of the Tribe shall be eligible to satisfy the terms for an exception under section 20(b)(1)(B) of the Indian Gaming Regulatory Act (25 U.S.C. 2719(b)(1)(B)) to the prohibition on gaming on

land acquired by the Secretary in trust for the benefit of an Indian tribe after October 17, 1988, under section 20(a) of that Act (25 U.S.C. 2719(a)).

**SEC. 608. HUNTING, FISHING, TRAPPING, GATHERING, AND WATER RIGHTS.**

Nothing in this title expands, reduces, or affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

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The CHAIRMAN. Senator Thomas.

Senator THOMAS. Thank you, Mr. Chairman. I really do not have a statement. I think you have covered the two points. One is why does it take so long to do this regularly, and should there be shortcuts in the Congress. So I think it is important to have the hearing and I thank you for that.

The CHAIRMAN. Thank you, sir.

Could Senator Allen and Senator Levin decide among themselves as to who would like to go first by age or alphabet, whichever is appropriate.

Senator ALLEN. I will let Senator Levin go first, since seniority, and his bill was introduced 1 or 2 minutes before mine.

The CHAIRMAN. Thank you very much.

Senator Levin, welcome. I know you are busy with the authorization bill on the floor, so we appreciate your being here, and also Senator Allen's courtesy in having you go first.

Senator Levin.

**STATEMENT OF HON. CARL LEVIN, U.S. SENATOR FROM MICHIGAN**

Senator LEVIN. Thank you very much, Mr. Chairman and Senator Thomas. First let me thank you for holding this hearing. I add my thanks to Senator Allen for his graciousness in allowing me to go first, mainly not just because of my age, which I do not like to emphasize, but because of the floor responsibility which I am in the middle of, so thank you very much, George.

Mr. Chairman, thank you and the committee for holding today's hearing on the status of the Grand River Band of Ottawa Indians.

In 1994 Congress passed and the President signed legislation that gave Federal recognition to several Michigan tribes, including the sister tribe of the Grand River Band, the Little River Band of Ottawa Indians. The Grand River Band should have been recognized at that time, but for various reasons it was not.

To remedy this situation, Senator Stabenow and I have introduced S. 437, the Grand River Band of Ottawa Indians of Michigan Referral Act, which would refer the matter of Federal status of the Grand River Band to the Secretary of the Interior. The Secretary would then determine whether the Grand River Band meets the same criteria that Congress used in 1994 to recognize the other tribes, and then act accordingly in an expeditious manner.

I would note that our bill does not legislatively recognize the Grand River Band; it does direct the Bureau of Indian Affairs [BIA] to make a decision on the merits in a timely fashion. It is a critical difference, but it is an important difference, particularly in the light of the chairman's opening statement.

The salient questions would be whether members of the Grand River Band are descendants of persons who signed the relevant treaties and whether today's members continue to reside in their ancestral territory. We believe that the Grand River Band meets those criteria. The historic record is clear that today's Grand River Band are direct descendants of those who signed the relevant treaties.

The Grand River Band are a very traditional Indian people, and because of their traditional lifestyles they have a high rate of tribal

intermarriage. In addition to signing the treaties, their ancestors were also instrumental in bringing their land claims to the Indian Claims Commission in the late 1940's and 1950's. The Federal, State, and local governments have had dealings with the Grand River Band on a continuing basis.

The Grand River Band also lives today in the same areas of Michigan that they have occupied when the first Europeans arrived. They reside now in Mason, Oceana, Muskegon, and Kent Counties. Burial mounds of the Grand River Band are located along the Grand River, itself, from Lansing to Muskegon, and they conduct their ceremonies and annual Grand River Ottawa pow wow near these sacred mounds.

I want to mention very briefly there is another tribe in a similar situation, the Burt Lake Band of Ottawa and Chippewa Indians who were signatories to the 1836 and 1855 treaties. They have not been federally recognized, even though they submitted their documented petition over 10 years ago. I hope that the Burt Lake Band will also be the focus of future Federal recognition.

Mr. Chairman, the importance of this bill is that we need an expeditious decision by the regulators and the administrators. That is critical because of land claim judgments which were settled by Congress which were brought by the Grand River and other treaty tribes during the Indian Claims Commission period.

The 1997 act provided that funds will be distributed to unrecognized tribes whose members are descendants of treaty signatories, provided—and this is the key issue—the tribes submitted a fully documented petition by December 15, 2000, and that the BIA approves recognition by December 2006. That is what the key issue here is, as to whether we can get the BIA to make their decision in time to make a deadline which will have a major financial impact in terms of a claim which was properly and timely filed by this band.

So we have the Grand River Band that submitted its petition, including 21 boxes of materials, on December 5, 2000, in time. Nearly 4 years later the BIA granted the tribe its first technical assistance meeting in 2004. In January 2005, the BIA provided a detailed, 29-page letter describing deficiencies and omissions in the Grand River Band's original material. After 18 months of work, the Grand River Band now has delivered its response on June 9.

The materials include certified copies of all of its membership rolls, 700 members, along with a 63-page legal response and a 265-page ethno-historical response prepared by Dr. James McClerkin, who is the most eminent Native American ethno-historian in Michigan. Each of the 749 citations is supported by documentation, along with numerous maps, charts, family trees, and population reports, so this exhausting and expensive process has gone on.

We can't allow it to go back and forth for years and years. It is essential that a BIA determination regarding the Grand River Band be made in a timely way, because if no action is taken within the next few months the Grand River Band will be denied millions of dollars that have been specifically set aside for the band by Federal law. It would be an injustice. It would be an injustice not to allow the Grand River Band to take its rightful place among the family of federally recognized tribes. But, again, this legislation

does not decide that; it calls for an expeditious, prompt determination by the BIA.

I will leave for the record a number of technical changes to be made in the bill. I won't go through all those now, but I would, again, simply thank the committee for holding this hearing. It is urgently necessary. We need to get this decision made in time so that justice will not be denied a band that has truly worked hard, done everything that it is required to do, played by the rules, and now I believe and Senator Stabenow believe is entitled to a favorable response, but, in any event, is entitled to a decision within the time period provided by law.

The CHAIRMAN. Thank you very much, Senator Levin. I know you have to leave to go to the floor. Thank you. Your complete statement will be made a part of the record.

May I also say I know that Senator Warner is on the floor with this important legislation and he may not be able to be here. His statement will be made part of the record.

I know that Senator Allen will speak. I think that you and Senator Warner are basically in agreement on this issue.

Thank you, Senator Levin.

Senator LEVIN. Thank you.

**STATEMENT OF HON. GEORGE ALLEN, U.S. SENATOR FROM VIRGINIA**

Senator ALLEN. Thank you, Mr. Chairman. Senator Thomas, thank you for being here. I very much appreciate, Mr. Chairman, your holding this hearing on this important issue to consider what I consider to be the unique and extraordinary stories of these six Virginia Indian tribes. I think you will see in not just my testimony but the testimony of Chief Adkins and Dr. Rountree the extenuating circumstances that call for legislation and Congressional action insofar as these six Virginia tribes are concerned.

I, of course, respectfully urge the committee to move as quickly as possible to extend Federal recognition to the Chickahominy, the Eastern Chickahominy, the Upper Mattaponi, the Rappahannock, the Monacan, and the Nansemod Tribes by voting in favor of this measure, S. 480, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2005.

I am joined in this measure with my colleague and partner from Virginia, Senator Warner, and I think I speak for him, as well, in this effort to get long overdue recognition and the recognized status to a group of Americans who have been a part of this country's history from before 400 years ago and continue to be.

The six tribes seeking Federal recognition, Mr. Chairman, have suffered humiliation and indignities that have gone largely unnoticed by most Americans because many of these injustices were not the result of any actions undertook by these Virginia tribes. Instead, these indignities originated in Government policies that sought to eliminate their culture and heritage. I believe the circumstances of their situation warrants Congressional recognition.

Some express concern about granting Federal recognition without investigative processes used by the Department of the Interior. However, if one closely examines the history of these Virginia Indians they will see why this legislation has been introduced and why

some of my colleagues continue to push for recognition on the House side, including Congressman Moran, whom you will hear from shortly.

The history of these six tribes begins well before the first Europeans landed on this continent. History has shown their continued inhabitance in Virginia. Through much of the last 400 years, they have undergone great hardship; however, many have worked hard to maintain and preserve their tradition and heritage. To put the long history of Virginia Indians in context, while many of the federally recognized Indian tribes have signed agreements with the Government of the United States of America, the Virginia Indian tribes hold treaties with the kings of England, including the Treaty of 1677 between the tribes and Charles II.

Like the plight of many American Indian tribes over the last 4 centuries, the Virginia tribes were continually moved off their land and many assimilated into U.S. society. Even then, the Virginia Indians were not extended the same rights as were extended or offered to U.S. citizens. The years of racial discrimination and coercive policies took a tremendous toll on the population of Virginia Indians. Even while living under such difficult circumstances and constant upheaval, the Virginia Indians were able to maintain a consistent culture.

And here is where the extenuating circumstances—Mr. Chairman, your criteria or burden of proof. Here is the extenuating circumstances for the Virginia tribes. Following the turn of the 20th century, members of these six tribes suffered more injustice. New State mandates in the 20th century forced Virginia Indians to renounce their Indian names and their heritage.

They passed in Virginia what was called the "Racial Integrity Act of 1924." This was a damaging, wrong policy in Virginia's history. This measure enforced by State officials, the Registrar of the Bureau of Vital Statistics, in particular a person named Dr. William Plecker sought to destroy all records of the Virginia Indians and recognize them not as Indians but as the designation was then, "colored."

People were threatened with imprisonment for noting "Indian" on a birth certificate. Mothers were not allowed to take their newborn children home if they were given an Indian name. Many generations were, of course, affected by this policy that was enforced throughout Virginia and left many Indians searching for their true identity.

A respected journalist who is here in the audience, Peter Hardin, wrote a comprehensive, thorough article which appeared on March 5, 2000, in "The Richmond Times Dispatch," and I would like to have that article made part of the record.

The CHAIRMAN. Without objection.

Senator ALLEN. Now, the Racial Integrity Act, Mr. Chairman and Senators Dorgan and Thomas, left the records of tens of thousands of Virginia Indians inaccurate or deliberately misleading until 1997. As Governor—I was Governor then—that year I signed legislation that directed State agencies and officials to correct all State records related to Virginia Indians, reclassifying them as American Indian and not colored. My administration championed this initia-

tive when we learned of the pain that this racist policy inflicted on many Virginia citizens.

I was also briefed on the problem that many Virginia Indians experienced when trying or attempting to trace their ancestry or have their records of their children and deceased relatives corrected. Now, to combat those injustices we want to make sure that any American Indian whose certified copy of birth record contains an incorrect racial designation were able to obtain those for a fee. I think this is the height of insult that someone to correct their record would then have to be paying fees to get these old records, and so we made sure that there wasn't any fee charged to correct a racial designation that was actually not caused by an Indian individual but rather by State government policy.

Now, because, Mr. Chairman and members of the committee, of the arrogant, manipulating, and wrongful policies of Virginia's Racial Integrity Act, the Virginia Indian tribes have had a difficult time collecting and substantiating official documents necessary for Federal recognition. Through no fault of their own, the records they need to meet the stringent and difficult requirements for Federal recognition are simply not available. I fear that, unless my colleagues and I take legislative action, these six tribes will be faulted and denied Federal recognition for circumstances over which they truly had and have no control.

The Virginia tribes have filed a petition with the Department of the Interior's Branch of Acknowledgement and Research; however, I believe Congressional action is the appropriate path for Federal recognition.

The six tribes represented today have faced discrimination and attacks on their culture that are unheard of in most regions and States of the United States. Federal recognition brings some benefits to Virginia Indians, including access to education, grants, housing assistance, and health care services which are available to most American Indians. The education grants, in particular, can provide an avenue for Virginia Indians to improve their prospects for employment and hopefully secure better-paying jobs.

The benefits of Federal recognition would not be restitution for years of institutional racism and hostility, but would provide new opportunities for members of these six tribes. This recognition is a simple matter of justice, fair treatment, and honor and pride of heritage and of family.

I can understand some concerns of Members of Congress have with gambling and property claims that relate to federally recognized Indian tribes. The issue of gambling is resolved in this measure. It complies with the Indian Gaming Regulatory Act and also the Virginia laws. The tribes presently, if they so desired, could have bingo. They do not want to have bingo. People are concerned about casinos. The reality is, if they want to have casinos or anything they are going to need to have approval from Virginia's government, and Virginia has horse racing and the lottery. I do not foresee them having casinos. If they did have casinos, then everyone could have casinos under such law, but I do not see that happening and they can't do it without Virginia government support.

The Virginia General Assembly, Mr. Chairman and members of the committee, have passed resolutions supporting this legislation.

Governors have supported this legislation. This is a right that has been stripped for many decades from Virginia tribes. They are not seeking Federal recognition for superficial gain, but it is to right a wrong.

I do believe, Mr. Chairman, that the circumstances in these cases are special, and that is why, with my colleague, Senator Warner, I have introduced this legislation. I am hopeful that you and members of the committee will objectively review this situation, consider the testimony and evidence that Chief Adkins and Dr. Rountree will present to this committee, and make the right decision to move this legislation to the floor as was done by your predecessor chairman, Senator Campbell.

I thank you again, Mr. Chairman and members of the committee, for holding this hearing and your consideration of this very important matter of justice and equity for Virginia Indian tribes.

Thank you.

[Prepared statement of Senator Allen and "Richmond Times Dispatch" article appears in appendix.]

The CHAIRMAN. Thank you very much, Senator Allen. We very much appreciate your advocacy, your knowledge, and your passion that you bring to this issue. We know you can't stay. We thank you very much for being here.

Congressman Moran, thank you. Please proceed.

**STATEMENT OF HON. JAMES P. MORAN, U.S. REPRESENTATIVE FROM VIRGINIA**

Mr. MORAN. Thank you, Mr. Chairman. Thank you very much. It is nice to see my former colleagues and now illustrious Senators, Senator Dorgan and Senator Thomas. I appreciate the fact that the three of you would come to this hearing.

We have been before this committee, as Senator Allen said, and Senator Campbell worked to get this legislation favorably through the committee. The story of the Virginia tribes represent represents a unique travesty of justice, a national travesty that we are dealing with today. This hearing is particularly timely, because this Nation is about to recognize and celebrate the Jamestown Settlement, which occurred 400 years ago.

That Jamestown Settlement could not have been successful if it had not been for these Indian tribes teaching survival skills to the English explorers and settlers. They welcomed them in. They taught them how to farm, what foods could be eaten. Many of the Indians were not immune to the diseases that the English settlers carried, and they died as a result.

Subsequently, the settlers killed, expelled, subdued these Indian tribes. The Indians lost their land. For much of the 19th and 20th centuries they were treated in the same way that African slaves were treated: Without any rights. As Senator Allen just described, this was deliberate policy. One of the most troubling legislation actually occurred in the first half of the 20th century. I am going to try to summarize some of this because Senator Warner has joined us, as well, and I do think it is quite a testament to the importance of this issue that both of our Senators are so strongly supporting Federal recognition.

As I say, this is a unique situation, at least in two ways. These six tribes signed treaties, but they were treaties with the kings of England. They still exist, but they, were not made with the American Government.

Senator Allen suggested that the most important treaty was the Treaty of 1677 with King Charles II. That treaty has been recognized by the Commonwealth of Virginia every year for the last 328 years. The Governor, and when Senator Allen was Governor he accepted tributes from the tribes, often turkeys and other game, and it is celebrated at the State capital. There is no question about the legitimacy of this treaty.

But in the intervening years between 1677 and the birth of this Nation, these tribes, as I say, were dispossessed of their land, and they were too weak to pose any threat, so they were never in a position to negotiate or receive recognition from the nascent Federal Government. It was the first English permanent settlement in the New World, and the Virginia Indians were the ones that enabled it to happen, and yet they have not been recognized by the U.S. Federal Government.

The second reason that this is unique is that they were the victims of I guess you would have to call a "paper genocide" that was a result of the laws and, at that time, the attitude of the Commonwealth of Virginia. At the time that the Federal Government grated Native Americans the right to vote, Virginia's elected officials were embracing the eugenics movement and adopted racially hostile laws that were targeted at those classes of people who didn't fit into the dominant white society.

Those laws and attitudes culminated with the enactment of the Racial Integrity Act of 1924. It empowered zealots like Walter Plecker. He was a State official. He destroyed the records of these Indian tribes. He reclassified in Orwellian fashion, as Senator Allen has said, all non-whites as colored. In order to get your child out of a hospital, you had to check a box whether you were white or colored, in the term that was used then. It particularly targeted Native Americans so that they could deny them their identity.

The letter hasn't shown up, but people talk about a letter that Mr. Plecker wrote to Adolph Hitler bragging about the fact that he had eliminated the identity of the Native Americans in the State. I do not know whether such a letter actually exists, but that is exactly what it was all about: To eliminate Native Americans in Virginia.

You could be sentenced to 1 year in jail if you did not check off the right box. There were only two boxes. So obviously what happened is that there were no more Native Americans left in the State.

Now, the Racial Integrity Act was struck down by the Federal courts, but not until 1967. For up to 50 years the State officials waged a war to destroy all public and many private records that would have affirmed the existence of Native Americans in Virginia. Now, historians have affirmed that there is no other State in the Nation that compares to Virginia's efforts to eradicate its citizens' Indian identity.

All of Virginia's State recognized tribes have filed petitions with the Bureau of Acknowledgement seeking Federal recognition, but it

is a very difficult burden, as you know, Mr. Chairman, for these tribes to be able to get that kind of acknowledgement. They have been told that they probably won't process the paperwork in their lifetimes.

They weren't able to get jobs. They weren't able to get a public school education. The only education they've got were from religious groups, missionaries. That is one of the reasons, as Senator Allen referred to, they believe gambling is a sin. They do not want to have anything to do with gambling. They could gamble if they wanted with bingo parlors. They won't do it, even though the American Legion or the VFW bingo parlor is down the street. They won't do it. This is a very difficult and really undignified process for Indians to have to go through, particularly these tribes where their records were officially destroyed. That just aggravates the injustice that has already been visited upon these tribes.

It wasn't until 1997 when then Governor George Allen signed legislation directing State agencies to correct these State records that had been deliberately altered to list Virginia Indians as colored. The law allows living members of the tribes to try to correct those records, but the law can't correct the damage done to past generations; 2 years later the Virginia General Assembly adopted a resolution calling upon us in the Congress to enact legislation recognizing the Virginia Indian tribes. Well, that was 7 years ago.

Now, we have submitted that legislation. We have continued to push it. We are counting on you now, Mr. Chairman and the members of this committee. There is no doubt that the Chickahominy, the Eastern Chickahominy, the Monacan, the Nansemod, the Rappahannock, and the Upper Mattaponi Tribes exist. They do exist. They've existed on a continuous basis since before western European settlers first stepped foot in America. They are here with us today. Helen Rountree will testify on the next panel.

The CHAIRMAN. Congressman Moran, would you please summarize, because——

Mr. MORAN. I will. She spent her lifetime researching this. You are going to hear from her, Senator.

This is a compelling case, and I hope you will correct this travesty of justice. We are counting on you. Thank you, Mr. Chairman.

[Prepared statement of Mr. Moran appears in appendix.]

The CHAIRMAN. Thank you very much, Congressman Moran. And thank you for taking the time to come over today and be a part of this and add important testimony on this issue.

We now recognize our friend and colleague, Chairman Warner.

## STATEMENT OF HON. JOHN W. WARNER, U.S. SENATOR FROM VIRGINIA

Senator WARNER. Thank you, Senator McCain and members of the committee.

First, I'd like to commend the committee and its leadership in seeking to rectify obvious wrongs inflicted many years ago in the history of our State. And I want to commend the members of the tribes who have joined here this morning, and hundreds of others who are back in their homes awaiting the outcome of this very important hearing.

I want you to know that throughout my career here I have supported Federal recognition of these tribes. I am certain that we can devise a means where we can do so, albeit recognizing a lot of the records do not exist. Somehow, we've got the power, I believe, here in the Congress to do what is right.

My only concern, Mr. Chairman and members of the committee, is the issue of gambling. We've witnessed how gambling in various parts of the United States has literally transformed communities, transformed the quality of life sought by so many people. While the current leadership of these tribes have represented they have no interest in gambling, we all recognize we are not immortal, and others will succeed as time marches on with regard to the management of their tribal desires.

Therefore, I want you to know that, while I strongly will work to get this Federal recognition, I equally will strongly work to resist any legislation that does not ensure that these areas designated by the Federal Government and the people on them will conduct themselves consistent, as it relates to gambling, as the law of the Commonwealth of Virginia, whatever that law may be at such time as that issue may arise.

With that in mind, I join my colleagues this morning and I implore the committee to exercise every possible way to achieve our goals, but at the same time achieve them such that the issue of gaming will be controlled by the State law.

I thank you.

The CHAIRMAN. Thank you very much, Mr. Chairman. I thank you for taking the time to be in here this morning.

Senator Dorgan.

**STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR FROM NORTH DAKOTA, VICE CHAIRMAN, COMMITTEE ON INDIAN AFFAIRS**

Senator DORGAN. Mr. Chairman, first of all, thank you. I missed just the first part of Senator Allen's testimony. A bill that I've introduced is being heard in the Commerce Committee, so I am sorry I was delayed. But thank you for offering us the historical perspective and the interest that you have with respect to justice for these tribes. I think the committee has to try to work through these issues, and your testimony is very valuable to us. Thank you very much.

The CHAIRMAN. Senator Thomas, I thank you for coming this morning. I appreciate it. And Senator Warner, we certainly understand your concern on this gambling issue, which seems to pervade this issue of tribal recognition and has caused considerable controversy in other States as Indian tribes achieve recognition or entities receive recognition as recognized tribes.

I thank the witnesses for coming this morning. I appreciate your being here. Thanks again.

Our next panel: Lee Fleming is director of the Office of Federal Acknowledgement of the Department of the Interior.

Welcome, Mr. Fleming. Your complete statement will be made part of the record. We thank you for being here this morning. Please proceed.

**STATEMENT OF LEE FLEMING, DIRECTOR, OFFICE OF FEDERAL ACKNOWLEDGEMENT, DEPARTMENT OF THE INTERIOR, WASHINGTON, DC**

Mr. FLEMING. Good morning, Mr. Chairman and members of the committee. My name is Lee Fleming and I am the director of the Office of Federal Acknowledgement at the Department of the Interior. I am here today to provide the Administration's testimony on two bills, S. 437, entitled "The Grand River Band of Ottawa Indians of Michigan Referral Act," and S. 480, "The Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2005."

The acknowledgement of the continued existence of another sovereign is one of the most solemn and important responsibilities delegated to the Secretary of the Interior. Federal acknowledgement enables Indian tribes to participate in Federal programs and establishes a government-to-government relationship between the United States and the Indian tribe. Acknowledgement carries with it certain immunities and privileges, including exemptions from State and local jurisdictions and the ability of newly acknowledged Indian tribes to undertake certain economic opportunities.

The Department recognizes that under the United States Constitution Congress has the authority to recognize a distinctly Indian community as an Indian tribe, but along with that authority it is important that all parties have the opportunity to review all the information available before recognition is granted. That is why the Department of Interior supports a recognition process that requires groups to go through the Federal acknowledgement process, because it provides a deliberative, uniform mechanism to review and consider groups seeking Indian tribal status.

Legislation such as S. 437 and S. 480 would allow these groups to bypass this process, allowing them to avoid the scrutiny to which other groups have been subjected. While legislation in Congress can be a tool to accomplish this goal, a legislative solution should be used sparingly in cases where there is an overriding reason to bypass the process.

Interior strongly supports all groups going through the Federal acknowledgement process under 25 C.F.R. part 83. The Department believes that the Federal acknowledgement process set forth in 25 C.F.R. part 83 allows for the uniform and rigorous review necessary to make an informed decision establishing this important government-to-government relationship.

Before the development of these regulations, the Federal Government and the Department of the Interior made determinations as to which groups were Indian tribes when negotiating treaties and determining which groups could reorganize under the Indian Reorganization Act. Ultimately, treaty rights and land claims litigation highlighted the importance of these tribal status decisions; thus, the Department in 1978 recognized the need to end ad hoc decision-making and adopt uniform regulations for Federal acknowledgement.

Under the Department's regulations, petitioning groups must demonstrate that they meet each of the seven mandatory criteria. The petitioner must:

One, demonstrate that it has been identified as an American Indian entity on a substantially continuous basis since 1900;

Two, show that a predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present;

Three, demonstrate that it has maintained political influence or authority over its members as an autonomous entity from historical times until the present;

Four, provide a copy of the group's present governing document, including its membership criteria;

Five, demonstrate that its membership consists of individuals who descend from a historical Indian tribe or from historical Indian tribes that combined and functioned as a single autonomous political entity and provide a current membership list;

Six, show that the membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian Tribe; and, last,

Seven, demonstrate that neither the petitioner nor its members are subject of Congressional legislation that has expressly terminated or forbidden the Federal relationship.

A criterion shall be considered met if the available evidence establishes a reasonable likelihood of the validity of the facts relating to that criterion. A petitioner must satisfy all seven mandatory criteria in order for the Department to acknowledge the continued tribal existence of a group as an Indian tribe. Currently, the Department's workload of 19 groups seeking Federal acknowledgement consists of 10 petitions on active consideration and nine petitions on the ready waiting for active consideration.

Now, with respect to S. 437, the Grand River Band of Ottawa Indians, and another petitioning group, the Burt Lake Band of Ottawa and Chippewa Indians, Incorporated, both of these groups are affected by the timing of deadlines for the distribution of judgment funds under the Michigan Indian Land Claims Settlement Act. Both groups have applied for Federal acknowledgement under the regulations.

The Grand River Band of Ottawa Indians, which would receive recognition under this bill, has not submitted a complete documented petition demonstrating its ability to meet all seven mandatory criteria. The group did submit partial documentation in December 2000, and received a technical assistance review letter from the office in January 2005. The purpose of the technical assistance review is to provide the group with the opportunity to supplement its petition due to obvious deficiencies or significant omissions. As of last week, the Grand River Band of Ottawa Indians submitted additional documentation in response to the technical assistance review letter.

Under section 110 of the Settlement Act, if the Grand River Band of Ottawa Indians or the Burt Lake Band of Ottawa and Chippewa Indians, Incorporated, are acknowledged before December 15, 2006, each could receive a significant lump sum from the judgment fund in excess of $4.4 million, provided that the group and its membership meet the eligibility criteria set forth under the Settlement Act.

If no new tribes are recognized before that date, the money is, instead, distributed per capita to the Indians on the descendent roll. The Secretary would have 90 days to segregate the funds and

to deposit those funds into a separate account established in the group's name.

Section 205 of this bill provides that, notwithstanding section 110 of the Michigan Indian Land Claims Settlement Act, effective beginning on the date of enactment of this act any funds set aside by the Secretary for use by the tribes shall be made available to the tribe.

Under S. 437 and the Settlement Act, funds are not set aside for the Grand River Band of Ottawa Indians until they are recognized. Although not clear, we interpret section 205 of S. 437 to mean that, if the Grand River Band is acknowledged prior to December 15, 2006, any funds set aside for them under section 110 of the Settlement Act would not be subject to plans approved in accordance with the Settlement Act.

We do not support section 205 because it takes away the membership's right to participate in the development of the use and distribution plan for the judgment funds. If S. 437 is enacted, we suggest that section 205 be amended.

The Department also has concerns over the three different membership lists referenced in sections 102 and 202. It is unclear why three different lists would be required. In addition, S. 437 appears to be ambiguous concerning the nature and extent of jurisdiction and possible conflicts with treaty rights of other Federally recognized tribes. The Department would like to work with the committee in order to find an equitable solution to all parties connected to the Settlement Act.

Now, with respect to S. 480, the Thomasina E. Jordan Indian Tribes of Virginia Recognition Act of 2005, this bill provides Federal recognition as Indian tribes to six Virginia groups: The Chickahominy Indian Tribe; the Chickahominy Indian Tribe Eastern Division; the Upper Mattaponi Tribe; the Rappahannock Tribe, Incorporated; the Monacan Indian Nation; and the Nansemod Indian Tribe.

Under the regulations, these six groups have submitted letters of intent and partial documentation to petition for Federal acknowledgement as Indian tribes. Some of these groups are awaiting technical assistance reviews under the Department's regulations. As stated above, the purpose of the technical assistance review is to provide the groups with opportunities to supplement their petitions due to obvious deficiencies and significant omissions. Today, none of these petitioning groups have submitted completed documented petitions demonstrating their ability to meet all seven mandatory criteria.

The Federal acknowledgment regulations provide a uniform mechanism to review and consider groups seeking tribal status. S. 480 and S. 437, however, allow these groups to bypass these standards, allowing them to avoid the scrutiny to which other groups have been subjected.

We look forward to working with these groups and assisting them further as they continue under the Federal acknowledgment process.

This concludes my prepared statement, and I would be happy to answer any questions the Committee may have.

[Prepared statement of Mr. Fleming appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Fleming.

You just mentioned that they have not submitted the documentation for the Federal recognition process under your responsibilities?

Mr. FLEMING. All of these groups have submitted partial documentation, some more than others. And with respect to the Grand River Bands, they just recently submitted about 10 archival boxes last week.

The CHAIRMAN. What about the Virginia tribes?

Mr. FLEMING. The Virginia tribes have provided documentation over time. We have been in the midst of developing their technical assistance review letters, but they are far from completing their documented petitions.

The CHAIRMAN. Was your office involved in the drafting of either of the bills before us today?

Mr. FLEMING. No, sir.

The CHAIRMAN. In the Virginia case, there is overwhelming evidence that there has been substantial destruction or corruption of documentation. Is it realistic to believe that they could meet the Federal acknowledgment process criteria?

Mr. FLEMING. The regulations allow for all kinds of evidence, and evidence is found on the Federal level, the State level, the county level, the local level—church records, for example—and tribal group and family records. We have had many groups provide that type of documentation.

In doing cursory review of records in many of these counties where these groups reside, there are records for these groups to research and provide under the process. We certainly would like to provide technical assistance to show what these documents will show to help each group as they prepare their petitions.

The CHAIRMAN. How do you respond to criticism of your office that the process takes so long?

Mr. FLEMING. It is a necessary thorough process. We have been reviewed by the Government Accountability Office [GAO]. We have understood the length of time it takes for petitioning groups, but it is a process also burdened by the number of groups that are already lined up in the process.

The CHAIRMAN. What was the GAO's conclusions?

Mr. FLEMING. The GAO's conclusions were that they recommend that we improve on the timeliness and the transparency of this process, because this process affects many——

The CHAIRMAN. Are you implementing those recommendations?

Mr. FLEMING. Yes; we are.

The CHAIRMAN. How soon can you let us know of your implementation of those recommendations?

Mr. FLEMING. We can certainly provide the committee with——

The CHAIRMAN. I mean when will it be completed?

Mr. FLEMING. The overall process?

The CHAIRMAN. The implementation of those recommendations by the GAO.

Mr. FLEMING. Those recommendations have been——

The CHAIRMAN. They have already been implemented?

Mr. FLEMING [continuing]. Implemented.

The CHAIRMAN. Finally, under the conditions, the normal situation as it prevails today, if both of these entities were federally rec-

ognized tribes, what is the situation as to regard to both of them being able to engage in gaming?

Mr. FLEMING. If these tribes are recognized, they would have the same equal footing as the other 561 federally recognized tribes. With regard to the Virginia groups, however, there is a provision that addresses the ability of these groups with regard to gaming.

The CHAIRMAN. And the case prohibiting it?

Mr. FLEMING. Prohibiting.

The CHAIRMAN. In the case of the Michigan legislation, there is none?

Mr. FLEMING. I believe that is correct.

The CHAIRMAN. I thank you, Mr. Fleming.

Senator Thomas.

Senator THOMAS. Thank you, Mr. Chairman. I think you have asked most of the question.

I guess you said, of course, you are concerned about going through the Congress, but 437 doesn't go through the Congress, it simply asks for your department to get the job done, doesn't it?

Mr. FLEMING. That is correct. The bill has deadlines that are stale. Most of those deadlines in the proposed bill have already passed, so something would need to be addressed with regard to a new schedule or dates.

Senator THOMAS. Why would you say that you haven't come to some decision prior to now? Why is it taking so long to come up with a final decision?

Mr. FLEMING. Senator, we have so many groups that are ahead of some of these other petitioning groups. They have been lined up, and we have nine groups, for example, that are under various phases of what is known as "active consideration." This is a period of time where our professionals are looking at the evidence of these nine particular groups. Once those groups are cleared off of active consideration, then we have ten groups that are lined up that are ready, that have completed documentation, and then we are able to apply our resources to reviewing those 10 petitioning groups.

Senator THOMAS. How long have you been considering the Michigan group?

Mr. FLEMING. The Michigan groups, the Burt Lake Band submitted their letter of intent in 1985, the Grand River Band group submitted their letter of intent in the midnineties. Now, a letter of intent simply says we are interested in the process. Under the Settlement Act and those deadlines, those petitioning groups did meet some of these intermediary deadlines for getting a documented petition into our office. In fact, Burt Lake is one of the groups that is further along. They are expecting a final determination in September of this year.

Senator THOMAS. Well, I agree with the idea that it really shouldn't go around this, but can there be groups that have been longer than 10 or 12 years ago that are still pending? I do not understand the administrative process that you are 10 years off and you still are behind a bunch of other groups. What is the story?

Mr. FLEMING. This is a concern that I think we all——

Senator THOMAS. Well what are you doing about it? I mean, having a concern doesn't solve the problem.

Mr. FLEMING. Let me give you an example. One group submitted their letter of intent in 1978. The regulation allows the group to then research documentation. Twenty years later the group submitted their material. No fault of their own other than it is a process that takes time to research and find the documents to provide in the process. So the Department gets blamed for those 20 years that the group is working on its petition. Then we issue a technical assistance review letter.

Senator THOMAS. I do not think we are talking about how long it takes for them to do it; it is when it gets to the department, how soon does that decision come?

Mr. FLEMING. When the petitioner goes on active consideration, then the regulation provides certain regulatory due process periods of time. For example, 12 months is involved in the review of the evidence to make sure that the evidence is applied to all 7 mandatory criteria. When we propose a finding, either to acknowledge or to not acknowledge, that allows for then a 6-month public comment period to allow the petitioner and the public to comment on our finding.

Then the petitioner is allowed to months to respond to any comments that may have come in from an interested party. Then the Department has 2 months to work on the production of the final determination. So right there you are just under the regulatory process of these various phases of due process. That is 22 months.

Senator THOMAS. Okay. Well, I understand the difficulty, but I just think we need to be as watchful as we can to make sure that these things do not go on for years standing in line.

What would you do then in 480, finally, if, because of the age of the years involved here, that some of these documents that you require are not available but that the evidence is still there that should happen? I guess——

Mr. FLEMING. I would state that the records are there. The records are available on the Federal level. For example, the Federal census is taken every 10 years. You have the 1930 being the most available right now. These groups should look for their families and members on the Federal Census. In fact, in a cursory look some of the individuals are even identified as Rappahannock, Mattaponi, or Pamonky. This is 1930 in the middle of that period of time when Virginia had some of its policies affecting vital records. But even vital records, the names of the parents and the names of the children are listed with their dates of birth, place of birth, and so on and so forth. These are the types of records that help demonstrate the genealogies of these families.

Sure enough, you may find different designations in these records, but even when you do a cursory look of records on the county level you are finding hunting and gaming documents where individuals are listed as "IN" or "IND," standing for Indian. Church records, these records are very helpful in demonstrating events that are taking place in the communities. You almost have to follow the genealogy of a church, because some members will disassociate from a mother church and create another church and then another church, but then you go back and you look at those types of records.

Our staff is ready to assist these groups in identifying these various records at these various levels. Civil War destroyed some of the courthouse records, but from 1865 to the present there are records there to help document those time periods. Prior to that there are other records on the other levels that I had just mentioned.

Senator THOMAS. Well, I know it is difficult, but I just think we have to come to some decisions, and it can't go on endlessly without some decision-making.

Thank you.

The CHAIRMAN. Senator Allen, would you like to ask questions?

Senator ALLEN. First of all, I thank you, Mr. Chairman, for letting me be an ex officio member of the committee.

The CHAIRMAN. You are always welcome here.

Senator ALLEN. Well, I wanted to hear the testimony of Chief Adkins, who will explain, as well as Dr. Rountree, on why it is so difficult to get these records, mostly because of vital statistics, the best records, of course, purged any reference to Indian or American Indian or whatever, anything other than white or colored.

One can say that this is a simple thing to do, but I would simply ask Mr. Fleming, you have read our legislation here. As you go through the documentation, the treaties, the Chickahominy, the Nansemod, the Rappahannock, all these different tribes, it is very interesting history, really, of Virginia. Some of these treaties were entered into in 1614 before the Pilgrims even landed up at Plymouth Rock. And you just see trying to reconstruct, it is more than just the last few years. It is even prior to that.

Do you have any question whatsoever that these tribes do exist, or people have the bloodlines, that there are Chickahominy, there are Rappahannock Indians, there are Monacan Indians or Upper Mattaponi and the others that are involved in our legislation?

Mr. FLEMING. The groups exist, and we know they exist because they have petitioned under our process. We also have, in total, actually 12 groups from Virginia that have petitioned for Federal acknowledgment. What struck me in looking at the bill—and when you cursorily look at all the events that were listed chronologically, it raised a yellow flag in my mind because there are evidentiary gaps that are in these findings.

We would advise then, under technical assistance to these groups, find documents to help supplement these periods where there are gaps. Our staff did do a cursory look at the various types of records that could be found at the State archives, the State library, in the counties, in the churches, in the families of these groups, and, as you start to gather the evidence, you align the evidence chronologically under the seven mandatory criteria to help demonstrate that there is a continued tribal existence socially and politically and that they do, indeed, descend from an historical tribe or tribes.

I think what other concern I have is in the bill, as we compare it to our petitioners in the process, there are two Rappahannock groups, there are two Chickahominy groups, there are two Mattaponi groups that, when you have two groups, there are questions with regard to then membership. What is going on here? These issues are ironed out through the acknowledgment process

and it allows for clear definition of who is who and who belongs to whatever group.

Senator ALLEN. How long do you think it would take to go through your processes to have these tribes recognized using your agency?

Mr. FLEMING. It depends on the group in doing research, because a lot of that time is involved with the research. It would be interesting to see if there could be some cooperation between not only our office in providing technical assistance, but other institutions. The Commonwealth of Virginia has tremendous research institutions, and one can foresee some kind of coordination between the groups and academia, where most of these records are kept in their institutions, such as William and Mary, for example. The Brafforton School for Indians was established in the early 1600's and ran and then eventually became William and Mary. Those records have references to Indian students who came from these various groups of today.

Senator ALLEN. What's the average for a tribe to be recognized using your agency, as opposed to a——

Mr. FLEMING. The GAO did an analysis of that. They looked at the various groups. Our regulation went through revisions in 1994, but we can provide you the data on that, because not only do you have work that is being done by each group, but you are also having work done by the Department of Interior. They broke down some of those time frames to give an idea of how long it took a group to document versus how long did it take a group to go through our process.

Senator ALLEN. So what is the answer to the question?

Mr. FLEMING. I'd have to get back to you on that.

Senator ALLEN. Roughly.

Mr. FLEMING. Roughly probably 6 to 10 years.

Senator ALLEN. Total?

Mr. FLEMING. Some groups less, some groups more.

Senator ALLEN. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Fleming.

Our next panel is: Stephen Adkins, who is the chief of the Chickahominy Indian Tribe; Helen Rountree, who is the professor emerita of anthropology at the Old Dominion University; Ron Yob, who is the chairman of the Grand River Bands of Ottawa Indians; Reverend David Willerup, the pastor of the Westwood Reform Church in Muskegon, Michigan; and Michael O'Connor, who is the president, Virginia Petroleum, Convenience, and Grocery Association in Richmond, VA.

Chief Adkins, we will begin with you, sir.

**STATEMENT OF STEPHEN R. ADKINS, CHIEF, CHICKAHOMINY INDIAN TRIBE, CHARLES CITY, VA**

Mr. ADKINS. Thank you, Senator McCain, Chairman McCain, and members of the committee for allowing me to testify here today.

I will omit some of my prepared oral testimony. Senator Allen has spoken to some of my points, as well as Senator Warner and Congressman Moran. But I would like to say that one of the bright spots in our history occurred in 1997 when Senator Allen signed

that legislation that compelled the State to go back and change the vital statistics, the birth records of my tribe and several other tribes in Virginia, and also I would thank the Senator for his unflagging support from the State House to the Halls of Congress.

You, Senator McCain, I would like to thank you for the fact that you told Chief Ken Adams and myself in February of this year at the winter conference of the National Congress of American Indians that you would give consideration to and look at the bill that we have before this committee, and I thank you for honoring that commitment and having us here today. This is the third time, in fact, that I have appeared before the Senate Indian Affairs Committee, so my story really hasn't changed. It hasn't changed since 1607 when we actually greeted the English settlers as sovereign nations. The Senator, Senator Allen, talked about our treaties.

The first treaty engaged with the colonists was in 1614, that being between the Chickahominy and English settlers. Then we had treaties in intervening years. In the 1640's, the treaty that Congressman Moran alluded to delineated some of the responsibilities of the tribes and the officials regarding what the tribes would do and what the governing body would do. One provision of that treaty was that a tribute would be made every year to the State House as a condition of that treaty. That tradition has continued for over 3½ centuries, which I think would lend some compelling evidence to some of the points that Mr. Fleming brought up regarding the continuity of our people for those years.

I would like to say a little bit about Walter Plecker. I won't go into the whole thing because that has been talked about today. I would like to mention that we have gotten support from three Governors—Governor Allen, Governor Warner, Governor Kane—letters that have come pledging their support for our efforts around Federal recognition.

But when I think about Walter Plecker, the rabid separatist that he was, and those things that were done to my people, it is not something I like to talk about, but what that caused us to do was unite more strongly as tribes and to really work hard to preserve our heritage.

Now, the obvious barriers that we had were barriers that were created that caused the public to look at us as something other than Indian, so we fought the system and the image that we had in the public. No other State had officials that were as rigid, as zealous enforcers of such a vile act as Virginia had, so we faced the bureaucratic obstacles as well as the scrutiny of the public in maintaining our heritage. Very hard to do. But I would say it made us stronger. Some people under adverse conditions wither and die away; I would say this made us stronger and gave us a more compelling desire and urge and more deliberateness in pursuing our rightful place as recognized tribes within these great United States of America.

I am glad to be here today to offer this testimony.

I have with me today Dr. Helen Rountree, who is prepared to assist with any questions you may have about our history.

Senator McCain, I could tell you much about the publicized stories of 17th century Virginia, and you have heard much of that, so I won't talk much about that. But I would say that well known is

the story of Chief Powhatan, and more widely known is the story of his daughter, Pocahontas, whose very picture hangs in the Capitol Building here in D.C., along with her husband, her English husband John Rolfe.

I would say that without the hospitality of my forebears, the first permanent English settlement would not have been Jamestown. To be sure, there would have been one, but it wouldn't have been Jamestown.

People know about the 17th century and how that early history so callously denied our Indian heritage, but I want you to remember most and recognize most is that myself, along with the chiefs here today, stand on the shoulders of those people who gave their lives, whose very lives were destroyed because of the harsh realities that existed in the 17th century and have carried on through the 20th and now the 21st century. I stand here on the shoulders of Chief Wowinchopunk, who was chief of the Paspahegh, whose whole tribe was annihilated by 1610. Some of those descendants found refuge with the Chickahominy Tribe, but as a tribal group they were destroyed. That is 3 years after the English settlement.

As we commemorate Jamestown 2007, the birth of this great Nation, those of Indian heritage in Virginia are reminded of this history and it is painful. We are actively involved in the commemoration of the birth of this great Nation and we think it is the right thing to do. We know that one of the legacies of this effort will be that our story will be told the way it happened. The legacy will find its way into the history books, the textbooks of our schools, so that is a good thing.

But we are seeking recognition through an act of Congress rather than the BIA because we think the actions taken by the Commonwealth of Virginia during the 20th century erased our history by altering key documents as part of a systematic plan, a systematic plan to deny our existence. We think this state action separates us from other tribes of this country that were protected from this blatant denial of Indian heritage and identity, so it distinguishes us from those tribes.

The Senator talked about the article from Peter Hardin, so I won't mention that, but I do concur that I would like to see that in the records.

It was socially unacceptable to kill Indians in Virginia, but we became fair game to this documented genocide, the eugenics movement, and all of the attendant things that occurred under the leadership of Walter Plecker that sought to destroy who we are, that Racial Integrity Act of 1924.

Now, the thing about it, that law stayed in effect half of my life. My Mom and Dad traveled to Washington, DC, on February 20, 1935, to be married as Indians because they couldn't do it in the Commonwealth of Virginia. People ask me why I do not have an Indian name. The answer is quite simple. My Mom and Dad weighed the risks of naming me what they would have loved to name me and said it is not worth the risk of going to jail. Now, I am not alone in that plight. There are people here today who do not carry Indian names because of the threat of going to jail for a year if that happened. Again, no other ethnic community was probably denied in that way.

I would like to talk a little bit about——

The CHAIRMAN. Chief, you have got to talk a little bit faster. We are well over time. I have been informed we have a vote at 11:15, so we want to be able to give all of the——

Mr. ADKINS. Okay. Give me 1½ minutes.

We think that recognition through Congress because of the history of racism in very recent times that intimidated our people, prevented us from believing that we could fit into a petition process that would either understand or reconcile the State action with our heritage. We fear the process would not be able to see beyond the corrupted documentation that was designed to deny our heritage.

Mr. McCain, the story I just told you I do not like to tell. It is very painful. But that is how we got here to day.

I would like to end this testimony with a quote from Chief Powhatan. I think it is very timely and I would like for you to hear that. I used this quote last year but I want this year to specially honor him. Last summer I was one of two chiefs to be hosted by the British Government. We went to England and we were honored, first time a Virginia Indian had been honored in England since Pocahontas visited there with her husband, John Rolfe. But here is that quote:

> I wish that your love to us might not be less than ours to you. Why should you take by force that which you can have from us by love? Why should you destroy us who have provided you with food? What can you get by war? In such circumstances, my men must watch, and if a twig should but break all would cry out, 'Here comes Captain Smith.' And so, in this miserable manner to end my miserable life. And, Captain Smith, this might soon be your fate too. I, therefore, exhort you to peaceable councils, and above all I insist that the guns and swords, the cause of all our jealousy and uneasiness, be removed and sent away.

Senator McCain, our bill would give us this peace that Chief Powhatan sought, it would honor the treaty our ancestors made with the early colonists and the Crown, and at this time in our history when we are commemorating the 400th anniversary of the birth of the greatest nation in the world, it would show respect for our heritage and our identity, that through jealousy perhaps has never before been acknowledged.

Thank you.

[Prepared statement of Mr. Adkins appears in appendix.]

The CHAIRMAN. Thank you very much.

The written statements of all the witnesses will be included in the record completely. We are going to have to stick fairly close to the 5-minute rule here because of the vote that is going to take place so we have time to hear your testimony as well as answer questions. I apologize for any inconvenience that may cause you.

Dr. Rountree, thank you, and thank you for all the hard work you have done for many years on this issue.

## STATEMENT OF HELEN ROUNTREE, PROFESSOR EMERITA OF ANTHROPOLOGY, OLD DOMINION UNIVERSITY, NORFOLK, VA

Ms. ROUNTREE. Thank you, sir. I will make this very succinct and count on questions afterwards. I am going to cut down even the few pages I have.

I am Dr. Helen Rountree, an ethno-historian trained in both anthropology and history, but my primary area is cultural anthropology.

I started working with American Indians in Nevada and worked with people who were more fluent in Shoshone than they were in English, but in 1969 I became acquainted with Virginia Indians, saw serious parallels, and said I had better get to work and begin researching here. I have been doing it ever since.

I not only have spent time visiting and living with the modern people, but I have literally scoured the published and unpublished records in Virginia, including the speed reading the often unindexed county records from 1607 onward. I have found the records that Mr. Fleming is looking for. I hope you will ask me what I have done with them besides publishing them, for I have produced no less than six books on the subject of the Powhatan Indians of Virginia. Number seven is in the hopper. The one that is most germane to this hearing came out 16 years ago, "The Powhatan Indians of Virginia Through Four Centuries." Roughly one-third of the book is end notes and bibliography which gives the resources of the records I found to prove I didn't make anything up. These records are going to be easy to throw in a Xerox machine and send to Washington if I ever get the word to do it. I have yet to get a word to do it. Do please ask me about that. It is a point of bitterness with me. Sorry. It is on behalf of the Indians I work with.

I am not the first social scientist to work with these tribes in Virginia. There have been social scientists, including anthropologists like me who specialize in American Indians, North American Indians, working with them for 120 years, just under 120. So it is not as if I am the first, and it is not as if they are recently appearing. They are not.

I learned early on what it was going to take to show that ethnic groups were actually here. The criteria I was using were subsequently codified by the Bureau of Indian Affairs. They were not news to me. I knew those criteria, too. In my opinion, the six tribes represented here today meet those criteria. Why they did not choose the BIA route is their own business and they can answer that, but they do meet the criteria. The people are authentic. On that basis, I will stand firm.

There are several things that make the Indian groups in Virginia an exception, and many of them, in my opinion as an outsider, have to do with Pocahontas, believe it or not. When the icon of Indianness in your State is a legendary figure from 400 years back and an internationally famous turncoat who has been Disneyfied, it is a little hard for modern-day tribal people to look Indian in the eyes of the general public. And talk about being overshadowed, these people I work with have been overshadowed badly for as long as the Pocahontas legend has been going on. People would much rather talk about Pocahontas to me. I work with Virginia Indians. "Well, tell me about Pocahontas." It goes on all the time.

This has blinded people in Virginia, many people, to the fact that there have been Indian tribes all along in their midst. They didn't want to look at the reality. They preferred to look at the legend. It has gone on for 400 years now.

Pocahontas also played into the difficulties of the 20th century with that racial integrity legislation. The one drop rule—one drop of non-white ancestry makes you colored—was believed in by many Virginia people, including my ancestors there, back in the 19th cen-

tury when they began to try to make it a matter of law of racial definitions. The first thing they discovered was that some of the aristocratic Virginians traced their ancestry back to Pocahontas, and therefore some of the State's aristocrats would be the very first people put onto the Jim Crow Coach. "We cannot allow that to happen," so they wrote an exception right from the beginning of the 20th century for, as they were called, the "Pocahontas descendants." But for the die-hard white supremacists in the State—Plecker was only one of several—for those die-hards, they saw that as a hole in the dike that had to be plugged, and the quickest way to plug it was to say the only people with Indian ancestry are those Pocahontas descendants today, and all these other people claiming to be Indian are only using the Indian label as a "waystation to whiteness." That is a direct quote, a "waystation to whiteness."

So the stridency that you heard all across the south in the first one-half of the 20th century was much magnified in Virginia, and the attacks on people saying publicly they were Indian, like Steve's ancestors, were that much more public and that much more relentless.

When the racial definitions were repealed——

The CHAIRMAN. Dr. Rountree.

We have run out of time. Please summarize.

Ms. ROUNTREE. I will summarize.

It is not a waystation to whiteness they've claimed. They are still saying they are Indian. Anybody can be anything they want to in Virginia now. They are still saying they are Indian, so I think they deserve recognition on that basis.

Thank you.

[Prepared statement of Ms. Rountree appears in appendix.]

The CHAIRMAN. Thank you very much, Dr. Rountree. Thank you for your passion.

Chairman Yob, welcome back.

**STATEMENT OF RON YOB, CHAIRMAN, GRAND RIVER BANDS OF OTTAWA INDIANS, GRAND RAPIDS, MI, ACCOMPANIED BY FRAN COMP, VICE CHAIRMAN**

Mr. YOB. Sir, thank you.

[Remarks in Native tongue.]

Good morning, Mr. Chairman and members of the Senate Committee on Indian Affairs, my name is Ron Yob and I am chairman of the Grand River Bands of Ottawa Indians of Michigan. I would ask the committee that Vice Chairman Fran Comp will be allowed to assist me if there are any questions from the committee.

Thank you very much for holding this hearing today on bill S. 437 that would expedite review of the Grand River Band of Ottawa Indians to secure timely and just determination on whether the tribe is entitled to recognition as a Federal Indian tribe. I want to be clear that this is not a recognition bill. This would allow the tribe to participate in an expedited process through the Office of Federal Acknowledgment and allow the OFA to make a final determination.

We'd like to take this opportunity to express our deep appreciation to Senator Levin and Senator Stabenow for their interest and

support of our tribe. For many good and valid reasons, the tribe is very hopeful that the committee will favorably consider S. 437.

The story of our tribe is long and varied, as is the story of recognition of all the Michigan Indian treaty tribes, of which the Grand River Bands of Ottawa Indians is the only one that remains unrecognized. The Grand River Bands of Ottawa Indians is the largest unrecognized treaty tribe in Michigan, and perhaps the United States. Our members live primarily in western Michigan in the same area we have lived since before the Europeans first arrived there. Our prehistoric burial mounds are located along the Grand River near the city of Grand Rapids, and in many other areas of the river, from below Lansing to Grand Haven.

As we are pressed for time, I would like to focus the testimony on the legislation and why we are pursuing an expedited process to pursue Federal acknowledgment.

The Grand River Bands of Ottawa Indians of Michigan is comprised of 19 bands of Ottawa Indians who occupy the territory along the Grand River Valley and other river valleys in what is now southwest Michigan, including the cities of Grand Rapids and Muskegon. There are about 700 tribal members, the majority living in and around the counties of Kent, Muskegon, and Oceana. We are signatories to five treaties, and all successor tribes have now been recognized by the United States except for the Grand River Bands of Ottawa Indians.

In 1997 Congress passed the Michigan Indian Lands Claim Settlement Act to implement distribution of several land claim awards. The law provides that to be eligible for the set-aside a nonrecognized tribe must file its documented petition by December 15, 2000. We have done so. The act provides 6 years for the BIA to issue a final determination on that petition. The BIA has not done so. If the Grand River Band of Ottawa Indians is not recognized by March 15, 2007, we are going to lose millions of dollars for tribal programs that would otherwise be available.

S. 437 was introduced by Senators Levin and Stabenow to ensure that our petition would be acted on in time for the Grand River Bands of Ottawa Indians to qualify for the funds set aside by Congress for the tribe. After making our submission on December 8, 2000, the Grand River Bands did not hear from the Bureau of Indian Affairs [BIA] until April 2004, when they granted us a technical assistance meeting at the request of Congressman Peter Hoekstra. It was another 9 months before we received our technical assistance letter on January 26, 2005. The Grand River Bands have spent the past 17 months collecting materials, preparing a 63-page legal response supported by a 265-page ethno-historical response, additional documents, and two certified copies of our membership documents. We filed this as our response to the TA letter on June 9, 2006.

My conclusion: The Grand River Bands of Ottawa Indians has the support of its community and other Michigan tribes, and thankfully our Senators. This bill does not directly recognize the tribe, but instead refers the matter to the BIA for a determination with time lines for deciding the tribe's status and filing a report to Congress. The Congress has directly reaffirmed the existence of

four other Michigan tribes, so there is an ample precedent for direct reaffirmation of our status.

The Grand River Bands have always been an active leader in the Michigan Indian community. We participate, though often unofficially, in Indian child welfare cases, repatriation matters, and other dealings with other State, local, and private entities. We have spearheaded the return of the original 1855 Treaty of the Grand Rapids to be exhibited in the museum named for our great former President Gerald Ford.

If S. 437 is not passed and Grand River Bands of Ottawa Indians remains in the Federal acknowledgment process, not only will Grand River lose millions of dollars, we estimate it will take 15 to 25 years to complete this process.

Thank you again for your attention to S. 437, and we pray that the committee will act favorably on this legislation.

[Prepared statement of Mr. Yob appears in appendix.]

The CHAIRMAN. Thank you very much, Chairman Yob.

Reverend Willerup, welcome.

**STATEMENT OF DAVID WILLERUP, PASTOR, WESTWOOD REFORM CHURCH, MUSKEGON, MI**

Mr. WILLERUP. Thank you very much, Chairman McCain.

I am here today as a pastor of Westwood Reform Church, the former president of Positively Muskegon, which was a ballot action committee formed in 2003 to face one referral question that was put before the city of Muskegon. We faced a single question referral in September 9, 2003, whether the city of Muskegon should host a casino or not. Most of the reason why we are here today has to do with that particular referral and activities after that referral in September 2003.

Prior to September 2003 the Archimedes Group, LLC, was involved in some redevelopment claims for our downtown. Our downtown in Muskegon—and Muskegon is only a population of 40,000 residents with a beautiful beach. We have significant investment from Grand Valley State University in a technologically advanced Michigan Alternative and Renewable Energy Research Center, and also Water Research Facilities Institute. Both of these represent millions of dollars of investment.

Well, the Archimedes group approached the Downtown Muskegon Redevelopment Corporation with a proposal to put a casino on 23 acres of defunct mall property which was rejected. For the next several months the Archimedes group published their plan on this mall property. I attended one of those meetings where they said that the casino would be the economic savior of Muskegon and, as a reverend, that got my ire up. So when I stood up at the meeting to ask what avenue they would take, because in Michigan there are only two ways to get a casino, one is through a private corporation which was enacted only for three casinos in the city of Detroit, or tribal. At that point I was silenced and told to sit down.

It took the next several months of public debate to get the Archimedes group to even admit that this would be done through a tribal process, and not until after the vote, which went 52 percent to 48 percent in favor of the referendum from Muskegon city residents only, that the tribe became active politically.

There was a political action committee formed by the Archimedes Group called Yes Muskegon. This group has been behind the tribe since the introduction of the idea of a casino for downtown Muskegon. I do have testimony here. I district have proof of my claims that I would like to have included in the record.

The CHAIRMAN. Without objection.

Mr. WILLERUP. Thank you. They include letters from business and community leaders stating their objection to a casino as an economic engine.

In September 2003, as I stated, the referral went in favor where more people turned out for this one non-binding election than voted for the Governor. In November 2003 the "Muskegon Chronicle" reported that a deal had been struck between the Archimedes Group and the tribe. In December 2003 I called Senator Stabenow's office to see if she was at all interested in expediting the procedure, at which point I was told no. And then in February 2004 I find that she sponsored legislation.

Also in 2004 a tribe that had been previously politically inactive began investing in lobbyists, and over the next 2 years over $200,000 was invested with firms that are mentioned in my testimony.

So I would like to make clear to the committee today that my point in being here is to let you know that it is casino interest which is driving this time line. The Archimedes Group had made a public promise that they would have a casino up and running in 3 to 5 years. That will not happen without tribal recognition.

I would also like to state that I am not—if that casino were not part, if casino were not part of this effort, I would be in support of the tribe's search for recognition. I do not believe that any people should be denied what has been promised to them, should be denied their culture or their heritage or the avenue through which those things are protected. But because casino is clearly behind it, I ask that this committee consider that, as a progenitor of this bill, we have something that looks a whole lot less like "Of the people, by the people, for the people," and a whole lot more like "Of Las Vegas, by the lobbyists, and for the management company."

Thank you.

[Prepared statement of Reverend Willerup appears in appendix.]

The CHAIRMAN. Thank you very much, sir.

Mr. O'Connor, welcome.

**STATEMENT OF MICHAEL O'CONNOR, PRESIDENT, VIRGINIA PETROLEUM, CONVENIENCE AND GROCERY ASSOCIATION, RICHMOND, VA**

Mr. O'CONNOR. Good morning, Senator. I will summarize.

I appreciate Senator Allen for his efforts in including our views in the hearing this morning, as well.

I am president of the statewide trade association that represents petroleum marketers and convenience store operators in the State of Virginia. All of our members stand to be affected by S. 480, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act should it be enacted.

While honorable in its intention, S. 480 poses a serious threat to small businesses across our State. If passed, S. 480 could create an

anti-competitive marketplace for goods such as tobacco and gasoline and strain the State budget by reducing excise tax revenue from those products. In fact, if passed, the impact of S. 480 could be multi-faceted.

The U.S. Government and the government of the Commonwealth of Virginia would recognize the referenced tribes as sovereign entities. The groups would no longer be subject to the taxing power of the Commonwealth. Pursuant to S. 480, these groups would be permitted to purchase and to take into trust land in some of the most populous areas of our State. In fact, it appears that one of the groups could acquire land anywhere in the State of Virginia and turn it into a reservation. This would create havoc for State laws and for law enforcement.

For our members, the single greatest concern is that these tribes will have the ability to establish retail business outside of the jurisdiction of traditional State powers to collect taxes. That means that any convenience store, truck stop, or smoke shop established by one of the recognized tribes could sell gasoline and tobacco to the public free of State taxes.

The type of tax evasion I am referencing today is not conceptual. It is occurring today in many States and has led to high-profile disputes in New York, Oklahoma, Kansas, and New Mexico, among others. In these States, Native American tribes have used recognition to open convenience stores and truck stops that sell gasoline and tobacco products tax free to non-Native Americans. This is in spite of the U.S. Supreme Court ruling saying that such sales can be subject to State taxes.

For example, in New York it is estimated that $360 to $400 million per year is not recouped due to cigarette excise tax evasion.

Let me be clear in summing up about our position. We are not opposed to recognition of Virginia's tribes; however, the people whom I represent do not deserve to have a life's investment threatened by a marketer selling gasoline to non-tribal members at a 17½ cent price advantage, an advantage that would be gained solely through tax evasion.

Because this legislation is not just about recognizing existing reservations but pulls in other areas of the State into new reservations, the competitive disadvantage large numbers of convenience store retailers would feel is exacerbated.

Mr. Chairman, any legislation of this kind must ensure that tribal members are required to pay all excise taxes on gasoline, tobacco, and other products. Accordingly, unless strong protections against excise and sales tax evasion are included in S. 480, VPCGA must oppose the bill in its current form; however, we would welcome the opportunity to work with the committee, Senator Allen, and any of the proponents to address the concerns that we have aired today.

I appreciate your time.

[Prepared statement of Mr. O'Connor appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. O'Connor.

Mr. O'Connor, in many States the tribes and the States have sat down and worked out agreements so that these impacts are mitigated. In some of the States the tribes collect taxes equal to those

imposed by the State, etc. Would you be supportive if such agreements could be worked out?

Mr. O'CONNOR. I think the answer to that is if the agreements were embedded in the legislation it would certainly give a great deal more comfort to the people that I represent.

The CHAIRMAN. How do you feel, Chief Adkins, about that issue?

Mr. ADKINS. First, I'd like to say this is the first time I've seen Mr. O'Connor, and if he is sincere about working with the tribes I am just kind of amazed that this is the first time I've heard anything that he's talking about today. But the tribes would be willing to work with the State in a way that we honor the sovereignty and respect the laws of the State of Virginia.

The CHAIRMAN. Chairman Yob, how do you respond to Reverend Willerup's concern that this is simply a casino-driven deal; that the funding that you have received is primarily from developers who would like to see a casino in operation? And I say that because, as you know, in other parts of the State of Michigan there has been great controversy about casinos and its impact on the local communities. How would you respond to Reverend Willerup's concerns?

Mr. YOB. Well, basically our tribal council doesn't—as you noticed, our letter of intent was in 1994. The Archimedes people agreement is in 2003. That is 9 years later. Our tribal council do not even talk casino. We do not want casinos. We never brought up casinos. We have been approached over the years by numerous people from Nevada, from Florida. They wanted to fly us to Florida and show us operations in New Jersey, North Dakota. I can go on and on, monthly. I will say no. We were approached by the Archimedes people several times and we still would say no to them.

The CHAIRMAN. Have the Archimedes people funded some of your efforts?

Mr. YOB. Yes; they have, sir.

The CHAIRMAN. Out of altruism?

Mr. YOB. Excuse me?

The CHAIRMAN. Because they support your effort for recognition or because they think there's some financial gain that they would eventually realize?

Mr. YOB. I can't talk for the Archimedes people, but the only thing I can say is that I have seen the nature of the Archimedes people change when they started seeing the plight of our people and they started seeing our priorities. Our casinos are way down the list. We've got too many other things that we need to correct in our State with our own people that have nothing to do with gaming. You know, the only reason that we even worked things out with Archimedes is once, when they brought us to Muskegon, for instance, the person drove by a cemetery and told me that is where his mother was and that is where his brother was buried, and that showed me that connection to that community. He did mention the county-wide vote which was 60-some percent to 40-some percent, actually, that showed that they were in favor of doing that.

When that point comes along, that is—our tribal council truly does not want—I mean, I won't say we won't have one, but that is not our intentions, that is not our priority. We have many, many other things that concern the welfare of our people, whether it be education, health care, care for our elders, housing, et cetera.

The CHAIRMAN. I understand that, but there's a clear record and it is not illegal, but there is a clear record of gaming industry people funding tribes' recognition process, helping fund them, and in return there have been casinos set up. I am not saying there's anything illegal about it, but it certainly is a charitable instinct on the part of this group whose general purpose is to make money. I guess we will have to see.

Ms. Rountree, are your criteria for what constitutes a tribe the same as the Federal Government's criteria?

Ms. ROUNTREE. Yes, sir; they are.

The CHAIRMAN. With regard to the Virginia groups, has your research provided evidence of an ongoing tribal government?

Ms. ROUNTREE. Yes; it has.

The CHAIRMAN. There's no gaps?

Ms. ROUNTREE. Not since 1850 when the better records came about.

The CHAIRMAN. There seems to be some difference of opinion between that view and that of Mr. Fleming.

Ms. ROUNTREE. I have tried communicating with Mr. Fleming and he does not readily answer letters and does not answer questions directly. I have offered to send him any or all documents that are relevant. He has not communicated to me what to send. That is why I sent him nothing.

The CHAIRMAN. Mr. Fleming, I hope you will be in receipt of and take in consideration the documents that Dr. Rountree has. Will you do that?

Mr. FLEMING. Yes.

The CHAIRMAN. Thank you very much.

Chief Adkins, it is not your responsibility, but if we in the Congress were to grant recognition based in part on the destruction of records, what should we tell a group whose family histories were destroyed by fire?

Mr. ADKINS. I think what distinguishes us from those groups and what I would offer is that the State systematically worked to destroy us, and I call it paper genocide. If ours were simply destroyed by fire—and I do not trivialize that—it would be much easier to go back and fill in the gaps than it is to go through records that have been given the official seal of designating us in some class that we are not. That is the argument, sir, that I would give.

The CHAIRMAN. I think that is an excellent point.

Senator Dorgan.

Senator DORGAN. Mr. Chairman, I had to go back to the Commerce Committee, so I missed a part of the presentation. I will review those that I missed and I want to thank the panel for being here. This is a hearing that is very important, and one in which we have a lot to learn. I think we have learned a lot today from the submissions of the statements, so thank you very much for being with us.

The CHAIRMAN. Senator Allen.

Senator ALLEN. Thank you, Mr. Chairman.

Dr. Rountree, in your research—and you mentioned this—you paraphrased or summarized your testimony, but in your written testimony you talked about how much more difficult it was to hunt for the personal names and associations in the records because

they didn't have the accurate racial labels, and that the law that was passed in 1924 insofar as records where you are either white or colored was the term that was used was repealed. What year was that repealed?

Ms. ROUNTREE. In 1975.

Senator ALLEN. All right. So you have over 50 years, 51 years of records that way. Now, with all your research you have done, how does that affect you as a researcher trying to put together a record of a continuity, plus the names weren't the previous names because you couldn't use Indian names, as Chief Adkins mentioned, and his parents had to get married in the District of Columbia to be able to have a proper record. How does that affect the research and record?

Ms. ROUNTREE. It draws the research out quite a lot longer, for starters, because I have to try to find James Mooney's list of family heads, for instance, circa 1900, and work back from that using family names, rather than going the quick and dirty route and just looking for Indian references in the column under race. It took a great deal longer. I was working with names.

It also means that for individuals that are not obviously connected by genealogy to some of those family heads but are still part of the tribes, I may be missing them. I could very well, unless somebody comes along and points out, "Oh, yes, he was Indian, too."

Senator ALLEN. What's the likelihood of something like that happening?

Ms. ROUNTREE. Once in a while it does, actually.

Senator ALLEN. Once in a while.

Ms. ROUNTREE. The big holdup in the 20th century—and this is liable to drive me nuts. It will take the modern people getting more courage and sharing the information with me. I've constructed the genealogies from the public records. The modern people, especially the old-timers in the 1970's, were simply scared to death of talking about any of this with me. They didn't trust me, an outsider. Why should they trust an outsider?

And anybody who got married outside of their home county I was likely to miss and not know some of those connections. I do not have complete genealogies on some of the tribes as a result, even now. They will be submitting their own, obviously, and they will know better. But I haven't got Steve's parents' dates. I didn't see it until his testimony when I read it last night to know when his parents were married. That is not in my records. They married elsewhere. I was having to go on local records.

And in the case of the Eastern Chickahominy, none of them married locally, thanks to Plecker and his campaign, between 1923 and 1946. So I've missed a whole generation of people there in the public record.

Senator ALLEN. To answer the Chairman's question which gets to his burden of proof of extenuating circumstances, the question he asked, when you are doing research, let's assume, say, during the War Between the States records are burned at a courthouse, what's the difference between records being destroyed in a county courthouse versus this racial designation, this eugenics movement of 51 years, versus, say, county records in Gloucester being burned?

Ms. ROUNTREE. It is a difference of degree. When a county courthouse is burned in the 19th century that takes everything out. You cannot replace it. There's no way I can get around some of these things. Family tradition will only take you back so far. I mean, these people are not coming from a culture that memorizes, as in traditional Hawaii, memorizing all their genealogy back 25 generations. So the records are gone and they just are gone.

In the case of the things Plecker did, he changed racial designations to make people harder to find. He made them go elsewhere to do some of these public record things. The records are going to be elsewhere. Washington, DC and Philadelphia were favorite spots. It is possible to track down those people with extra time and trouble and retrieve that information. The information is harder to retrieve but it is retrievable. But when a courthouse burns completely you have lost it. It is gone.

Senator ALLEN. Chief Adkins, we heard from Mr. O'Connor on some of these issues. On the gambling issue, it is your understanding, speaking for your tribe and others, that in the event that you all are Federally recognized, the only way that you conduct any sort of gambling—casinos, blackjack, slot machines, and all the others—would be if it was agreed to by the State government, the Governor of Virginia and laws passed by the General Assembly. Is that your understanding?

Mr. ADKINS. We have agreed to that. That is true.

Senator ALLEN. I just wanted to make that part of the record. Mr. Fleming mentioned that, as well.

Insofar as gas taxes, in the event on any tribal lands that you all had a convenience store and a filling station, gasoline, ethanol, whatever it may be that is sold there, would it be your view that you would be paying the road taxes, the gas taxes to any sales made to someone who is not a member of the tribe?

Mr. ADKINS. That is my view and in no way would we attempt tax evasion. Even in the tribal communities we perceive that as being illegal. I do not know how the larger community looks at that, but we are not inclined to break the law, so tax evasion is not within the scope of things we plan to do. And if we did engage in any kind of retail activity, you know, there would be negotiations and dialog between the government and the tribes. So we are not trying to circumvent the State laws.

Senator ALLEN. Well, the chairman, Senator McCain, mentioned, and obviously where he is from in Arizona there are recognized tribes, Navajo, Pima, and others. Would you all envision such compacts or contracts or agreements with the Commonwealth of Virginia, whether it is gas taxes or tobacco taxes, taxes on beer or any other item that may be sold there?

Mr. ADKINS. We haven't looked that far ahead, but I think it is logical to assume that somewhere in our future we would engage in activities that we would have to negotiate with the State, but I think those laws clearly delineate that taxes must be collected from non-Natives. I have little knowledge of that because we haven't even looked at that. You know those things that we are interested in.

Senator ALLEN. Understood.

Thank you, Chief. Thank you, Mr. Chairman for allowing me to participate in this way on this important matter.

The CHAIRMAN. We hope you will become a permanent member of this Committee, Senator Allen.

Dr. Rountree, are you compensated by the Chickahominies for your work?

Ms. ROUNTREE. Nary a penny.

The CHAIRMAN. Thank you very much.

These are obviously, as I said in my opening statement, very difficult issues and hard to ascertain exactly the right way to go on them. I certainly understand the desire of people to see action, particularly when 6 and 10 years is a minimum some cases have been on the books, or going through the process for a long period of time.

We will probably mark up both of these bills subject to the vote of the committee and see if we can't move the process forward. I understand the impatience of both tribes. I also understand the concerns of people like Rev. Willerup and people in the communities who are affected by gaming operations. It has become more and more controversial as gaming operations have grown rather dramatically.

I understand that that is not an issue with your tribe, yet I think there are many people who would like to see that in the law, Senator Allen, because there have been cases where tribes have appeared before this committee and said, "We will not engage in gaming," and then a few years later a new tribal council is elected, which is the right of the tribe, and then they have decided to change their policy. So I think if people of the Commonwealth of Virginia are concerned, maybe a compact or agreement such as you talk about and is envisioned might be helpful.

I thank the witnesses. Thank you very much.

This hearing is adjourned.

[Whereupon, at 11:20 a.m., the committee was adjourned.]

# APPENDIX

## ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

### PREPARED STATEMENT OF STEPHEN R. ADKINS, CHICKAHOMINY INDIAN TRIBE

Thank you Chairman McCain and other distinguished members of this committee for inviting me here today to speak on S. 480 which is pending before your committee. The bill, introduced by Senator George Allen is titled the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2005-S. 480. A hearing on our Federal recognition bill was held by this committee on October 9, 2002 [S. 2694] before Chairman Campbell. In addition, as you may remember I appeared before your committee last May and entered the testimony and evidence from the 2002 hearing into record. I am proud to appear again before the committee in this session of Congress for a more complete hearing on our legislation on behalf of the six tribes named in S. 480, the Eastern Chickahominy, the Monacan, the Nansemond, the Upper Mattaponi, the Rappahannock, and my tribe the Chickahominy. That evidence included a strong letter of support from our Governor, Mark Warner, testimony from the Virginia Council of Churches and our anthropologist and many others supporting our Federal recognition through Congress. As part of the record today I am submitting the letter from our current Governor, Timothy Kaine, who at his recent inaugural address pledged his strong support for the Federal recognition of the Virginia tribes. Beside me today is Dr. Helen Rountree, who is a renowned anthropologist specializing in the heritage of the Virginia tribes, who worked on the petitions we filed with the BIA, and is prepared to assist with any questions you may have about our history.

Senator McCain, I could tell you the much publicized story of the 17th Century Virginia Indians, but you, like most Americans, know our first contact history. Well known is the story of Chief Powhatan and his daughter Pocahontas, her picture being in this very capitol building with her English husband John Rolfe. I often say this country is here today because of the kindness and hospitality of my forebears who helped the English Colonists at Jamestown gain a foothold in a strange and new environment. But what do you know or what does mainstream America know about what happened in those years between the 17th century and today. The fact that we were so prominent in early history and then so callously denied our Indian heritage is the story that most don't want to remember or recognize. I, and those chiefs here with me, stand on the shoulders of the Paspahegh led by Chief, Wowinchopunk whose wife was captured and taken to Jamestown Fort and "run through" with a sword, whose children were tossed overboard and then their brains were "shot out" as they floundered in the water, and whose few remaining tribal members sought refuge with a nearby tribe, possibly the Chickahominy. With this horrific action in August 1610, a whole Nation was annihilated. A Nation who befriended strangers, and, ultimately died at the hands of those same strangers. As we commemorate Jamestown 2007 and the birth of our Nation today, those of Indian heritage in Virginia are reminded of this history.

We are seeking recognition through an act of Congress rather than the BIA because actions taken by the Commonwealth of Virginia during the 20th Century erased our history by altering key documents as part of a systematic plan to deny

our existence. This State action separates us from the other tribes in this country that were protected from this blatant denial of Indian heritage and identity. It has now been well documented in an article written by Peter Hardin of the Richmond Times dispatch in 2000, the documentary genocide, the Virginia Indians suffered at the hands of Walter Ashby Plecker, a rabid separatist, who ruled over the Bureau of Vital Statistics in Virginia for 34 years, from 1912–46. Although socially unacceptable to kill Indians outright, Virginia Indians became fair game to Plecker as he led efforts to eradicate all references to Indians on Vital Records. A practice that was supported by the State's establishment when the eugenics movement was endorsed by leading State Universities and when the State's legislature enacted the Racial Integrity Act in 1924. A law that stayed in effect until 1967 and caused my parents to have to travel to Washington DC on February 20, 1935 in order to be married as Indians. This vile law forced all segments of the population to be registered at birth in one of two categories, white or colored. Our anthropologist says there is no other State that attacked Indian identity as directly as the laws passed during that period of time in Virginia. No other ethnic community's heritage was denied in this way. Our State, by law, declared there were no Indians in the State in 1924, and if you dared to say differently, you went to jail or worse. That law stayed in affect half of my life.

I have been asked why I do not have a traditional Indian name. Quite simply my parents, as did many other native parents, weighed the risks and decided it was not worth the risk of going to jail.

On that note, I would like to honor Senator Allen who as Governor sponsored legislation in 1997 that acknowledged this injustice. Unfortunately while this law allows those of the living generations to correct birth records, the law has not and cannot undo the damage done by Plecker and his associates to my ancestors records.

We are seeking recognition through Congress because this history of racism, in very recent times, intimidated the tribal people in Virginia and prevented us from believing that we could fit into a petitioning process that would understand or reconcile this State action with our heritage. We feared the process would not be able to see beyond the corrupted documentation that was designed to deny our Indian heritage. Many of the elders in our community also feared, and for good reason, racial backlash if they tried.

My father and his peers lived in the heart of the Plecker years and carried those scars to their graves. When I approached my father and his peers regarding our need for State or Federal recognition they pushed back very strongly. In unison they said. "Let sleeping dogs lie and do not rock the boat". Their fears of reprisal against those folks who had risked marrying in Virginia and whose birth records accurately reflected their identity outweighed their desire to openly pursue any form of recognition. Those fears were not unfounded because the threat of fines or jail time was very real to modem Virginia Indians.

Senator McCain, the story I just recounted to you is very painful and I do not like to tell that story. Many of my people will not discuss what I have shared with you but I felt you needed to understand recent history opposite the romanticized, inaccurate accounts of 17th century history.

Let me tell you how we got here today. The six tribes on this bill gained State recognition in the Commonwealth of Virginia between 1983–89. In 1997 as I mentioned, Governor Allen passed the statute that acknowledged the State action but it couldn't fix the problem—the damage to our documented history had been done. Although there were meager attempts to gain Federal acknowledgment by some of the tribes in the mid-20th century, our current sovereignty movement began directly after the passage of Governor Allen's legislation acknowledging the attack on our heritage. In 1999 we came to Congress when we were advised by the Bureau of Acknowledgment and Research [BAR] now the Office of Federal Acknowledgment [OFA] that many of us would not live long enough to see our petition go through the administrative process. A prophecy that has come true. We have buried three of our chiefs since then.

Given the realities of the OFA and the historical slights suffered by the Virginia Indian tribes for the last 400 years, the six tribes referenced in S. 480 feel that our situation clearly distinguishes us as candidates for Congressional Federal recognition.

As Chief of my community, I have persevered in this process for one reason. I do not want my family or my community to let the legacy of Walter Plecker stand. I want the assistance of Congress to give the Indian Communities in Virginia, their freedom from a history that denied their Indian identity. Without acknowledgment of our identity, the harm of racism is the dominant history. I want my children and the next generation, to have their Indian Heritage honored and to move past what I experienced and my parents experienced. We, the leaders of the six Virginia tribes,

are asking Congress to help us make history for the Indian people of Virginia, a history that honors our ancestors who were there at the beginning of this great country.

I want to end with a quote credited to Chief Powhatan. I use this quote last year, but I want this year especially to honor him. Last summer I was one of two Chiefs to be hosted by the British Government; this was the first time a Virginia Indian had been honored since Pocahontas visited England with her English husband John Rolfe. I was moved that Pocahontas has been regarded with honor and distinction far beyond what America has afforded her father the paramount chief in this country. To date no chief in Virginia that lived in that era or since has received as much honor as Pocahontas. This quote, from Chief Powhatan to John Smith, maybe has been forgotten but ironically the message still has relevance today:

> I wish that your love to us might not be less than ours to you. Why should you take by force that which you can have from us by love? why should you destroy us who have provided you with food? What can you get by war? In such circumstances, my men must watch and if a twig should but break, all would cry out, "Here comes Captain Smith." And so, in this miserable manner to end my miserable life. And, Captain Smith, this might soon be your fate too. I, therefore, exhort you to peaceable councils, and above all I insist that the guns and swords, the cause of all our jealousy and uneasiness, be removed and sent away.

Senator McCain, our bill would give us this peace that Chief Powhatan sought, it would honor the treaty our ancestors made with the early Colonists and the Crown, and at this time that we are commemorating the 400th anniversary of the birth of the greatest nation in the world it would show respect for our heritage and identity, that through jealously perhaps has never before been acknowledged.

JOHN WARNER
VIRGINIA

COMMITTEE
ARMED SERVICES, CHAIRMAN
ENVIRONMENT AND PUBLIC WORKS
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# United States Senate

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May 17, 2006

2597907

The Honorable Timothy M. Kaine
Governor
Commonwealth of Virginia
State Capitol, Third Floor
Richmond, Virginia 23219

Dear Governor Kaine:

Thank you for your letter expressing your support for the Federal recognition of six Native American Tribes in Virginia. I appreciate your counsel and am pleased to have your support on this issue.

As you know, Senator Allen introduced the *Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2005* (S.480) on March 1st, 2005, and I am pleased to be a cosponsor. This legislation would provide the Chickahominy, Eastern Chickahominy, Monacan, Nansemond, Rappahannock, and Upper Mattaponi tribes with the Federal recognition they have long sought and truly deserve.

With the Jamestown 2007 Commemoration fast approaching, it is my hope that this bill will receive prompt consideration and support by the U.S. Senate and the House of Representatives. I am pleased that these tribes have pledged their continued support and dedication to the Jamestown Commemoration regardless of the status of their federal recognition, but it only seems fitting that they participate in the ceremonies as Native Americans recognized by our nation for their culture and sacrifice.

Please be assured that I will work closely with Senator Allen to move this legislation forward, and I am grateful for your support.

With kind regards, I am

Sincerely,

John Warner

JW/vbr

U.S. Senator George Allen
Senate Committee on Indian Affairs
Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2005
Statement
Wednesday, June 21, 2006
9:30 a.m. SR – 485

- **Thank you Chairman McCain, Senator Thomas. I truly appreciate your willingness to schedule this hearing to consider the unique and extraordinary story of these six Virginia Indian tribes and the extenuating circumstances that have brought them before Congress.**

- **I respectfully urge the Committee to begin the process of federal recognition for the Chickahominy, The Eastern Chickahominy, the Upper Mattaponi, the Rappahannock the Monacan and the Nansemond Tribes by voting in favor of S. 480, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2005.**

- **I have introduced this legislation with my partner and colleague from Virginia, Senator John Warner, to provide a long overdue recognized status for a group of Americans that have been a part of this country's history from before its inception. The six tribes seeking federal recognition have suffered humiliation and indignities that have gone largely unnoticed by most Americans, because many of these**

**injustices were <u>not</u> a result of any action undertaken by Virginia Indians.**

- **Instead these indignities originated in government policies that sought to eliminate their culture and heritage, I believe the circumstances of their situation warrants Congressional recognition.**

- **Some express concern about granting federal recognition without the investigative process used by the Department of the Interior. However, if one closely examines the history of these Virginia Indians, they will see why this legislation has been introduced, and why my Virginia colleagues continue to push for recognition on the House side.**

- **The history of these six tribes begins well before the first Europeans landed on this continent. History has shown their continuous inhabitance in Virginia. Through much of the last 400 years they have undergone great hardship. However, many have worked hard to maintain and preserve their traditions and heritage.**

- **To put the long history of Virginia Indians in context, while many federally recognized tribes have signed agreements with the United States government, the Virginia Indian tribes hold treaties with Kings of England, including the Treaty of 1677 between the tribes and Charles the II.**

- **Like the plight of many Indian tribes of America over the last four centuries, the Virginia tribes were continually moved off of their land and many assimilated into U.S. society. Even then, the Indians of Virginia were not extended the same rights offered a U.S. citizen. The years of racial discrimination and coercive policies took a tremendous toll on the population of Virginia Indians. Even while living under such difficult circumstances and constant upheaval, the Virginia Indians were able to maintain a consistent culture.**

- **During the turn of the 20th Century, members of these six tribes suffered more injustice. New State mandates forced Virginia Indians to renounce their Indian names and heritage. The passing of the Racial Integrity Act of 1924 was a damaging wrong policy in the history of the Commonwealth of Virginia. This measure, enforced by a**

**State official, the Registrar of the Bureau of Vital Statistics, named Dr. Walter Plecker sought to destroy all records of the Virginia Indians and recognize them as "colored."**

- **People were threatened with imprisonment for noting "Indian" on a birth certificate; mothers were not allowed to take their newborn children home if they were given an Indian name. The many generations of enforcement of this policy has left many Virginia Indians searching for their true identity. A respected journalist, Peter Hardin, wrote a comprehensive, thorough article which appeared in the March 5, 2000 *Richmond Times Dispatch*. I would ask that this article be included in the record.**

- **The Racial Integrity Act left the records of tens of thousands of Virginia Indians inaccurate or deliberately misleading until 1997. As Governor, that year, I signed legislation that directed State agencies and officials to correct all State records related to Virginia Indians, reclassifying them as American Indian and not "colored." My administration championed this initiative after learning of the pain the racist policy inflicted on many Virginia citizens.**

- **I also was briefed on the problems many Virginia Indians experienced when attempting to trace their ancestry or have records of children or deceased corrected. To combat these injustices, we ensured that any American Indian whose certified copy of a birth record contains an incorrect racial designation were able to obtain a corrected birth certificate without paying a fee.**

- **I consider it insulting to make a citizen of Virginia pay to have their racial designation corrected after it was the State government's policy that caused the wrong designation.**

- **Because of the arrogant, manipulative and wrongful policies of the Virginia Racial Integrity Act, the Virginia Indian tribes have had a difficult time collecting and substantiating official documents necessary for federal recognition. Through no fault of their own, the records they need to meet the stringent and difficult requirements for federal recognition are not available. I fear that unless my colleagues and I take action legislatively, these six tribes will be faulted and denied federal recognition for circumstances over which they truly had no control.**

- **The Virginia Tribes have filed a petition with the Department of the Interior's Branch of Acknowledgement and Research. However I believe congressional action is the appropriate path for federal recognition. The six Indian tribes represented today have faced discrimination and attacks on their culture that are unheard of in most regions and States of the U.S.**

- **Federal recognition brings some benefits to Virginia Indians, including access to education assistance grants, housing assistance and healthcare services, which are available to most American Indians. Education grants would provide an avenue for Virginia Indians to improve their prospects for employment and hopefully secure better paying jobs. The benefits federal recognition offers would not be restitution for the years of institutional racism and hostility, but it would provide new opportunities for the members of the six tribes. This recognition is a simple matter of justice, fair treatment, honor and pride of heritage and of family.**

- **I can understand some of the concerns members of Congress have with gambling and property claims that relate to federally recognizing Indian tribes.**

- **Many members of Congress place the issue of gambling and casinos front and center when discussing federal recognition for Indian Tribes. While I do not doubt that some States have experienced difficulties as a result of Indian tribes erecting casinos, I feel confident that gambling is not the goal for these six tribes. The tribes have stated that they have no intention of seeking casino gambling licenses and do not engage in bingo operations, even though they have permission to do so under Virginia law.**

- **To ally any other fears regarding gambling, I have crafted this legislation that provides proper safeguards under Virginia law and the Indian Gaming Regulatory Act. The concern that federal recognition will result in gambling and casino problems in Virginia has been sufficiently addressed. This bill would not permit gambling without the permission of the duly elected government of the Commonwealth of Virginia.**

- **The efforts of these Virginia tribes have been consistently supported by Virginia's elected representatives. The Virginia General Assembly has passed a resolution in favor of this recognition of the Virginia Indian tribes. As I mentioned before, my colleague Senator John Warner is a cosponsor of the legislation before this Committee and three Virginia Governors have expressed their sincere support for federal recognition.**

- **I have spoken with the many of the members of these six tribes, and believe they are not seeking federal recognition for superficial gain; instead they seek recognition to reaffirm their place as American Indians, after that right had been stripped for many decades.**

- **Mr. Chairman, I have worked with these six tribes for nearly a decade. There situation is special and that is why I have introduced this legislation. I am hopeful that the Committee will objectively review their position, considering the testimony and evidence provided by Chief Adkins and Dr. Rountree, and make the right decision to move this to the floor for full Senate consideration. Thank you Mr. Chairman.**

4 of 8 DOCUMENTS


Richmond Times Dispatch (Virginia)

March 5, 2000, Sunday, CITY EDITION

**SECTION:** AREA/STATE, Pg. A-1

**LENGTH:** 4958 words

**HEADLINE:** 'DOCUMENTARY GENOCIDE';
FAMILIES' SURNAMES ON RACIAL HIT LIST

**BYLINE:** Peter Hardin; Times-Dispatch; Washington Correspondent; Call Peter Hardin at (202) 662-7669, or e-mail him at; phardin@media-general.com

**BODY:**

Long before the Indian woman gave birth to a baby boy, Virginia branded him with a race other than his own.

The young Monacan Indian mother delivered her son at Lynchburg General Hospital in 1971. Proud of her Indian heritage, the woman was dismayed when hospital officials designated him as black on his birth certificate. They threatened to bar his discharge unless she acquiesced.

The original orders came from Richmond generations ago.

Virginia's former longtime registrar of the Bureau of Vital Statistics, Dr. Walter Ashby Plecker, believed there were no real native-born Indians in Virginia and anybody claiming to be Indian had a mix of black blood.

In aggressively policing the color line, he classified "pseudo-Indians" as black and even issued in 1943 a hit list of surnames belonging to "mongrel" or mixed-blood families suspected of having Negro ancestry who must not be allowed to pass as Indian or white.

With hateful language, he denounced< il6p,l16>their tactics.

" . . . Like rats when you are not watching, [they] have been 'sneaking' in their birth certificates through their own midwives, giving either Indian or white racial classification," Plecker wrote.

Twenty-eight years later, the Monacan mother's surname still was on Plecker's list. She argued forcefully with hospital officials. She lost.

Today, the woman's eyes reveal her lingering pain. She consulted with civil rights lawyers and eventually won a correction on her son's birth certificate.

"I don't think the prejudice will ever stop," said the woman, who agreed to talk to a reporter only on condition of anonymity.

She waged a personal battle in modern times against the bitter legacy of Plecker, who ran the bureau from 1912 to 1946. A racial supremacist, Plecker and his influential allies helped shape one of the darkest chapters of Virginia's history. It was an epoch of Virginia-sponsored racism.

A physician born just before the Civil War, Plecker embraced the now-discredited eugenics movement as a scientific rationale for preserving Caucasian racial purity. He saw only two races, Caucasian and non-Caucasian, and staunchly opposed their "amalgamation."

After helping win passage in 1924 of a strict race classification and anti-miscegenation law called the Racial Integrity Act, Plecker engaged in a zealous campaign to prevent what he considered "destruction of the white or higher civilization."

When he perceived Indians as threats to enforcing the color line, he used the tools of his office to endeavor to crush

them and deny their existence.

Many Western tribes experienced government neglect during the 20th century, but the Virginia story was different: The Indians were consciously targeted for mistreatment.

Plecker changed racial labels on vital records to classify Indians as "colored," investigated the pedigrees of racially "suspect" citizens, and provided information to block or annul interracial marriages with whites. He testified against Indians who challenged the law.

Virginia's Indians refused to die out, although untold numbers moved away or assumed a low profile.

Now, eight surviving tribes recognized by Virginia in the 1980s are preparing to seek sovereign status from the U.S. government through an act of Congress. About 3,000 of the 15,000 Indians count-ed in Virginia in the 1990 census were indigenous to the state, experts say.

As they bid for federal recognition, more Indian leaders are talking openly about the injustice of Plecker's era. They gave a copy of his 1943 "hit list" to Virginia members of Congress along with other data in support of their bid.

Modern scholars have studied Plecker and the racial integrity era. Their findings contributed to this article. Yet he's not widely known today.

"It's an untold story," said Oliver Perry, chief emeritus of the Nansemond Tribe.

"It's not that we're trying to dig him up and re-inter him again," said Gene Adkins, assistant chief of the Eastern Chickahominy Tribe.

"We want people to know that he did damage the Indian population here in the state. And it's taken us years, even up to now, to try to get out from under what he did. It's a sad situation, really sad."

Said Chief William P. Miles of the Pamunkey Tribe: "He came very close to committing statistical genocide on Native Americans in Virginia."

Chief G. Anne Richardson of the Rappahannock Tribe spoke bluntly: "Devastation. Holocaust. Genocide.

"Those are the words I would use to describe what he did to us," she said. "It was obvious his goal was the demise of all Native Americans in Virginia. . . . We were not allowed to be who we are in our own country, by officials in the government."

For people of Indian heritage, Plecker's name "brings to mind a feeling that a Jew would have for the name of Hitler," said Russell E. Booker Jr., Virginia registrar from 1982 to 1995. That view "certainly is justified."

Indeed, one of Plecker's most chilling letters mentioned Adolf Hitler - and not unfavorably.

"Our own indexed birth and marriage records showing race reach back to 1853," Plecker wrote U.S. Commissioner of Indian Affairs John Collier in 1943. "Such a study has probably never been made before.

"Your staff member is probably correct in his surmise that Hitler's genealogical study of the Jews is not more complete."

Plecker also used haunting rhetoric in publishing a brochure on "Virginia's Vanished Race" a month before his death in 1947. He asked, "Is the integrity of the master race, with our Indians as a demonstration, also to pass by the mongrelizations route?" CONFRONTING AN ERA

On wooded Bear Mountain, miles up a country road outside Amherst, a visitor finds more evidence of the new willingness to confront Plecker's era head-on.

It's the historical center of the Monacan Indian Nation. A one-room log schoolhouse dating to the 1870s is standing. Also there are a simple white church and a small ancestral museum with a new sign proclaiming "History Preserved is Knowledge Gained."

Tribal activist and researcher Diane Shields digs into her files and pulls out for a visitor a dozen manila folders with photocopies of Plecker's letters covering two decades.

The Monacans acknowledge the stigma and pain, the second-class status, the lack of economic opportunity and the

inferior education inflicted upon them and other Virginia tribes.

Indian children were relegated to substandard "colored" schools. Their parents, wanting to keep an Indian identity, often declined to send them there. Some tribal children studied in lower grades at reservation schools or church-sponsored schools like the one at Bear Mountain.

Even in this history of oppression, some Monacans have found a value: a common identity.

"It's a horrible thing, what he did to the Indian people," Shields said of Plecker. "But you know what? It gives me a sense of belonging - because I'm grouped with my own people.

"It kind of backfired with Plecker. He pushed the Indian people closer and gave us an identity."

Her brother, Johnny Johns, is a tribal leader and electrical technician. He's 51. Enrolled at Lynchburg College at midlife, he's been learning about the eugenics movement. Johns, whose surname was on Plecker's "hit list," regards him in two ways.

First, there's "the horror, the terror." Yet he believes Plecker "did us a favor, because the list of [Indian] names is there. We know who we are. It's a two-edged sword, a duality."

Monacan Chief Kenneth Branham, 47, remembers shunning by whites when Indian children were first allowed into public elementary school in the 1960s. School bus drivers sometimes refused to transport them.

Plecker was cruel, Branham believes. But "he kind of drew us together. We were a tightknit group, because there was nobody else we could associate with."

His tribe, which has grown dramatically in recent years to about 1,100 enrolled members, is using federal grant money to document its history. The Monacans are making their comeback with people like Shields and Johns, who were drawn back from beyond Virginia to their family and tribal roots, the place they now call home.

Among them is Indian activist Mary B. Wade, who learned only in the late 1980s about her Monacan heritage from an uncle in Maryland. Now she's secretary of the Virginia Council on Indians, a state government advisory panel.

The Monacan tribe owns more than 100 acres on and near Bear Mountain and dreams of buying hundreds more, developing a retirement home and a day-care center.

These Amherst Indians won recognition from the General Assembly in 1989, five years after Lynchburg pediatrician Peter Houck laid out a Monacan genealogy for what was once called a lost tribe. Houck detailed his findings in a book, and the recognition has contributed to a spirit of resurgence among the Monacans.

Indian people of Amherst and adjoining Rockbridge counties were a special target of Plecker.

He wrote in a 1925 letter, "The Amherst-Rockbridge group of about 800 similar people are giving us the most trouble, through actual numbers and persistent claims of being Indians. Some well-meaning church workers have established an 'Indian Mission' around which they rally."

Across the state in eastern Virginia, home for tribes that once made up the Powhatan Confederation, Plecker evokes diverse reactions from Indian leaders.

"He was just determined to get rid of us," said Chief A. Leonard Adkins, 73, of the Chickahominy Tribe. "It was hard to believe that a man could do what he did and get away with it."

A Chickahominy midwife was threatened by with imprisonment by Plecker if she didn't stop putting 'Indian' on birth records, Adkins said. She decided to stop her midwifery rather than buckle under to him or risk a prison term.

During Plecker's era, a number of Indians didn't admit to their cultural heritage or pass down traditions to their children. It was easier for many to adapt to white society, said Chief Barry Bass of the Nansemond Tribe.

"There's probably a lot who have gone to their grave who still didn't admit they were Indian. That's where it hurt," said Bass, the acting chairman of the Virginia Council on Indians.

Plecker wrote in a 1924 state-published pamphlet, "Eugenics in Relation to the New Family," that there were no true Indians in Virginia who didn't have some black blood. He later refined this to apply to "native-born people in Virginia calling themselves Indians."

His 1943 letter alluding to "rats . . . 'sneaking' in their birth certificates" claimed that mixed-blood groups were intent above all on "escaping negro status and securing recognition as white, with the resulting privilege of attending white schools and ultimately attaining the climax of their ambitions, marrying into the white race."

Plecker misunderstood the Indians' culture, said Dr. Helen C. Rountree, an anthropoligist and Virginia Indian expert recently retired from Old Dominion University. Those whom she studied in eastern Virginia believed that if they married a white, the children would be Indians, Rountree wrote in her book, "Pocahontas's People."

These Indians did not want to be "white," she wrote, although they wanted access to the better facilities available to whites and the freedom to marry whites to avoid inbreeding.

In drawing his conclusions, Plecker relied heavily on old birth and death records that indicated only whether an individual was white or nonwhite, said former registrar Booker.

"There was no place to register 'Indian.' Nonwhite was later taken to mean black, by Plecker and by the Racial Integrity Act," Booker said.

To Booker, the racial integrity era amounted to what today would be called "ethnic cleansing." Or "documentary genocide."

"He was convinced he was one of the chosen," Booker said of Plecker. "He was the original martinet." THE PLECKER LETTERS

Plecker left a major paper trail.

He gave carbon copies of hundreds of his official letters, neatly typed on "Commonwealth of Virginia, Department of Health" stationery, to John Powell, a Richmond-born concert pianist and an outspoken advocate for race-purity measures in Virginia.

Today, the letters offer a rare record of a bureaucrat intruding in individual lives, harassing and intimidating citizens, bullying local officials and stamping out civil rights.

The correspondence is housed in a collection of Powell documents at the University of Virginia's Alderman Library. Powell graduated Phi Beta Kappa from U.Va. at age 18. He became an internationally known pianist and lectured in U.Va.'s music department.

In one letter, Plecker wrote a Lynchburg woman in 1924 to correct a supposedly false birth report for her child, which had been signed by a midwife.

"This is to give you warning that this is a mulatto child and you cannot pass it off as white," he wrote. Plecker apprised her of the new "one-drop" rule, which defined a white person as having "no trace whatsoever of any blood other than Caucasian."

"You will have to do something about this matter and see that this child is not allowed to mix with white children," Plecker admonished. "It cannot go to white schools and can never marry a white person in Virginia.

"It is an awful thing."

To a woman he knew to be from a "respectable" white family in Hampton, Plecker voiced surprise that she would ask about a license to marry a man of mixed African descent.

"I trust . . . that you will immediately break off entirely with this young mulatto man," he wrote.

Plecker threatened a Fishersville woman with prosecution in 1944 for a birth record he contended hid her Negro lineage.

"After the war it is possible that some of these cases will come into court. We might try this one. It would make a good one if you continue to try to be what you are not," Plecker warned.

His writing supports the view of leading scholars that Indians were a secondary, not primary, target of the eugenics movement in Virginia.

"The attack on persons of African descent laid the foundation for the attack against the American Indian community in Virginia as a mixed-race population," wrote an anthropologist, Dr. Danielle Moretti-Langholtz of the College of William

and Mary, in a dissertation on the political resurgence of Virginia's Indians.

Plecker was vehement about preserving the color line.

"Two races as materially divergent as the white and the negro, in morals, mental powers, and cultural fitness, cannot live in close contact without injury to the higher," he told an American Public Health Association session in 1924. "The lower never has been and never can be raised to the level of the higher."

Plecker went on, "We are now engaged in a struggle more titanic, and of far greater importance than that with the Central Powers from which we have recently emerged," he added. "Many scarcely know that the struggle which means the life or death of our civilization is now in progress, and are giving it He concluded, "Let us turn a deaf ear to those who would interpret Christian brotherhood to mean racial equality." RISE TO POWER

He had risen to become Virginia's first registrar at a time when segregationist Jim Crow laws and attitudes already were securely in place in the South.

In the eugenics movement, Plecker and allies found a basis in "science" for their extremist thinking, according to scholars who have studied him.

Plecker was born April 2, 1861, in Augusta County. He died at age 86 in August 1947 when he failed to look before crossing the street on Chamberlayne Avenue in Richmond and was hit by a car.

Schooled at Hoover Military Academy in Staunton, he attended the University of Virginia and graduated with a degree in medicine from the University of Maryland in 1885. For about 25 years, he practiced as a country doctor. After joining the health department of Elizabeth City County, now the city of Hampton, he set up a system for keeping health records and vital statistics, earning that county a national reputation.

In 1912, he came to Richmond to help state officials organize the Bureau of Vital Statistics, and he was tapped as its first registrar. Births, deaths and marriages would have to be reported to the bureau.

"He was a pioneer in the health of the newborn," said former registrar Booker, who as a youngster delivered the newspaper to Plecker's Richmond home. "He wrote what I thought was an outstanding book for midwives."

Plecker was drawn to the eugenics movement, which held that society and mankind's future could be improved by promoting better breeding.

He was among eugenics adherents who believed in the supremacy of white genetic stock, the inferiority of other races and the threat that mixing with the white race would lead to decline or destruction.

To push for law to preserve "racial integrity," Plecker teamed with Powell and Tennessee-born Earnest S. Cox, author of a book titled "White America."

Powell was a leading founder of the Anglo-Saxon Clubs of America, an all-male, native-born group started in Richmond in September 1922 and a year later claiming to have 25 posts statewide. Plecker was a member.

Its goals were preservation of Anglo-Saxon ideals and "the supremacy of the white race in the United States of America without racial prejudice or hatred," according to its constitution.

"This was the Klan of the aristocracy - the real gentleman's Klan," said J. David Smith of Longwood College, a eugenics expert.

Newspaper accounts at the time detailed a link with former Richmond KKK members. The Richmond Lodge of the KKK seceded in 1922 from the national organization, according to news accounts. A lawyer for some of the former Klansmen said the national group was judged to be a "rampant anti-Catholic organization instead of an organization to maintain white supremacy."

"The Ku-Klux Klan in Richmond organized the Anglo-Saxon Clubs of America, and the local organization is known as Richmond Post, No. 1," the lawyer went on to say in The Times-Dispatch.

Powell wrote in correspondence later that the Anglo-Saxon Clubs had "no connection whatever" with the KKK and were "in no sense unfriendly to the Negro."

In 1924 the General Assembly adopted race-purity legislation championed by the Anglo-Saxon Clubs and promoted

by Plecker, Cox and Powell. It would stand until a landmark 1967 ruling by the U.S. Supreme Court.

The Racial Integrity Act was one of the nation's strictest. It defined white person for the first time, using the "one-drop rule," and went beyond earlier state law against inter-marriage by making it illegal for whites to marry any nonwhites, including Asians.

However, the law permitted persons with one-sixteenth American Indian blood and "no other non-Caucasic blood" to be classified as white. That was a nod to descendants of Pocahontas, some of whom counted themselves among "first families" of Virginia.

Some leading state newspapers, including The Times-Dispatch and The Richmond News Leader, endorsed the race-purity goals.

The Times-Dispatch editorialized in 1924 that race intermingling would "sound the death knell of the white man. Once a drop of inferior blood gets in his veins, he descends lower and lower in the mongrel scale."

This newspaper also gave Powell a platform, publishing two years later a 13-part series of his articles titled "The Last Stand" and describing what he called Virginia's declining racial purity.

Plecker, meanwhile, lent support for black separatist Marcus Garvey's back-to-Africa movement.

Plecker kept trying to narrow loopholes in the Virginia law. The legislature agreed in 1930 to define "colored" people as those "in whom there is ascertainable any Negro blood."

Framers of the Racial Integrity Act found "a convenient faade" for their race prejudices in the "pseudo-science of eugenics," said Paul A. Lombardo, a eugenics expert who teaches at the University of Virginia law school.

Lombardo wrote, "The true motive behind the [act] was the maintenance of white supremacy and black economic and social inferiority - racism, pure and simple." ENFORCING THE ACT

In his more than 30 years as registrar, Plecker stood up to those who disagreed with him, urged him to back off, or got in his way. They included courageous Indians, a Virginia governor and federal officials.

Some people were imprisoned for violating the Racial Integrity Act, but a number of juries wouldn't convict. There were legal challenges to the act and Plecker's enforcement, but it took the U.S. Supreme Court in 1967 to void Virginia's anti-miscegenation law.

Two of the earliest challenges came in Rockbridge County in 1924. A circuit judge upheld in the first case the denial of a marriage license for an Indian woman to marry a white man. But in the second case, he set the eugenics backers reeling.

Judge Henry W. Holt heard expert testimony from Plecker before ruling in favor of an Indian woman who had challenged the denial of a license for her to wed a white man.

Holt found no evidence that the woman, Atha Sorrells, was of mixed lineage under a reasonable interpretation of the new law. He questioned its constitutionality and the legal meaning of the term Caucasian.

"Half the men who fought at Hastings were my grandfathers. Some of them were probably hanged and some knighted, who can tell? Certainly in some instances there was an alien strain. Beyond peradventure, I cannot prove that there was not," he wrote in his opinion.

Drawing on "Alice in Wonderland," he added, "Alice herself never got into a deeper tangle."

John Powell shot back with a pamphlet, published by the Anglo-Saxon Clubs, titled "The Breach in the Dike: an Analysis of the Sorrels Case Showing the Danger to Racial Integrity from Intermarriage of Whites with So-Called Indians."

Holt's ruling was not appealed, however. An assistant state attorney general warned that the act might be declared unconstitutional.

Absalom Willis Robertson, the Rockbridge commonwealth's attorney, represented the state. A former state senator, Robertson would rise to fame as a congressman and U.S. senator for 34 years. A conservative Democrat, he was known as an expert on federal finances.

On civil rights, Sen. Robertson opposed the progressive stands of the national Democratic Party and was involved

in the filibuster over civil rights legislation in 1963. His son, Republican Pat Robertson, is the conservative television evangelist who founded the Christian Coalition and, in 1988, ran for president.

In an October 1924 letter, Plecker personally had asked A.W. Robertson to represent Virginia "if your charge is not too great, and the Governor will pay the bill."

Gov. E. Lee Trinkle, too, had written Robertson.

"Willis, this law is a new one and I regard it of vital importance. There are a great many of our real substantial white people who fought hard for the Bill and are doing all they can to help out in this situation over the State."

Asking what Robertson would charge if he were to represent the state, Trinkle added, "I know that you will be more than reasonable because you, like the rest of us, are interested in this movement."

When Plecker sought to have the race-purity law toughened the following year, the governor advised moderation.

Trinkle wrote Plecker, urging him to "be conservative and reasonable and not create any ill feeling if it can be avoided between the Indians and the State government.

"From reports that come to me," Trinkle added, "I am afraid sentiment is moulding itself along the line that you are too hard on these people and pushing matters too fast."

Plecker didn't yield.

The registrar tried to tell U.S. Census officials how to list Indians and urged Selective Service officials not to induct them as whites.

A number of Virginia Indians, struggling to retain their identity, battled to be inducted with whites in World War II, a position Plecker opposed. Through various petitions and channels, the Indians met inconsistent results.

Three Rappahannock men who refused induction with blacks were prosecuted and sentenced to prison, but they later were allowed to pass the war years by laboring in hospitals as conscientious objectors. Yet in a federal court in western Virginia, a judge sided with seven Amherst County Indians who resisted induction as Negroes.

Finally the government, after years of wrangling, generally deferred to registrants to choose their race, an Indian victory that some scholars believe helped pave the way for the civil rights movement.

In the same period, Plecker wrote a letter to Powell that reflected a defeat - and Plecker's own authoritative gamesmanship.

Plecker had begun putting "corrections" on the backs of birth certificates issued by his bureau before 1924 to remove the designation "Indian."

A prominent Richmond attorney, John Randolph Tucker, representing two Amherst County Indians challenged Plecker's standing to "constitute himself judge and jury" by making such a change and threatened court action.

Plecker yielded temporarily.

"This is the worst backset which we have received since Judge Holt's decision," he confided to Powell on Oct. 13, 1942. "In reality I have been doing a good deal of bluffing, knowing all the while that it could not be legally sustained. This is the first time my hand has absolutely been called."

The "backset" didn't last long.

The General Assembly voted in 1944 to allow the registrar to put on the backs of birth, death or marriage certificates data that would correct erroneous racial labels on the front.

Plecker died in 1947. But his legacy survived. Not until 13 years after the Warren Court's landmark 1954 desegregation decision in Brown vs. Board of Education was the intermarriage ban in Virginia's Racial Integrity Act overturned.

Saying Virginia's anti-miscegenation law was based on racial distinctions, the Supreme Court concluded, "There is patently no legitimate overriding purpose independent of invidious racial discrimination which justifies this classification.

"The fact that Virginia prohibits only interracial marriages involving white persons demonstrates that the racial classifications must stand on their own justification as measures designed to maintain white supremacy."

In 1975, Virginia repealed its racial definition and segregation laws. LASTING DAMAGE

Virginia tribes preparing to seek federal recognition as sovereign nations have told officials in Washington about the lasting damage sustained in the Plecker era, three centuries after Virginia's "first people" encountered the European settlers.

A bill being drafted by Rep. James P. Moran, D-8th, would ask Congress to grant federal recognition.

Gene Adkins of the Eastern Chickahominy said it may take beyond the current generation of Virginia Indians to correct the wrongs of Plecker's era.

"We're getting [more] advantages, but we still don't have the same advantages today of the white population," Adkins said.

Telling the story of Plecker's mistreatment of the Indians could open more doors, Adkins said.

"It boils down to this: More people will be sympathetic to what we're trying to do." LEARN MORE

Here are some key resources used by The Times-Dispatch in preparing this report:

* "Pocahontas's People: The Powhatan Indians of Virginia Through Four Centuries," University of Oklahoma Press, 1990, by Helen C. Rountree.

* "The Eugenic Assault on America: Scenes in Red, White and Black," George Mason University Press, 1992, by J. David Smith.

* "The Last Stand: The Fight for Racial Integrity in Virginia in the 1920s," The Journal of Southern History, February 1988, Vol. LIV, No. 1, by Richard B. Sherman.

* "Miscegenation, Eugenics, and Racism: Historical Footnotes to Loving v. Virginia," University of California, Davis, Law Review, Vol. 21 (1988), by Paul A. Lombardo.

* "Indian Island in Amherst County," Warwick House Publishing, 1993, by Peter W. Houck and Mintcy D. Maxham.

* "Other Names I Have Been Called: Political Resurgence Among Virginia Indians in the 20th Century," unpublished Ph.D. dissertation, 1998, University of Oklahoma, by Danielle Moretti-Langholtz.

* (Book in progress) "Managing White Supremacy: Politics, Race, and Citizenship in Virginia, 1919-1945," to be published by University of North Carolina Press, by J. Douglas Smith.

* The Library of Virginia, executive letters of Gov. E. Lee Trinkle.

* The John Powell papers, Special Collections Department, University of Virginia library.

Check the following sites on the World Wide Web:

About Plecker:

* www.melungeons.com/archive.htm

* www.lib.virginia.edu/exhibits/hoos/ famous.html

About eugenics:

* ness.sys.Virginia.EDU/ilppp/ lombardo.html

* vector.cshl.org/eugenics/

About the Virginia Council on Indians, with links to recognized tribes:

* indians.vipnet.org/index.html ABOUT THE AUTHOR

Peter Hardin has reported from Washington since 1981, first for the former Richmond News Leader and since 1992 for The Times-Dispatch.

Hardin, 47, has written extensively about Virginia politics, the turmoil affecting the tobacco industry and the plight of black farmers fighting discrimination in federal loan practices.

Before he was assigned to Washington, he covered general assignment and courts in Richmond. ON THE WEB

EXAMINE: More than 1,200 photographs and documents drawn from the early 20th-century American eugenics movement.

SOURCE: Most came from the Eugenics Record Office at Cold Spring Harbor, N.Y., where eugenics research was centered from 1910 to 1940.

SITE: http://vector.cshl.org/eugenics

**GRAPHIC:** CHART, PHOTO

**LOAD-DATE:** March 8, 2000

**The Rev. Jonathan M. Barton – General Minister**
**Virginia Council of Churches**
**Testimony before the Senate Committee on Indian Affairs**
**S. 480**
**Thomasina Indian Tribes of Virginia Federal Recognition Act of 2005**
**June 21, 2006**

Mr. Chairman, members of the Senate Committee on Indian Affairs, my name is Jonathan Barton and I am the General Minister for the Virginia Council of Churches. I would like to thank you for the opportunity to speak with you today. I ask your permission to revise and extend my comments. I would also like to express my appreciation to Senator George Allen for his sponsorship of S. 480 and Senator John Warner for his co-sponsorship. I would like to express my deep appreciation to the members of Virginia's six tribes present here today for inviting the Council to stand with them in their request for Federal Acknowledgment. We stand with the Virginia tribes today in solid support of the Tomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2005.

The Virginia Council of Churches is the combined witness of 37 governing bodies of 18 different Catholic, Orthodox, and Protestant denominations located within the Commonwealth of Virginia. A list of our member denominations is appended to my written comments. During our 62-year history, we have always stood for fairness, justice, and the dignity of all peoples. The Council was one of the first integrated bodies within the Commonwealth. We stand here today in faith, grounded in our history and our value. In April of 1607, when Captain Christopher Newport sailed into the Chesapeake Bay, a relationship between the church and Virginia's Indigenous People began. This relationship continues today. There is little doubt in the historical record that one of the purposes of Jamestown was to establish the church in Virginia.

Four years ago when I testified before this Committee, Senator Ben "Nighthorse" Campbell made the comment: "You know Rev. Barton, the Indians and the church have not always gotten along very well." The church has much to repent in our early missionary efforts. My presence here today represents our desire to repent for our past sins. The Rev. Robert Hunt and others of the early 1600s failed to find the Image of God in the native people they encountered. They believed that in order to be a Christian, they needed to look, live, and speak with an English accent. We have come a long way together since those early days.

A few weeks ago, Mr. Chairman, you had the opportunity to be in the beautiful mountains of Virginia. You may not have realized as you gazed out over the horizon, that for as far as your eyes could see was home to the Monacan Indians for thousands of years. Just a short distance away, up a narrow winding road and nestled in the

mountainside are the tribal grounds of this great Indian nation. On the same land there is a small Episcopal Church with a stream that runs under it. On the other side of the steam, there is the old one room schoolhouse where the Monacan people attended school until the 1960s. The Tribal Circle is just a little way up the path. It is here where the tribal community is grounded. Here is where the faith and traditions of the Elders are passed to new generations. The cultural landscape is the same with each of the Virginia tribes. As you enter their land, you find the church, the school and the Tribal Circle. Even though the missionaries were clumsy in their approach, the scripture provided strength for these tribes to endure four centuries of oppression and discrimination.

It has been a blessing for me to know and work with each of the chiefs of our Virginia tribes. I know them to be persons of great integrity and moral courage. Each brings strong leadership to their tribes. Each brings unique and special gifts, and they all share a common respect for their past and vision for the future.

As 2007 rapidly approaches, Jamestown will move onto the global stage. It is vital that we demonstrate to the world that Virginia's Indigenous People who have lived on this land for thousands of years, and who greeted the English as they landed in 1607, still exist today and that we recognize them. As we approach the public observances marking the 400th Commemoration of the first English Settlement at Jamestown, we are called to review our full history, reflect upon it, and act as a people of faith mindful of the significance of 1607. The people in our churches and communities now look at the significance of the event in different ways. What represented newness of freedom, hope and opportunity for some was the occasion for oppression, degradation, and genocide for others. For the church this is not a time for celebration but a time for a committed plan of action insuring that this "kairos" moment in history not continue to cosmetically coat the painful aspects of the American history of racism. These six Virginia Tribes; the Chickahominy, the Chickahominy – Eastern Division, the Upper Mattaponi, the Rappahannock, the Monacan, and the Nansemond, stand before you today after a four hundred year journey asking only that you honor their being, honor their contributions to our shared history, and honor their ancestors by acknowledging that they exist. This simple request is vital to the healing of the broken circle, broken four centuries ago when cultures collided and forever changed the history of the world. Let us mend the Circle so that we may move forward into the future. On behalf of the member Communions of the Virginia Council of Churches, I encourage you to recognize our tribes by passing the Thomasia E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2005.

# Virginia Council of Churches

- African Methodist Episcopal Church
- African Methodist Episcopal Zion Church
- Apostolic Church, USA
  - Washington DC District
    - Northern Virginia Assembly
    - Richmond Assembly
    - Virginia Beach Assembly
- Armenian Church in America
- Baltimore Yearly Friends Meeting
- Baptist General Convention
- Catholic Church (Roman)
  - Diocese of Richmond
  - Diocese of Arlington
- Christian Church (Disciples of Christ)
  - Capital Area
  - Christian Churches in Virginia
- Christian Methodist Episcopal Church
- Church of the Brethren
  - Mid Atlantic District
  - Shenandoah District
  - Virlina District
- Episcopal Church
  - Diocese of Southern Virginia
  - Diocese of Southwestern Virginia
  - Diocese of Virginia
- Ethiopian Orthodox Church in America
- Evangelical Lutheran Church in America
  - Metro Washington, DC Synod
  - Virginia Synod
- Greek Orthodox Church
  - Greek Orthodox Churches of Virginia
- Moravian Church in America
  - Southern Province
- Presbyterian Church U.S.A.
  - Synod of the Mid-Atllantic
    - Abingdon Presbytery
    - Presbytery of Eastern Virginia
    - Presbytery of the James
    - National Capital Presbytery
    - Presbytery of the Peaks
    - Shenandoah Presbytery
- United Church of Christ
  - Potomac Association
  - Shenandoah Association
  - Eastern Virginia Association
- United Methodist Church
  - Holston Conference
  - Virginia Conference

President: Bishop James F. Mauney
Vice President: Fr. James Parke
Treasurer: Rev. David Shumate
Secretary: Mrs. Betty Altic

General Minister: Rev. Jonathan Barton

PREPARED STATEMENT OF R. LEE FLEMING, DIRECTOR, OFFICE OF FEDERAL ACKNOWLEDGMENT, DEPARTMENT OF THE INTERIOR

Good morning, Mr. Chairman and members of the committee. My name is Lee Fleming and I am the director for the Office of Federal Acknowledgment at the Department of the Interior. I am here today to provide the Administration's testimony on S. 437, the "Grand River Band of Ottawa Indians of Michigan Referral Act" and S. 480, the "Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2005." The acknowledgment of the continued existence of another sovereign is one of the most solemn and important responsibilities delegated to the Secretary of the Interior. Federal acknowledgment enables Indian tribes to participate in Federal programs and establishes a government-to-government relationship between the United States and the Indian tribe. Acknowledgment carries with it certain immunities and privileges, including exemptions from State and local jurisdictions and the ability of newly acknowledged Indian tribes to undertake certain economic opportunities.

The Department recognizes that under the U.S. Constitution Indian Commerce Clause, Congress has the authority to recognize a "distinctly Indian community" as an Indian tribe. But along with that authority, it is important that all parties have the opportunity to review all the information available before recognition is granted. That is why the Department of the Interior supports a recognition process that requires groups go through the Federal acknowledgment process because it provides a deliberative uniform mechanism to review and consider groups seeking Indian tribal status. Legislation such as S. 437 and S. 480 would allow these groups to bypass this process—allowing them to avoid the scrutiny to which other groups have been subjected. While legislation in Congress can be a tool to accomplish this goal, a legislative solution should be used sparingly in cases where there is an overriding reason to bypass the process.

Interior strongly supports all groups going through the Federal acknowledgement process under 25 CFR part 83. The Department believes that the Federal acknowledgment process set forth in 25 CFR part 83, "Procedures for Establishing that an American Indian Group Exists as an Indian Tribe," allows for the uniform and rigorous review necessary to make an informed decision establishing this important government-to-government relationship. Before the development of these regulations, the Federal Government and the Department of the Interior made determinations as to which groups were Indian tribes when negotiating treaties and determining which groups could reorganize under the Indian Reorganization Act (25 U.S.C. 461). Ultimately, treaty rights litigation on the West coast, and land claims litigation on the East coast, highlighted the importance of these tribal status decisions. Thus, the Department, in 1978, recognized the need to end ad hoc decisionmaking and adopt uniform regulations for Federal acknowledgment.

Under the Department's regulations, petitioning groups must demonstrate that they meet each of seven mandatory criteria. The petitioner must:

(1) demonstrate that it has been identified as an American Indian entity on a substantially continuous basis since 1900;
(2) show that a predominant portion of the petitioning group comprises a distinct community and has existed as a community from historical times until the present;
(3) demonstrate that it has maintained political influence or authority over its members as an autonomous entity from historical times until the present;
(4) provide a copy of the group's present governing document including its membership criteria;
(5) demonstrate that its membership consists of individuals who descend from an historical Indian tribe or from historical Indian tribes that combined and functioned as a single autonomous political entity and provide a current membership list;
(6) show that the membership of the petitioning group is composed principally of persons who are not members of any acknowledged North American Indian tribe; and
(7) demonstrate that neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship.

A criterion shall be considered met if the available evidence establishes a reasonable likelihood of the validity of the facts relating to that criterion. A petitioner must satisfy all seven of the mandatory criteria in order for the Department to acknowledge the continued tribal existence of a group as an Indian tribe. Currently,

the Department's workload of 19 groups seeking Federal acknowledgment consists of 10 petitions on "Active Consideration" and 9 petitions on the "Ready, Waiting for Active Consideration" lists.

S. 437 The Grand River Band of Ottawa Indians [Petitioner #146] and another petitioning group, the Burt Lake Band of Ottawa and Chippewa Indians, Inc. [Petitioner #101] both are affected by the timing of deadlines for the distribution of judgment funds under Public Law 105–143, the Michigan Indian Land Claims Settlement Act [Settlement Act]. Both groups have applied for Federal acknowledgment under 25 CFR part 83. The Grand River Band of Ottawa Indians, which would receive recognition under S. 437, has not submitted a complete documented petition demonstrating its ability to meet all seven mandatory criteria. The group did submit partial documentation in December 2000 and received a technical assistance review letter from the Office of Federal Acknowledgment in January 2005. The purpose of the technical assistance review is to provide the group with opportunity to supplement its petition due to obvious deficiencies and significant omissions. As of last week, the Grand River Band of Ottawa Indians submitted additional documentation in response to the technical assistance review letter.

Under section 110 of the Settlement Act, if the Grand River Band of Ottawa Indians or the Burt Lake Band of Ottawa and Chippewa Indians, Inc. are acknowledged before December 15, 2006, each could receive a significant lump sum from the judgment fund, in excess of $4.4 million, provided that the group and its membership meet the other eligibility criteria set forth under the Settlement Act. If no new tribes are recognized before that date, the money is instead distributed per capita to the Indians on the descendant roll. The Secretary would have 90 days to segregate the funds and to deposit those funds into a separate account established in the group's name.

Section 205 of S. 437 provides that:

> Notwithstanding section 110 of the Michigan Indian Land Claims Settlement Act (111 Stat. 2663), effective beginning on the date of enactment of this act, any funds set aside by the Secretary for use by the Tribe shall be made available to the tribe.

Under S. 437 and the Settlement Act, funds are not set aside for the Grand River Band of Ottawa Indians until they are recognized. Although not clear, we interpret section 205 of S. 437 to mean that if the Grand River Band is acknowledged prior to December 15, 2006, any funds set aside for them under section 110 of the Settlement Act would not be subject to plans approved in accordance with the Settlement Act.

We do not support section 205 because it takes away the membership's right to participate in the development of the use and distribution plan for the judgment funds. If S. 437 is enacted, we suggest that section 205 be amended as follows:

> Notwithstanding section 105 of the Michigan Indian Land Claims Settlement Act (111 Stat. 2663), the Grand River Band shall have 1 year from the date of its Federal recognition to submit a plan to the Secretary for the use and distribution of any funds it receives under section 110 of the Michigan Indian Land Claims Settlement Act.

The Department also has concerns over the three different membership lists referenced in section 102 and section 202. It is unclear why three different lists would be required. In addition, S. 437 appears to be ambiguous concerning the nature and extent of jurisdiction, and possible conflicts with treaty rights of other federally recognized tribes.

The Department would like to work with the committee in order to find an equitable solution to all parties connected to the Settlement Act.

S. 480, the "Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act of 2005," provides Federal recognition as Indian tribes to six Virginia groups: The Chickahominy Indian Tribe, the Chickahominy Indian Tribe—Eastern Division, the Upper Mattaponi Tribe, the Rappahannock Tribe, Inc., the Monacan Indian Nation, and the Nansemond Indian Tribe.

Under 25 CFR part 83, these six groups have submitted letters of intent and partial documentation to petition for Federal acknowledgment as Indian tribes. Some of these groups are awaiting technical assistance reviews under the Department's acknowledgment regulations. As stated above, the purpose of the technical assistance review is to provide the groups with opportunities to supplement their petitions due to obvious deficiencies and significant omissions. To date, none of these petitioning groups have submitted completed documented petitions demonstrating their ability to meet all seven mandatory criteria.

The Federal acknowledgment regulations provide a uniform mechanism to review and consider groups seeking Indian tribal status. S. 480 and S. 437, however, allow these groups to bypass these standards—allowing them to avoid the scrutiny to which other groups have been subjected. We look forward to working with these groups and assisting them further as they continue under the Federal acknowledgment process.

This concludes my prepared statement. I will be happy to answer any questions the committee may have.

**TESTIMONY OF MICHAEL J. O'CONNOR**
**PRESIDENT**
**THE VIRGINIA PETROLEUM,**
**CONVENIENCE AND GROCERY ASSOCIATION (VPCGA)**
**AT THE HEARING BEFORE THE COMMITTEE ON INDIAN AFFAIRS**
**ON S. 480, "THE THOMASINA E. JORDAN INDIAN TRIBES OF VIRGINIA FEDERAL RECOGNITION ACT OF 2005"**

## INTRODUCTION

Good morning Mr. Chairman and members of the Committee. My name is Mike O'Connor, and I am the President of the Virginia Petroleum, Convenience and Grocery Association (VPCGA). Thank you for allowing me the opportunity to testify today. The VPCGA is a non-profit, statewide trade association representing the petroleum and food industries. Our membership includes 450 Virginia-based independent small businesses that in turn own and operate over 4,000 gasoline/convenience outlets that employ in excess of 10,000 Virginians. Membership includes petroleum marketers, convenience stores, and chain and independent supermarkets.

## OVERVIEW OF VPCGA's CONCERNS

All of our members stand to be affected by S. 480, the Thomasina E. Jordan Indian Tribes of Virginia Federal Recognition Act, should it be enacted. While honorable in its intentions, S. 480 poses a serious threat to small businesses across the Commonwealth of Virginia. If passed, S. 480 will create an anticompetitive marketplace for goods such as tobacco and gasoline and will strain the state budget by reducing excise tax revenues on these goods as well as property taxes.

I would like to address a misconception many folks have when they consider tribal recognition issues. Many people believe the only concern we should have when recognizing tribes is the potential for more gaming activity. That is not the reason for our concerns. There is another issue that, if ignored, can be a major problem for states with new tribes – that problem is tribes opening retail operations that do not collect and remit state taxes.

In fact, if passed, the impact of S. 480 will be multifaceted. The United States Government would recognize as sovereign the Chickahominy, the Chickahominy --Eastern Division, the Upper Mattaponi, the Rappahannock, the Monacan, and the Nansemond groups. As sovereign entities, these groups would no longer be subject to the police power or taxing power of the Commonwealth.

Pursuant S. 480, these groups would be permitted to purchase and take into trust land in some of the most populous counties in Virginia. In fact, it appears that one of the groups could acquire land anywhere in Virginia and turn it into a reservation. This will create havoc for state laws and law enforcement. For our members, the greatest concern is that these tribes will have the ability to establish retail businesses outside of the jurisdiction of traditional state powers to collect taxes. This means that any convenience store, truck stop, or smoke shop established by one of these tribes could sell gasoline and tobacco to the public free of state taxes. The type of tax evasion

we are talking about is not conceptual but is occurring as we speak in several states. The people whom I represent do not deserve to have their life's investment threatened by a marketer selling gasoline to non-tribal members at a steep price advantage that is achieved solely through tax evasion.

Tax evasion along these lines has led to high-profile disputes in many states including New York, Oklahoma, Kansas and New Mexico, among others. In these states, Native American tribes have used recognition to open convenience stores and truck stops that sell gasoline and tobacco products tax-free to non-Native Americans in spite of U.S. Supreme Court rulings saying that such sales can be subject to state taxes. For instance, in New York it is estimated that $360 to $400 million of revenue is lost due to cigarette excise tax evasion by tribes alone.[1] Some estimate that New York state has failed to recoup nearly $4 billion in cigarette excise taxes on sales of cigarettes to non-reservation residents since 1995.[2] In Oklahoma it is estimated that the tobacco excise tax there is "under-collected by about $4 million a month."[3] And, in addition to excise and sales taxes, states lose income and property taxes on these tribal businesses.

Let me be clear about our position, we are not opposed to the recognition of any potential new tribes. We are concerned with the potential of such recognition to lead to tax evasion on sales of motor fuels and tobacco products and the competitive disadvantage it will levy upon our members. And, because this legislation is not just recognizing existing reservations but is pulling other areas of the state into new reservations, the incidence of excise tax evasion may be far reaching and competitively disadvantage a wide swath of convenience store and motor fuels retailers.

Any legislation of this kind must ensure that non-tribal members are required to pay the same taxes on sales by tribal retailers as they are on sales by other retailers. Accordingly, unless strong protections against excise and sales tax evasion are included the S. 480, VPCGA must oppose the bill.

**EXCISE TAX EVASION**

The United States Supreme Court has repeatedly held that states may require Native American tribes and enrolled members of those tribes operating businesses on the reservation to collect and remit to states sales, excise and use taxes properly imposed on non-Native Americans making purchases on the reservation. Enrolled members of those tribes making purchases on their reservations are, however, exempt from states sales, excise and use taxes.

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1 Representatives Alexander Grannis and William Magee, New York State Assembly, *Uphold Tax Law on Indian Reservations, Letter to the Editors,* The Times Union, Albany, New York (April 26, 2006).

2 *Id.*

3 Tom Droege, *Henry: Tobacco Tax Loser is Likely,* Tulsa World, (April 15, 2006).

In some instances, tribes and tribal retailers are taking advantage of this limited tax exemption by refusing to fulfill their obligations to collect state taxes when they transact business with non-Native Americans. As Representative Ernest Istook put it when testifying before the Senate Indian Affairs Committee in 1998, "Unfortunately, some tribes have exploited this exemption [for sales to tribal members], leading to non-tribal purchasers to believe they do not owe the sales, fuel, or excise taxes on these transactions, since the tribes do not charge them."

The failure of tribal retail enterprises to collect lawful state excise and sales taxes for sales to non-Native Americans is having a negative impact on these states. Plus, state revenue losses will be aggravated by the income and property taxes lost when off-reservation retailers go out of business. Many off-reservation retailers have been and will be forced out of business. State sales and excise taxes account for a large portion of each sale of motor fuel and tobacco products. The evasion of these taxes bestows an incredible market advantage on tribes that law abiding retailers cannot surmount.

State taxes account for a large portion of the price of gasoline and diesel fuel. The average for state gasoline and diesel excise taxes is 18.1 cents per gallon.[4] In Virginia, it is 17.5 cents per gallon on gasoline and 18 cents per gallon on diesel fuel. By comparison, the average gross margin for a convenience store on its sales in 2005 was 15.1 cents per gallon of regular unleaded gasoline and only 15.5 cents per gallon for diesel fuel. And that is before taking out taxes and operating expenses. Retailers simply cannot compete with an automatic price advantage that is larger than their gross margin.

Moreover, State sales and excise taxes on cigarettes accounts for nearly 20% of the average purchase price of a pack of cigarettes nationally. Today, the average state excise tax on cigarettes is 91.7 cents per pack.[5] Evasion of these taxes by tribal retailers not only hurts retailers, but causes states and localities tax dollars.

These advantages were never intended to convey with federal acknowledgement of tribal status. The Supreme Court stated in *Washington v. Confederated Tribes of Coleville Indian Reservation,* that nothing "authorize[s] Indian tribes thus to market an exemption from state taxation to persons who would normally do their business elsewhere."[6] Yet that is precisely what many of these tribes around the country are doing.

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[4] American Petroleum Institute, *Gasoline & Diesel Taxes,* http://api-ec.api.org/filelibrary/2006-gasoline-diesel-taxes-summary.pdf (April 2006).

[5] Campaign for Tobacco-Free Kids, *State Excise Tax Rates and Rankings,* Katie McMahon, http://www.tobaccofreekids.org/research/factsheets/pdf/0097.pdf (February 10, 2006).

[6] *Id.*

**S. 480 WILL CIRCUMVENT THE RECOGNITION PROCESS OF THE BUREAU OF INDIAN AFFAIRS**

Established federal procedures exist to provide a uniform means to review and consider groups seeking federal acknowledgement of Indian tribes. Groups seeking federal acknowledgement must satisfy seven mandatory requirements. Admittedly, this process is a thorough one, and it should be. These requirements apply to all groups seeking federal recognition and allow the Secretary of the Interior to make an informed decision as to a group's status. The role of the Secretary of the Interior should not be underestimated. The decision to recognize a group as a tribe has significant impacts on both the group seeking federal acknowledgement and on the surrounding community. It is essential, then, that federal acknowledgement procedures be based on thorough, unbiased, and standard based processes for evaluation. S. 480 skirts this process and affords these groups beneficial treatment by evading the scrutiny other tribes and groups have undergone. Moreover, it ignores the impact on the surrounding community. The impact, as I've testified, is far reaching and must be taken into account.

* * *

Because of the wide-ranging negative impacts on businesses and consumers in Virginia, the VPCGA opposes S. 480 in its current form. We would welcome the opportunity to work with the Committee and Senator Allen to try to address these concerns before the legislation is considered by the full Committee.

Helen C. Rountree, Ph.D.
Professor Emerita of Anthropology
Old Dominion University, Norfolk, Virginia
Testimony before the Senate Committee on Indian Affairs
Thomasina E. Jordon Indian Tribes of Virginia Federal Recognition Act S.480
June 21, 2006

Mr. Chairman, members of the Committee, and guests: I am Dr. Helen Rountree, Professor Emerita of Anthropology at Old Dominion University in Norfolk, Virginia. My training and publications are in "ethno history," a combination of cultural anthropology and history. Initially I worked with Indian people in Nevada, but I began researching the Native Americans of eastern Virginia, historical and modern, in 1969. I am the only scholar, whether anthropologist or historian, who has been active in the specialty that long. I spent every free moment of the first eight years, when I was not teaching for a living, scouring the published and unpublished records from 1607 onward. That included speed-reading the often unindexed county record books. I have spent substantial periods since then hunting for more records and studying other subjects, like ethnic identity, that are relevant to learning about Indian tribes. Shoehorned into all that work were face-to-face visits and occasional spells of living among the modern Virginia people, the people whose Indianness, compared with the Nevada Indians I knew, impressed me so much.

I am not the first social scientist to work with these six tribes. My predecessors' work goes back nearly 120 years, beginning with James Mooney of the Smithsonian Institution and continuing with Frank Speck of the University of Pennsylvania, among others. Like them, I have written up my findings for others to read; unlike them, I have done it in no less than six books (so far), the most germane of them for this hearing being *Pocahontas's People: The Powhatan Indians of Virginia Through Four Centuries*

(University of Oklahoma Press, 1990; no. 196 in the Civilization of the American Indian series). Roughly one-third of that volume is devoted to endnotes and bibliography, to prove I didn't make anything up.

The last thing to say about my work is that I have always supported my research with funds saved back from my own salary and from small university grants. In other words, the testimony you are about to hear is my own; the Indian people are my colleagues, not my employers. And that testimony is literally based upon decades of intensive research.

I have been able to trace the existence of Indian groups across 400 years in eastern Virginia. Many of today's tribes come from refugee communities, meaning reduced Indian populations that merged in order to keep going. But there was always an element in them descended from the early seventeenth century tribes that give them their names today. The names are authentic; so are the people.

Social scientists like me look for several things in determining whether or not a group is a distinct ethnic group. I searched for the same things that the Bureau of Indian Affairs, later on, expected to see before acknowledging people as Indian tribes. I have found clear evidence that the people before you today meet those criteria as far back as the public records allow me to look: living in geographical clusters, being predominantly in-marrying, and having most of their associations with one another rather than with outsiders. After the Civil War, when free non-whites could openly have them in Virginia, those associations show up as tribal churches, followed by tribal schools. On several occasions, beginning in 1892, the federal Office of Indian Affairs (later the BIA)

was contacted for financial help for those schools. The answer was always "no" – not because the people were not Indians, but because the treaty they signed (in 1677-80) had far predated the existence of the federal government. Washington was uncomfortable with that.

The people of these six tribes had had *informal* organizations – many ethnic groups called "tribes" do that in the Third World – since the dying out of their chiefs in the early 18th century. When they formalized things, the tribes took out charters with the State Corporation Commission, something the white supremacists could not legally prevent them from doing.

Virginia was most definitely a white-supremacist state for most of the 20th century, and for the exceptionally severe treatment of Indian people there, some of the blame can be laid on Pocahontas. No other state has as many or as socially prominent descendants of that so-called "princess." Her legend – for that is exactly what it is, a legend – has long blinded most Virginians to the existence of the modern Indian tribes in their midst. Even now, when I say I work with Virginia Indians, people nearly always start in asking me about Pocahontas. When Virginia wanted to make the "one-drop" rule (i.e., one "drop" of non-white "blood" making a person "colored") into a law, legislators found that it couldn't be done without making some of the state's aristocrats get into the Jim Crow coach. The bill had to be rewritten, making an exception for "the Pocahontas Descendants." And that exception was seen as a hole in the dyke by the die-hards, one of whom characterized the "Indian" racial category as a "way-station to whiteness." The tone of the defenders of the white race in Virginia was even more strident than elsewhere, as a result. In the first half of the 20th century, anybody claiming to be Indian, and any

non-Indian cooperating with such persons, came in for humiliation that was severe and very public. That was possible because a whole state bureau, the Vital Statistics Bureau, became a policing agency on matters racial in the state, issuing public announcements, sending a circular to all county officials statewide, and mailing pamphlets to thousands of private citizens – at taxpayers' expense. In both the circular and the pamphlet, the Indian tribes were specifically attacked. The effect upon the appearance of "Indian" entries in state, local, and even federal records like the U.S. Census schedules should be obvious. The effect upon my work was that from the beginning I had to hunt for personal names and associations in the records, rather than racial labels. The tribes as distinct ethnic groups were there, all right, but the campaign against them had made them harder to find.

I have always found it amusing, how wrong the white-supremacists were in assuming that absolutely everybody would "pass" for white who could. The tribes I work with were not interested in doing that. When Virginia repealed its racial definitions law in 1975, and anybody could claim to be anything, these people went right on saying they were Indian, as they had been doing all along. They had said it to James Mooney in the 1890s, and to the social scientists who followed him. Most of us social scientists have been North American Indian specialists, and we have worked with these Virginia communities because they are *tribes* of *Indians*. I submit to you that they deserve acknowledgment as such now.

**Helen C. Rountree**
**Brief Vitae**
(revised June 2006)

**EDUCATION**:

A.B., *summa cum laude*, College of William and Mary; Sociology and Anthropology.
Honors thesis: "A Cross-cultural Delineation of the Role of the Witch and the Sorcerer"
M.A., University of Utah; Anthropology.
M.A. thesis: "Between Two Worlds: The Life History of a Western Shoshone Woman"
Ph.D., University of Wisconsin-Milwaukee; Anthropology.
Ph.D. dissertation: "Indian Land Loss in Virginia: A Prototype of Federal Indian Policy"

**EMPLOYMENT**:

1968 through 1999: Old Dominion University, Norfolk, Virginia.
Instructor, 1968; Assistant Professor, 1973; Associate Professor, 1980; Professor, 1991.
Current rank: Professor Emerita of Anthropology.

**RESEARCH INTERESTS**:

**Geographical**: North American Indians, especially on Virginia Coastal Plain [1570 to present]; Middle East; England, especially in Tudor and Jacobean periods.
**Topical**: Ethnohistory, ethnicity, ethnobotany, ecological anthropology, political and legal anthropology, gender.

**PROFESSIONAL ASSOCIATIONS (since retiring):**

American Anthropological Association (Life Member)
Archeological Society of Virginia (Life Member)
Council of Virginia Archaeologists (Associate Member)

**FIELDWORK AS CULTURAL ANTHROPOLOGIST:**
Western Shoshone Indians (summer 1967)
Powhatan tribes of Virginia (fall 1969 to present)
Honorary Member, Upper Mattaponi Tribe
Honorary Member & Acting Recording Secretary, Nansemond Tribe
**Shorter visits:**
Most Indian reservations in U.S., several in Canada
Mexico (three trips, one of 5 weeks living with local family); Peru (1 week); England (four trips totalling 16 weeks, mostly small towns); Ivory Coast (3 weeks); Tanzania (3 weeks)

**SIGNIFICANT PUBLICATIONS [sole author unless otherwise noted]:**

Forthcoming *John Smith's Chesapeake Voyages, 1607-1609* (junior authors are Wayne E. Clark and Kent Mountford). Charlottesville: University of Virginia Press. Reconstructing the people, land, plants, and animals of the Chesapeake region in those years. Originally sponsored by National Park Service's Chesapeake Gateways Program, which hired HCR as lead writer, as well as cultural anthropologist, on the project.
2005 *Pocahontas, Powhatan, Opechancanough: Three Indian Lives Changed by Jamestown*. Charlottesville: University of Virginia Press.
2004 Look Again More Closely: 18th Century Indian Settlements in Swamps. *Journal of Middle Atlantic Archaeology* 20: 7-12.
2002a *Before and After Jamestown: Virginia's Powhatans and Their Predecessors* (junior author is E. Randolph Turner, III). Gainesville: University Press of Florida.

2002b Trouble Coming Southward: Emanations Through and From Virginia, 1607-1675. IN *The Transformation of the Southeastern Indians, 1540-1760*. Robbie Ethridge and Charles Hudson, eds. Jackson: University Press of Mississippi. Pp. 65-78.

2001 Pocahontas: The Hostage Who Became Famous. IN *Sifters: Native American Women's Lives*. Theda Perdue, ed. New York: Oxford University Press. Pp. 1-28.

1998b The Evolution of the Powhatan Paramount Chiefdom in Virginia (junior author is E. Randolph Turner, III). In *Chiefdoms and Chieftaincy: an Integration of Archaeological, Ethnohistorical, and Ethnographic Approaches*. Elsa M. Redmond, ed. Gainesville: University Press of Florida. Pp. 265-296.

1998a Powhatan Indian Women: The People Captain John Smith Barely Saw. *Ethnohistory* 45: 1-29 [1994 presidential address to Am. Soc. for Ethnohistory].

1997 *Eastern Shore Indians of Virginia and Maryland* (junior author is Thomas E. Davidson). Charlottesville: University Press of Virginia.

1996a A Guide to the Late Woodland Indians' Use of Ecological Zones in the Chesapeake Region. *The Chesopiean* 34 (2-3).

1996b "Powhatan" and "Powhatan Confederacy" in *The Encyclopedia of the American Indian*. Frederic E. Hoxie, ed. Boston: Houghton Mifflin. Pp. 509-513.

1994a On the Fringe of the Southeast: The Powhatan Paramount Chiefdom in Virginia (junior author is E. Randolph Turner, III). IN *The Forgotten Centuries: The Southeastern United States in the Sixteenth and Seventeenth Centuries*. Charles Hudson and Carmen Tesser, Editors. Athens: University of Georgia Press. Pp. 355-372.

1994b Articles on "Chickahominy," "Mattaponi," "Monacan," "Nansemond," "Rappahannock," and "Upper Mattaponi." IN *Native America in the Twentieth Century: An Encyclopedia*. Mary B. Davis, ed. New York: Garland. Pp. 103-104, 328-229, 357, 369, 534, 667-68.

1993 *Powhatan Foreign Relations, 1500-1722*. Charlottesville: University Press of Virginia. (as editor and contributor)

1992a Indian Virginians on the Move. IN *Indians of the Southeastern United States in the Late 20th Century: An Overview*. Anthony J. Paredes, ed. Tuscaloosa: University of Alabama Press. Pp. 9-28.

1992b Powhatan Priests and English Rectors: Worldviews and Congregations in Conflict. *American Indian Quarterly* 16: 485-500.

1990 *Pocahontas's People: The Powhatan Indians of Virginia Through Four Centuries*. Norman: University of Oklahoma Press.

1989 *The Powhatan Indians of Virginia: Their Traditional Culture*. Norman: University of Oklahoma Press.

1987 The Termination and Dispersal of the Nottoway Indians of Virginia. *Virginia Magazine of History and Biography* 95: 193-214.

1986 Ethnicity Among the "Citizen" Indians of Virginia, 1800-1930. IN *Strategies for Survival: American Indians in the Eastern United States*. Frank W. Porter III, ed. New York: Greenwood Press. Pp. 173-209.

1979 The Indians of Virginia: A Third Race in a Biracial State. IN *Southeastern Indians Since the Removal Era*. Walter L. Williams, ed. Athens: University of Georgia Press. Pp. 27-48.

1975 Change Came Slowly: The Case of the Powhatan Indians of Virginia. *Journal of Ethnic Studies* 3 (3): 1-20.

1974 Change Came Slowly: The Powhatan Case. *The Chesopiean* 12(6): 162-66. Reprinted in 2004 in *The Chesopiean* 41(2): 26-29.

1972 Powhatan's Descendants in the Modern World: Community Studies of the Two Virginia Indian Reservations, with Notes on Five Non-Reservation Enclaves. *The Chesopiean* 10 (3): 62-96.

**POPULAR WORKS (privately published; sole author unless otherwise noted)**

In press *Building an Indian House* (senior author is William H. Hancock of Jamestown Settlement). Yorktown, Va.: J & R Graphics Services.

1999 *Beyond the Village: A Colonial Parkway Guide to the Local Indians' Use of Natural Resources*. Yorktown, Va.: J & R Graphics Services.

1995 *Young Pocahontas in the Indian World*. Yorktown, Va.: J & R Graphics Services.

In preparation for printing *Powhatan Indian Words*. MS. 35 pp.

In preparation for printing *Everyday Life in an Eastern Woodland Indian Village*. MS. 32 pp.

**MANUSCRIPTS IN PROGRESS:**

MS. A. *Powhatan Words and Names.* (book with junior authors Martha McCartney and Blair A. Rudes)
MS. B. The Early Ethnographers of Virginia: An Evaluation of John Smith, William Strachey, and Henry Spelman. (journal article; in revision)
In serious talking (and researching) stage: Book on Southern Maryland Algonquians in the Late Woodland and Historic periods; I would act as scribe and junior author to senior researcher Rebecca Seib, whose current job with First Nations Development, Inc., allows her no writing time
In serious talking (and researching) stage: Book on Carolina Algonquians in Late Woodland and Historic periods; I would act as scribe and junior author to senior researcher Wes Taukchiray, whose contract historian's work does not allow time for writing books.
In serious talking stage: Book on Late Woodland peoples in the Virginia mountains, based upon archaeological site reports. First step taken in early June 2006: sponsoring a Masswomeck Roundtable among archaeologists.
In research stage: Book comparing coastal Algonquian Indian cultures from North Carolina to Massachusetts at time of European contact. Compiled culture-trait index files for it are complete for Virginia (1570-1613) and Maryland (1631-62); currently adding data from North Carolina.

**CONSULTANT FOR:**

1996 *Algonquians of the East Coast.* Alexandria, Virginia: TIME-LIFE Books (The American Indians Series).
1997(?) Regional consultant for the first episode (on mid-Atlantic region) of PBS's "Land of the Eagle" series.

**MAJOR STUDY PROJECTS AND AWARDS:**

(Participant) U.S. Department of Education, Group Study Abroad (African tour to Ivory Coast and Tanzania, 1983); Jerome Bookin-Weiner, principal organizer.
(Participant) N.E.H. Summer Institute for College Teachers, "Spanish Explorers and Indian Chiefdoms," held at University of Georgia, summer 1989; Charles Hudson, principal organizer.
1993 Elected president of the American Society for Ethnohistory.
1995 Winner, Outstanding Faculty Award, State Council on Higher Education in Virginia. Used award money for private publication of children's book on Pocahontas (to rebut Disney's cartoon).

**CURRENTLY WORK AS CONSULTANT WITH:**

Virginia Council on Indians (close observer since it was formed in 1983; member of committee evaluating recognition petitions since 1993; recording secretary in meetings, 2002)
Jamestown Settlement Museum (since 1986; member of Museums and Programs Advisory Committee since it was formed in 1997)
Historic St. Mary's City (sporadically since 1994)
Accokeek Foundation and Colonial National Farm, in Maryland (sporadically since 1992)
Hampton History Museum (since 1999)

**INVOLVEMENT IN TRIBAL RECOGNITION CASES:**

**State recognition:**
Speaker on Indians' behalf in Joint Committee hearing (1982), which resulted in 1983 state recognition for the Chickahominy Tribe, the Chickahominy Indians, Eastern Division, the United Rappahannock Tribe, and the Upper Mattaponi Tribe.
Compiler of documents which helped lead to the 1985 state recognition for the Nansemond Indian Tribe
Virginia Council on Indians: member and sometime chair of committee evaluating tribal recognition petitions (1993 to present)
Maryland Commission on Indian Affairs: member of evaluating committee (1995-97)

**Federal recognition:**
Compiler of historical documents and speaker on Indians' behalf (2006) in Congressional hearings (1999-to present), acting for the Chickahominy Tribe, the Chickahominy Indians, Eastern Division, the Nansemond Indian Tribal Association, and the Upper Mattaponi Tribe; indirectly for the Monacan Indian Nation.

RICHMOND TIMES-DISPATCH


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PAGE: A-1 EDITION: City
SECTION: Area/State LENGTH: 528 lines
ILLUSTRATION: CHART, PHOTO
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Times-Dispatch
Washington Correspondent
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phardin@media-general.com

# `DOCUMENTARY GENOCIDE'
## FAMILIES' SURNAMES ON RACIAL HIT LIST

Long before the Indian woman gave birth to a baby boy, Virginia branded him with a race other than his own.

The young Monacan Indian mother delivered her son at Lynchburg General Hospital in 1971. Proud of her Indian heritage, the woman was dismayed when hospital officials designated him as black on his birth certificate. They threatened to bar his discharge unless she acquiesced.

The original orders came from Richmond generations ago.

Virginia's former longtime registrar of the Bureau of Vital Statistics, Dr. Walter Ashby Plecker, believed there were no real native-born Indians in Virginia and anybody claiming to be Indian had a mix of black blood.

In aggressively policing the color line, he classified "pseudo-Indians" as black and even issued in 1943 a hit list of surnames belonging to "mongrel" or mixed-blood families suspected of having Negro ancestry who must not be allowed to pass as Indian or white.

With hateful language, he denounced< il6p,l16>their tactics.

" . . . Like rats when you are not watching, [they] have been `sneaking' in their birth certificates through their own midwives, giving either Indian or white racial classification," Plecker wrote.

Twenty-eight years later, the Monacan mother's surname still was on Plecker's list. She argued forcefully with hospital officials. She lost.

Today, the woman's eyes reveal her lingering pain. She consulted with civil rights lawyers and eventually won a correction on her son's birth certificate.

"I don't think the prejudice will ever stop," said the woman, who agreed to talk to a reporter only on condition of anonymity.

She waged a personal battle in modern times against the bitter legacy of Plecker, who ran the bureau from 1912 to 1946. A racial supremacist, Plecker and his influential allies helped shape one of the darkest chapters of Virginia's history. It was an epoch of Virginia-sponsored racism.

A physician born just before the Civil War, Plecker embraced the now-discredited eugenics movement as a scientific rationale for preserving Caucasian racial purity. He saw only two races, Caucasian and non-Caucasian, and staunchly opposed their "amalgamation."

After helping win passage in 1924 of a strict race classification and anti-miscegenation law called the Racial Integrity Act, Plecker engaged in a zealous campaign to prevent what he considered "destruction of the white or higher civilization."

When he perceived Indians as threats to enforcing the color line, he used the tools of his office to endeavor to crush them and deny their existence.

Many Western tribes experienced government neglect during the 20th century, but the Virginia story was different: The Indians were consciously targeted for mistreatment.

Plecker changed racial labels on vital records to classify Indians as "colored," investigated the pedigrees of racially "suspect" citizens, and provided information to block or annul interracial marriages with whites. He testified against Indians who challenged the law.

Virginia's Indians refused to die out, although untold numbers moved away or assumed a low profile.

Now, eight surviving tribes recognized by Virginia in the 1980s are preparing to seek sovereign status from the U.S. government through an act of Congress. About 3,000 of the 15,000 Indians count- ed in Virginia in the 1990 census were indigenous to the state, experts say.

As they bid for federal recognition, more Indian leaders are talking openly about the injustice of Plecker's era. They gave a copy of his 1943 "hit list" to Virginia members of Congress along with other data in support of their bid.

Modern scholars have studied Plecker and the racial integrity era. Their findings contributed to this article. Yet he's not widely known today.

"It's an untold story," said Oliver Perry, chief emeritus of the Nansemond Tribe.

"It's not that we're trying to dig him up and re-inter him again," said Gene Adkins, assistant chief of the Eastern Chickahominy Tribe.

"We want people to know that he did damage the Indian population here in the state. And it's taken us years, even up to now, to try to get out from under what he did. It's a sad situation, really sad."

Said Chief William P. Miles of the Pamunkey Tribe: "He came very close to committing statistical genocide on Native Americans in Virginia."

Chief G. Anne Richardson of the Rappahannock Tribe spoke bluntly: "Devastation. Holocaust. Genocide.

"Those are the words I would use to describe what he did to us," she said. "It was obvious his goal was the demise of all Native Americans in Virginia. . . . We were not allowed to be who we are in our own country, by officials in the government."

For people of Indian heritage, Plecker's name "brings to mind a feeling that a Jew would have for the name of Hitler," said Russell E. Booker Jr., Virginia registrar from 1982 to 1995. That view "certainly is justified."

Indeed, one of Plecker's most chilling letters mentioned Adolf Hitler - and not unfavorably.

"Our own indexed birth and marriage records showing race reach back to 1853," Plecker wrote U.S. Commissioner of Indian Affairs John Collier in 1943. "Such a study has probably never been made before.

"Your staff member is probably correct in his surmise that Hitler's genealogical study of the Jews is not more complete."

Plecker also used haunting rhetoric in publishing a brochure on "Virginia's Vanished Race" a month before his death in 1947. He asked, "Is the integrity of the master race, with our Indians as a demonstration, also to pass by the mongrelizations route?"

## CONFRONTING AN ERA

On wooded Bear Mountain, miles up a country road outside Amherst, a visitor finds more evidence of the new willingness to confront Plecker's era head-on.

It's the historical center of the Monacan Indian Nation. A one-room log schoolhouse dating to the 1870s is standing. Also there are a simple white

church and a small ancestral museum with a new sign proclaiming "History
Preserved is Knowledge Gained."

Tribal activist and researcher Diane Shields digs into her files and pulls
out for a visitor a dozen manila folders with photocopies of Plecker's letters
covering two decades.

The Monacans acknowledge the stigma and pain, the second-class status, the
lack of economic opportunity and the inferior education inflicted upon them
and other Virginia tribes.

Indian children were relegated to substandard "colored" schools. Their
parents, wanting to keep an Indian identity, often declined to send them
there. Some tribal children studied in lower grades at reservation schools or
church-sponsored schools like the one at Bear Mountain.

Even in this history of oppression, some Monacans have found a value: a
common identity.

"It's a horrible thing, what he did to the Indian people," Shields said of
Plecker. "But you know what? It gives me a sense of belonging - because I'm
grouped with my own people.

"It kind of backfired with Plecker. He pushed the Indian people closer and
gave us an identity."

Her brother, Johnny Johns, is a tribal leader and electrical technician.
He's 51. Enrolled at Lynchburg College at midlife, he's been learning about
the eugenics movement. Johns, whose surname was on Plecker's "hit list,"
regards him in two ways.

First, there's "the horror, the terror." Yet he believes Plecker "did us a
favor, because the list of [Indian] names is there. We know who we are. It's a
two-edged sword, a duality."

Monacan Chief Kenneth Branham, 47, remembers shunning by whites when Indian
children were first allowed into public elementary school in the 1960s. School
bus drivers sometimes refused to transport them.

Plecker was cruel, Branham believes. But "he kind of drew us together. We
were a tightknit group, because there was nobody else we could associate
with."

His tribe, which has grown dramatically in recent years to about 1,100
enrolled members, is using federal grant money to document its history. The

Monacans are making their comeback with people like Shields and Johns, who were drawn back from beyond Virginia to their family and tribal roots, the place they now call home.

Among them is Indian activist Mary B. Wade, who learned only in the late 1980s about her Monacan heritage from an uncle in Maryland. Now she's secretary of the Virginia Council on Indians, a state government advisory panel.

The Monacan tribe owns more than 100 acres on and near Bear Mountain and dreams of buying hundreds more, developing a retirement home and a day-care center.

These Amherst Indians won recognition from the General Assembly in 1989, five years after Lynchburg pediatrician Peter Houck laid out a Monacan genealogy for what was once called a lost tribe. Houck detailed his findings in a book, and the recognition has contributed to a spirit of resurgence among the Monacans.

Indian people of Amherst and adjoining Rockbridge counties were a special target of Plecker.

He wrote in a 1925 letter, "The Amherst-Rockbridge group of about 800 similar people are giving us the most trouble, through actual numbers and persistent claims of being Indians. Some well-meaning church workers have established an `Indian Mission' around which they rally."

Across the state in eastern Virginia, home for tribes that once made up the Powhatan Confederation, Plecker evokes diverse reactions from Indian leaders.

"He was just determined to get rid of us," said Chief A. Leonard Adkins, 73, of the Chickahominy Tribe. "It was hard to believe that a man could do what he did and get away with it."

A Chickahominy midwife was threatened by with imprisonment by Plecker if she didn't stop putting `Indian' on birth records, Adkins said. She decided to stop her midwifery rather than buckle under to him or risk a prison term.

During Plecker's era, a number of Indians didn't admit to their cultural heritage or pass down traditions to their children. It was easier for many to adapt to white society, said Chief Barry Bass of the Nansemond Tribe.

"There's probably a lot who have gone to their grave who still didn't

admit they were Indian. That's where it hurt," said Bass, the acting chairman of the Virginia Council on Indians.

Plecker wrote in a 1924 state-published pamphlet, "Eugenics in Relation to the New Family," that there were no true Indians in Virginia who didn't have some black blood. He later refined this to apply to "native-born people in Virginia calling themselves Indians."

His 1943 letter alluding to "rats . . . `sneaking' in their birth certificates" claimed that mixed-blood groups were intent above all on "escaping negro status and securing recognition as white, with the resulting privilege of attending white schools and ultimately attaining the climax of their ambitions, marrying into the white race."

Plecker misunderstood the Indians' culture, said Dr. Helen C. Rountree, an anthropoligist and Virginia Indian expert recently retired from Old Dominion University. Those whom she studied in eastern Virginia believed that if they married a white, the children would be Indians, Rountree wrote in her book, "Pocahontas's People."

These Indians did not want to be "white," she wrote, although they wanted access to the better facilities available to whites and the freedom to marry whites to avoid inbreeding.

In drawing his conclusions, Plecker relied heavily on old birth and death records that indicated only whether an individual was white or nonwhite, said former registrar Booker.

"There was no place to register `Indian.' Nonwhite was later taken to mean black, by Plecker and by the Racial Integrity Act," Booker said.

To Booker, the racial integrity era amounted to what today would be called "ethnic cleansing." Or "documentary genocide."

"He was convinced he was one of the chosen," Booker said of Plecker. "He was the original martinet."

## THE PLECKER LETTERS

Plecker left a major paper trail.

He gave carbon copies of hundreds of his official letters, neatly typed on "Commonwealth of Virginia, Department of Health" stationery, to John Powell, a Richmond-born concert pianist and an outspoken advocate for race-purity measures in Virginia.

Today, the letters offer a rare record of a bureaucrat intruding in

individual lives, harassing and intimidating citizens, bullying local officials and stamping out civil rights.

The correspondence is housed in a collection of Powell documents at the University of Virginia's Alderman Library. Powell graduated Phi Beta Kappa from U.Va. at age 18. He became an internationally known pianist and lectured in U.Va.'s music department.

In one letter, Plecker wrote a Lynchburg woman in 1924 to correct a supposedly false birth report for her child, which had been signed by a midwife.

"This is to give you warning that this is a mulatto child and you cannot pass it off as white," he wrote. Plecker apprised her of the new "one-drop" rule, which defined a white person as having "no trace whatsoever of any blood other than Caucasian."

"You will have to do something about this matter and see that this child is not allowed to mix with white children," Plecker admonished. "It cannot go to white schools and can never marry a white person in Virginia.

"It is an awful thing."

To a woman he knew to be from a "respectable" white family in Hampton, Plecker voiced surprise that she would ask about a license to marry a man of mixed African descent.

"I trust . . . that you will immediately break off entirely with this young mulatto man," he wrote.

Plecker threatened a Fishersville woman with prosecution in 1944 for a birth record he contended hid her Negro lineage.

"After the war it is possible that some of these cases will come into court. We might try this one. It would make a good one if you continue to try to be what you are not," Plecker warned.

His writing supports the view of leading scholars that Indians were a secondary, not primary, target of the eugenics movement in Virginia.

"The attack on persons of African descent laid the foundation for the attack against the American Indian community in Virginia as a mixed-race population," wrote an anthropologist, Dr. Danielle Moretti-Langholtz of the College of William and Mary, in a dissertation on the political resurgence of Virginia's Indians.

Plecker was vehement about preserving the color line.

"Two races as materially divergent as the white and the negro, in morals,

mental powers, and cultural fitness, cannot live in close contact without injury to the higher," he told an American Public Health Association session in 1924. "The lower never has been and never can be raised to the level of the higher."

Plecker went on, "We are now engaged in a struggle more titanic, and of far greater importance than that with the Central Powers from which we have recently emerged," he added. "Many scarcely know that the struggle which means the life or death of our civilization is now in progress, and are giving it He concluded, "Let us turn a deaf ear to those who would interpret Christian brotherhood to mean racial equality."

## RISE TO POWER

He had risen to become Virginia's first registrar at a time when segregationist Jim Crow laws and attitudes already were securely in place in the South.

In the eugenics movement, Plecker and allies found a basis in "science" for their extremist thinking, according to scholars who have studied him.

Plecker was born April 2, 1861, in Augusta County. He died at age 86 in August 1947 when he failed to look before crossing the street on Chamberlayne Avenue in Richmond and was hit by a car.

Schooled at Hoover Military Academy in Staunton, he attended the University of Virginia and graduated with a degree in medicine from the University of Maryland in 1885. For about 25 years, he practiced as a country doctor. After joining the health department of Elizabeth City County, now the city of Hampton, he set up a system for keeping health records and vital statistics, earning that county a national reputation.

In 1912, he came to Richmond to help state officials organize the Bureau of Vital Statistics, and he was tapped as its first registrar. Births, deaths and marriages would have to be reported to the bureau.

"He was a pioneer in the health of the newborn," said former registrar Booker, who as a youngster delivered the newspaper to Plecker's Richmond home. "He wrote what I thought was an outstanding book for midwives."

Plecker was drawn to the eugenics movement, which held that society and mankind's future could be improved by promoting better breeding.

He was among eugenics adherents who believed in the supremacy of white genetic stock, the inferiority of other races and the threat that mixing with the white race would lead to decline or destruction.

To push for law to preserve "racial integrity," Plecker teamed with Powell and Tennessee-born Earnest S. Cox, author of a book titled "White America."

Powell was a leading founder of the Anglo-Saxon Clubs of America, an all-male, native-born group started in Richmond in September 1922 and a year later claiming to have 25 posts statewide. Plecker was a member.

Its goals were preservation of Anglo-Saxon ideals and "the supremacy of the white race in the United States of America without racial prejudice or hatred," according to its constitution.

"This was the Klan of the aristocracy - the real gentleman's Klan," said J. David Smith of Longwood College, a eugenics expert.

Newspaper accounts at the time detailed a link with former Richmond KKK members. The Richmond Lodge of the KKK seceded in 1922 from the national organization, according to news accounts. A lawyer for some of the former Klansmen said the national group was judged to be a "rampant anti-Catholic organization instead of an organization to maintain white supremacy."

"The Ku-Klux Klan in Richmond organized the Anglo-Saxon Clubs of America, and the local organization is known as Richmond Post, No. 1," the lawyer went on to say in The Times-Dispatch.

Powell wrote in correspondence later that the Anglo-Saxon Clubs had "no connection whatever" with the KKK and were "in no sense unfriendly to the Negro."

In 1924 the General Assembly adopted race-purity legislation championed by the Anglo-Saxon Clubs and promoted by Plecker, Cox and Powell. It would stand until a landmark 1967 ruling by the U.S. Supreme Court.

The Racial Integrity Act was one of the nation's strictest. It defined white person for the first time, using the "one-drop rule," and went beyond earlier state law against inter-marriage by making it illegal for whites to marry any nonwhites, including Asians.

However, the law permitted persons with one-sixteenth American Indian blood and "no other non-Caucasic blood" to be classified as white. That was a nod to descendants of Pocahontas, some of whom counted themselves among "first families" of Virginia.

Some leading state newspapers, including The Times-Dispatch and The Richmond News Leader, endorsed the race-purity goals.

The Times-Dispatch editorialized in 1924 that race intermingling would "sound the death knell of the white man. Once a drop of inferior blood gets in his veins, he descends lower and lower in the mongrel scale."

This newspaper also gave Powell a platform, publishing two years later a 13-part series of his articles titled "The Last Stand" and describing what he called Virginia's declining racial purity.

Plecker, meanwhile, lent support for black separatist Marcus Garvey's back-to-Africa movement.

Plecker kept trying to narrow loopholes in the Virginia law. The legislature agreed in 1930 to define "colored" people as those "in whom there is ascertainable any Negro blood."

Framers of the Racial Integrity Act found "a convenient faade" for their race prejudices in the "pseudo-science of eugenics," said Paul A. Lombardo, a eugenics expert who teaches at the University of Virginia law school.

Lombardo wrote, "The true motive behind the [act] was the maintenance of white supremacy and black economic and social inferiority - racism, pure and simple."

## ENFORCING THE ACT

In his more than 30 years as registrar, Plecker stood up to those who disagreed with him, urged him to back off, or got in his way. They included courageous Indians, a Virginia governor and federal officials.

Some people were imprisoned for violating the Racial Integrity Act, but a number of juries wouldn't convict. There were legal challenges to the act and Plecker's enforcement, but it took the U.S. Supreme Court in 1967 to void Virginia's anti-miscegenation law.

Two of the earliest challenges came in Rockbridge County in 1924. A circuit judge upheld in the first case the denial of a marriage license for an Indian woman to marry a white man. But in the second case, he set the eugenics backers reeling.

Judge Henry W. Holt heard expert testimony from Plecker before ruling in favor of an Indian woman who had challenged the denial of a license for her to wed a white man.

Holt found no evidence that the woman, Atha Sorrells, was of mixed lineage under a reasonable interpretation of the new law. He questioned its constitutionality and the legal meaning of the term Caucasian.

"Half the men who fought at Hastings were my grandfathers. Some of them were probably hanged and some knighted, who can tell? Certainly in some instances there was an alien strain. Beyond peradventure, I cannot prove that there was not," he wrote in his opinion.

Drawing on "Alice in Wonderland," he added, "Alice herself never got into a deeper tangle."

John Powell shot back with a pamphlet, published by the Anglo-Saxon Clubs, titled "The Breach in the Dike: an Analysis of the Sorrels Case Showing the Danger to Racial Integrity from Intermarriage of Whites with So-Called Indians."

Holt's ruling was not appealed, however. An assistant state attorney general warned that the act might be declared unconstitutional.

Absalom Willis Robertson, the Rockbridge commonwealth's attorney, represented the state. A former state senator, Robertson would rise to fame as a congressman and U.S. senator for 34 years. A conservative Democrat, he was known as an expert on federal finances.

On civil rights, Sen. Robertson opposed the progressive stands of the national Democratic Party and was involved in the filibuster over civil rights legislation in 1963. His son, Republican Pat Robertson, is the conservative television evangelist who founded the Christian Coalition and, in 1988, ran for president.

In an October 1924 letter, Plecker personally had asked A.W. Robertson to represent Virginia "if your charge is not too great, and the Governor will pay the bill."

Gov. E. Lee Trinkle, too, had written Robertson.

"Willis, this law is a new one and I regard it of vital importance. There are a great many of our real substantial white people who fought hard for the Bill and are doing all they can to help out in this situation over the State."

Asking what Robertson would charge if he were to represent the state, Trinkle added, "I know that you will be more than reasonable because you, like the rest of us, are interested in this movement."

When Plecker sought to have the race-purity law toughened the following year, the governor advised moderation.

Trinkle wrote Plecker, urging him to "be conservative and reasonable and not create any ill feeling if it can be avoided between the Indians and the State government.

"From reports that come to me," Trinkle added, "I am afraid sentiment is moulding itself along the line that you are too hard on these people and pushing matters too fast."

Plecker didn't yield.

The registrar tried to tell U.S. Census officials how to list Indians and urged Selective Service officials not to induct them as whites.

A number of Virginia Indians, struggling to retain their identity, battled to be inducted with whites in World War II, a position Plecker opposed. Through various petitions and channels, the Indians met inconsistent results.

Three Rappahannock men who refused induction with blacks were prosecuted and sentenced to prison, but they later were allowed to pass the war years by laboring in hospitals as conscientious objectors. Yet in a federal court in western Virginia, a judge sided with seven Amherst County Indians who resisted induction as Negroes.

Finally the government, after years of wrangling, generally deferred to registrants to choose their race, an Indian victory that some scholars believe helped pave the way for the civil rights movement.

In the same period, Plecker wrote a letter to Powell that reflected a defeat - and Plecker's own authoritative gamesmanship.

Plecker had begun putting "corrections" on the backs of birth certificates issued by his bureau before 1924 to remove the designation "Indian."

A prominent Richmond attorney, John Randolph Tucker, representing two Amherst County Indians challenged Plecker's standing to "constitute himself judge and jury" by making such a change and threatened court action.

Plecker yielded temporarily.

"This is the worst backset which we have received since Judge Holt's decision," he confided to Powell on Oct. 13, 1942. "In reality I have been doing a good deal of bluffing, knowing all the while that it could not be legally sustained. This is the first time my hand has absolutely been called."

The "backset" didn't last long.

The General Assembly voted in 1944 to allow the registrar to put on the backs of birth, death or marriage certificates data that would correct erroneous racial labels on the front.

Plecker died in 1947. But his legacy survived. Not until 13 years after the Warren Court's landmark 1954 desegregation decision in Brown vs. Board of Education was the intermarriage ban in Virginia's Racial Integrity Act overturned.

Saying Virginia's anti-miscegenation law was based on racial distinctions, the Supreme Court concluded, "There is patently no legitimate overriding purpose independent of invidious racial discrimination which justifies this classification.

"The fact that Virginia prohibits only interracial marriages involving white persons demonstrates that the racial classifications must stand on their own justification as measures designed to maintain white supremacy."

In 1975, Virginia repealed its racial definition and segregation laws.

## LASTING DAMAGE

Virginia tribes preparing to seek federal recognition as sovereign nations have told officials in Washington about the lasting damage sustained in the Plecker era, three centuries after Virginia's "first people" encountered the European settlers.

A bill being drafted by Rep. James P. Moran, D-8th, would ask Congress to grant federal recognition.

Gene Adkins of the Eastern Chickahominy said it may take beyond the current generation of Virginia Indians to correct the wrongs of Plecker's era.

"We're getting [more] advantages, but we still don't have the same advantages today of the white population," Adkins said.

Telling the story of Plecker's mistreatment of the Indians could open more doors, Adkins said.

"It boils down to this: More people will be sympathetic to what we're trying to do."

## LEARN MORE

Here are some key resources used by The Times-Dispatch in preparing this report:

* "Pocahontas's People: The Powhatan Indians of Virginia Through Four Centuries," University of Oklahoma Press, 1990, by Helen C. Rountree.

* "The Eugenic Assault on America: Scenes in Red, White and Black," George Mason University Press, 1992, by J. David Smith.
* "The Last Stand: The Fight for Racial Integrity in Virginia in the 1920s," The Journal of Southern History, February 1988, Vol. LIV, No. 1, by Richard B. Sherman.
* "Miscegenation, Eugenics, and Racism: Historical Footnotes to Loving v. Virginia," University of California, Davis, Law Review, Vol. 21 (1988), by Paul A. Lombardo.
* "Indian Island in Amherst County," Warwick House Publishing, 1993, by Peter W. Houck and Mintcy D. Maxham.
* "Other Names I Have Been Called: Political Resurgence Among Virginia Indians in the 20th Century," unpublished Ph.D. dissertation, 1998, University of Oklahoma, by Danielle Moretti-Langholtz.
* (Book in progress) "Managing White Supremacy: Politics, Race, and Citizenship in Virginia, 1919-1945," to be published by University of North Carolina Press, by J. Douglas Smith.
* The Library of Virginia, executive letters of Gov. E. Lee Trinkle.
* The John Powell papers, Special Collections Department, University of Virginia library.

Check the following sites on the World Wide Web:
About Plecker:
* www.melungeons.com/archive.htm
* www.lib.virginia.edu/exhibits/hoos/ famous.html
About eugenics:
* ness.sys.Virginia.EDU/ilppp/ lombardo.html
* vector.cshl.org/eugenics/
About the Virginia Council on Indians, with links to recognized tribes:
* indians.vipnet.org/index.html

**Spoken Testimony for the U.S. Senate Committee on Indian Affairs**
**Presented by Rev. David Willerup**
**Wednesday, June 21, 2006**

Good morning, and thank you to Chairman McCain, Vice Chairman Dorgan and members of the Senate Indian Affairs Committee for the opportunity to testify today.

My name is Rev. David Willerup, pastor of Westwood Reformed Church in Muskegon, MI. I'm also the former president of Positively Muskegon, a ballot action committee which was formed to oppose casino expansion in Muskegon, Michigan and a member of the steering committee for 23 Is Enough!, a political action committee formed to prevent the further expansion of casinos in Michigan – a state which already has more casinos than it does state colleges and universities. I am here today to lift the veil from the Grand River Band of Ottawa Indians Referral Act and to make clear to the committee that non-Indian casino developers stand behind this ill-advised initiative.

Muskegon is a quiet city of around 40,000 nestled between the quiet waters of Muskegon Lake and the great water of Lake Michigan. We lay claim to one of the top 30 beaches in the United States. We are home to the technologically advanced Michigan Alternative and Renewable Energy Research Center and the Robert B. Annis Water Resources Institute, both of which represent significant investment in our community by Grand Valley State University.

We are also enjoying a resurgence of our dilapidated downtown. A failed mall has been razed. Property from that site has been declared a Renaissance Zone, and investors are flocking to the Downtown Muskegon Development Corporation (the DMDC) with their ideas to build business and residential opportunities. This development is an appropriately scaled plan to bring vitality back to the hub of Muskegon County.

The DMDC heard and rejected the proposal for a casino by The Archimedes Group LLC early in 2003. It did not fit in their vision as discerned through hundreds of people's input and thousands of work hours in a process known as "Imagine Muskegon." According to Chris McGuigan, president of the Muskegon County Community Foundation and a member of the DMDC, the goal is to build a downtown that is a pedestrian friendly, mixed-use area heavily weighted toward residential development that will maximize the waterfront and connect to the storied institutions which surround the site.

Rejection was no deterrent. The Archimedes Group LLC convinced the city to put a single question referendum on a September ballot and formed the political action committee Yes! Muskegon to be their strong right arm. With the support of our ballot action committee, I spent the better part of that year calling the Archimedes Group out for their consistent public deception. They continued to publish their idea for mall redevelopment for nearly half a year after it was killed in committee. Even worse, it took almost five months of public debate before they were willing to admit that the only avenue available for a casino was through the BIA. Now they want to appear altruistic and empathetic, as if they've always been on the side of an oppressed people? I'm skeptical at best. But then again, if the industry is built on deception for cash, then why not reflect that in the politics?

Let us be clear about why we are here today. I do not purport to be an expert on the struggles and injustices of this people and will not belittle their testimony. I do ask you to consider that what is being presented as a social justice issue is also a message crafted by lobbyists backed by casino interests. In fact, when there was a rush to the BIA in the early to mid-90's to reap the financial rewards of IGRA, the GRBOI said they did not need federal recognition to validate their existence and that they were not interested in a casino.

So what has changed, and why are we here?

Here's the short of it:

- In September of 2003, Archimedes won the referendum (I call it a straw poll on steroids) by less than 500 votes, or a 51-49% split.
- In early November of 2003, the public rejected their proposal for a privately run downtown casino by 59-41%.
- In mid-November of 2003, the Muskegon Chronicle reported that Archimedes and the GRBOI signed a management agreement to build an 80,000 square foot casino on five acres of lakefront property along Muskegon's shoreline. This property is adjacent to the Renewable Energy Research Facility, two blocks from the Water Resources Institute, and one block from the downtown Renaissance Zone which anchors Muskegon's resurgence.
- In 2004 and 2005, a formerly inactive tribe got some political muscle and spent $200,000 on lobbying efforts. Of that, $180,000 went to the law firm of Gardner Carton & Douglas and $20,000 to the lobbying firm of Strategic Federal Affairs – the same firm used by the Archimedes Group in its gambling referendum campaign.

Clearly, not everyone shares the opinion of the Archimedes Group and Yes! Muskegon. Among those registered in opposition are the majority of community business leaders, the Community Foundation, the Downtown Muskegon Development Corporation, current investors in the Renaissance Zone, State Senator Jerry VanWoerkom an U.S. Representative Pete Hoekstra. Last year alone Rep Hoekstra secured the following appropriations for downtown Muskegon:

$2.3 million for Western Ave reconstruction in downtown
$1.7 million to relocate the transit facility in downtown away from the planned commercial development to make room for new retail.

These appropriations were made to help spur new retail and commercial development downtown, not a casino. Also, Grand Valley State University would not have invested in these two research facilities if they'd known a casino might show up right next door.

Believe me, if this really were an issue of social justice to liberate an oppressed people, I would not be here speaking against it. I believe strongly that all people have a right to celebrate their heritage, history and present culture. But I am forced to choose a position likely to be wrongly cast by casino advocates as racist, and put my own reputation on the line, to keep what I believe is a greater evil, namely, the economic and social oppression of a larger community, from becoming a reality. I mean no disrespect to the tribe by my appearance here today and would truly be a supporter - IF casino development weren't the key issue for the greater Muskegon area. IGRA is the deeply flawed piece of legislation through which these investors hope to make their millions. I am grateful that Chairman McCain has set forward a real attempt at IGRA reform in

S.2078 and am glad to see the Vice-Chairman Dorgan is a co-sponsor. The subsequent amendments are just plain common sense.

That said, I also believe the time is right to impose a moratorium on tribal casino expansion, such as that proposed by Representative Mike Rogers in H.R.3431, so that an even more in depth overhaul can take place. State's rights are abrogated by this legislation. Local communities targeted by casino investors have virtually no voice. There are serious issues with lobbying ethics. It would not surprise me if Jack Abramoff were only the tip of the iceberg. When it comes to tribal gaming expansion, the whole deal looks less like "of the people, by the people, and for the people," and more like "of Las Vegas, by the lobbyist, and for the management company."

With regard to S-437, all I ask is that this committee let the BIA do its work without congressional interference. Besides, is this committee truly ready to weigh the GRBOI's application and argument against the needs of other applicants to determine whether or not they are truly worthy of special consideration?

Thank you once again for the opportunity to speak with you today.

**Written Testimony for the U.S. Senate Committee on Indian Affairs**
**Concerning S-437**
**Presented by Rev. David Willerup**
**Wednesday, June 21, 2006**

Included in this testimony are:

1. quotes from the Muskegon Chronicle and www.grboi.com
2. letters from community and business leaders regarding the impact of tribal gaming on Muskegon in general and on Renaissance Zone development in particular

## GRBOI, Inc. and the Archimedes LLC Group of Muskegon announce an agreement:

*"The Grand River Bands and Archimedes did not disclose the specific terms of their agreement, nor did prepared statements mention a "casino." However, an Archimedes official said "it should be assumed" the agreement concerns the development of an Indian casino."*

(from http://www.grboi.com/indexDecember.html, June 19, 2006)

## Casino roadblock? Tribe must secure federal recognition

By B. Candace Beeke



***The proposed downtown Muskegon casino could hinge upon the ability of a Native American tribe to gain federal recognition.*** Muskegon condominium developers Archimedes Group have proposed a casino for the struggling downtown and received the support of the city government in October. Voters turned out in September, supporting a gaming facility during a non-binding vote but overturned an ordinance proposal for the Archimedes proposal in November.

***With native American gaming one of the few legal forms in the state, the Archimedes Group formed a pact with Grand Rapids-based Grand River Bands of Ottawa Indians Inc. last fall. Before the tribe can operate a casino, however, it must be federally recognized — a lengthy journey. "Our main focus is on getting tribal recognition," said Scott Medema, chairman of Yes Muskegon, a political action committee supporting the casino initiative.***

***That first step in the ultimate construction of a gaming operation could take up to 18 years by traditional methods, Medema said. The group has a lobbyist in Washington, D.C., to argue the tribe's case and wants residents to contact Michigan's U.S. senators, urging a Congressional act to speed along the process.*** "As we speak, their welfare is diminishing," Medema said.

(from http://www.grboi.com/index.html, June 19, 2006, emphasis mine)

## Developers, tribe hook-up; Goal – casino

Muskegon Chronicle
Nov. 25, 2003

By Dave Alexander
Chronicle Business Editor

The local development group has entered into a "business alliance" with the Grand River Bands of Ottawa Indians Inc. with the intent of developing an Indian casino in downtown Muskegon. The Archimedes Group LLC of Muskegon has joined forces with the West Michigan American Indian group headquartered in Grand Rapids and representing 1,000 members mainly in Muskegon, Oceana, Kent and Ottawa counties.

Local legislators say the process of obtaining a casino compact is a difficult one because many forces are gathering to oppose expanded Indian gambling both on the state and federal levels. However, the climate in Lansing for expanded gambling is more favorable than it has been in more than a decade, a local legislator said.

The bottom line is that an Indian casino in Muskegon will not happen anytime soon, those on all sides of the debate agree. The Grand River Bands must first obtain federal certification as a tribe before it can begin to negotiate for a state gambling agreement; both are time-consuming obstacles.

The Grand River Bands and Archimedes did not disclose the specific terms of their agreement, nor did prepared statements mention a "casino." However, an Archimedes official said "it should be assumed" the agreement concerns the development of an Indian casino.

"The tribe is very pleased to have the Archimedes Group as our new partner," according to a prepared statement by Tribal Chairman Ron Yob of Grand Rapids. "Their business experience is unmatched in our area and their proven commitment to the economic revitalization of Muskegon is well documented."

Archimedes is an investment group of several West Michigan area businessmen in the construction and real estate sectors. It has built and is trying to sell condominiums at Balcom's Cove on Muskegon Lake and has begun another condo project in Whitehall.

For now, Muskegon city officials will not become involved in the state and federal issues facing the casino forces, according to Muskegon Mayor Steve Warmington. "It sounds to me that this is the first major step in the process for Archimedes to proceed with their objective of bringing economic development to Muskegon through a casino," Warmington said. "At the point that (a casino) might happen, we want the city at the table to make sure it will work for our community and the city."

Muskegon is interested in the issues of shared revenues from the gambling operations and protecting the business interests of existing theaters, hotels and restaurants, Warmington said. Archimedes and the Grand River Bands have begun lobbying efforts in Lansing and Washington, D.C., with state and federal officials and elected representatives, according to Archimedes spokesman Richard Anderson.

The first hurdle will be for the Grand River Bands to receive federal recognition as a tribe. After receiving tribal status, the proposed site at Terrace Point across from the Shoreline Inn and Suites would have to be put "in trust" for the tribe and eventually attempt to obtain a casino compact from the state.

In July, Archimedes announced a deal with Shoreline Inn owners to redevelop their property on Muskegon Lake to include a casino, water park, convention center and retail center. Officials released a proposed site plan at that time.

The whole process could take years, and for some tribes it has taken decades. Anderson said, at best, the process would take two years. "The Grand River Bands rightfully belong in this territory ... I think federal recognition is a doable thing for them," Anderson said. "No one should really be against recognition."

The Grand River Bands of Ottawa Indians claim to represent the Ottawa Indian bands that historically lived along the Grand River from Jackson to Grand Haven. The bands signed the historic Treaty of Washington in 1836, granting members certain rights and privileges, but they have not been recognized for the purposes of the 1988 National Indian Gaming Regulatory Act.

The Grand River Bands began seeking recognition from the federal Bureau of Indian Affairs in 1994 but has not pursued the issue as vigorously as other tribes such as the Little River Band in Manistee.

After repeated attempts, Yob could not be reached for further comment but in the past he has said his goal is to provide financial and social welfare for the members of his tribe. Even without a casino, recognition would bring federal benefits and cash payments from the federal government, Yob has said.

Archimedes received public support during a vote for a Muskegon casino in a September non-binding referendum that the development group says is proof of local support. Since then, speculation has been on what tribe would enter a partnership.

The Little River Band of Ottawa Indians, which has the casino resort in Manistee, and the Sault Ste. Marie Tribe of Chippewa Indians, which has casino development in the Upper Peninsula and Detroit, were potential suitors. Although both have federal recognition and existing casino compacts, they don't appear to have historic ties to Muskegon.

(The Grand River Bands) "have the most legitimate claim to the area," Anderson said. "They will have the most standing down the road." As for the first issue of federal recognition, Anderson said Archimedes will support the tribe's application to the federal Bureau of Indian Affairs and might seek an act of Congress to move the issue along.

Archimedes has hired Paul Welday, a lobbyist with Renaissance Strategies and former congressional aide from southeast Michigan, to further the tribal recognition issue, Anderson said.

U.S. Rep. Pete Hoekstra, R-Holland, said he has not talked to tribal leaders for three years. He said the recognition process is lengthy and he gives the American Indian tribe little chance of securing congressional support. "That is very unlikely even if they aggressively push for it," Hoekstra said of a congressional act. "Any congressional recognition bill would be very controversial with all of the gaming issues out there nationally."

Hoekstra said he will not support federal recognition without further talks with the tribe. Hoekstra has been opposed to further expansion of gambling in Michigan and has opposed gambling in downtown Muskegon.

On the state level, Archimedes and the Grand River Bands have hired lobbyist Dan Farhat of The Farhat Group to lobby in Lansing, Anderson said. Farhat is the brother of state Rep. David Farhat, R-Norton Shores.

State Rep. Julie Dennis, D-Muskegon, said a second two-issue ballot initiative on separate Muskegon city casino development ordinances puts the community support into question. Despite a positive September vote, both casino development ordinances on the November ballot were defeated. "I don't know where they are going with this," Dennis said of Archimedes and the Grand River Bands.

If the Grand River Bands could be recognized quickly, the mood in Lansing is for expanding gambling to generate revenues to help solve the state's fiscal crisis, according to state Sen. Jerry Van Woerkom, R-Norton Shores. Van Woerkom has opposed casino gambling in Muskegon as well as expanded gambling at Great Lakes Downs in Fruitport Township.

The anti-casino group from the September campaign, Positively Muskegon, continues to be organized against expansion of gambling in West Michigan. "There will be many hurdles the tribe will face to get federally recognized," Positively Muskegon Chairman David Willerup said. "We expect to be one of those hurdles."

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Letter to Editor—Muskegon Chronicle
Subject: Casino Facts
Dear Sir:

It is time for the citizens of Muskegon to become informed about the true facts, rather than hastily drawn opinions and conclusions, regarding the impact of casinos on communities:

1. US News and World Report analysis—"...crime rates in casino communities are 84 percent higher than the national average. Further, while crime rates nationally dropped 2 percent in 1994, the 31 localities that introduced casinos in 1993 saw an increase of crime of 7.7 percent the following year."
2. Minneapolis Star Tribune—"In the first six years of casinos in Minnesota, the crime rate in counties with casinos increased more than twice as fast as in non-casino counties."
3. Journal of Research in Crime and Delinquency—"Total number of crimes within a 30 mile radius of Atlantic City increased by 107 percent in the nine years following the introduction of casinos."
4. Casino Impact Report on North Stonington, CT.—"Between 1990 and 1998, when the crime rates statewide decreased by 29%, the casino community crime rate increased by more than 300%. ...Mostly major crimes including murder, rape, robbery and aggravated assault, burglary, and auto theft."
5. Casino Related Impacts on Preston, CT.—"While the towns population has not grown since 1988 the number of medical emergency calls has grown from 204 calls in 1988 to 955 emergency calls in 1996. Due to an increase demand for services additional fire trucks and ambulances have been purchased at a cost of $677,000.

   The volume of traffic has more than quadrupled since the opening of casinos...The cost of upgrading the roads due to the increased volume is $80,000 per mile."

*David J Bloomfield*
*3846 Highgate*
*Muskegon, MI. 49441*
*(231)-798-1092*
*e-mail: dbloomy@aol.com*

A recent revaluation of properties due to the impact of the increased traffic volume has shown that properties in the vicinity are 20% lower."

The total annual cost increase to the community is $754,000 after a one-time impact of $7,400,000.

4. Mississippi State Dept. of Health—"the number of divorces in Harrison County has tripled since the introduction of casinos."

Published studies by the National Research Council and other research firms indicate that:

1. One third of the spouses of compulsive gamblers have been abused.
2. 200,000 to 300,000 Massachusetts residents are problem gamblers
3. Domestic violence shelters on Mississippi's Gulf Coast reported increases in requests for assistance from 100 to 300 percent since the introduction of casinos.
4. A substantial increase has occurred in the number of serious personal injuries and deaths resulting from automobile accidents in the vicinity of casino communities.
5. In Indiana and Connecticut cases of child abandonment became so commonplace that authorities were forced to post signs in casino parking lots warning parents not to leave children unattended.

Although I personally have spent time in many casinos between Michigan and Nevada, the issue is not one of gambling morals, but of the health of the Muskegon community. A decision to build a casino is not one which can be withdrawn once the tragic results have been recorded and the deterioration of the city is recognized. It's permanent and not reversible. It would be a bad decision.

David Bloomfield
3846 Highgate
Muskegon, MI. 49441

Western Avenue Properties, LLC
*Rebuilding Muskegon's Downtown*
4460 Deer Creek
Muskegon, Michigan 49441
231-726-3177

June 19, 2006

Sen. John McCain
Senate Indian Affairs Committee

**Re: Senate Resolution 437**
**Recognition of the Grand River Band of Ottawa Indians**

Dear Senator McCain:

On behalf of Western Avenue Properties, LLC we wish to register our objections to the acceleration of the process to recognize the Grand River Band of Ottawa Indians. We object not on the basis of social justice or equity, but, on the basis that we believe this is a precursor to the establishment of a casino operation in downtown Muskegon, to which we are adamantly opposed.

As previously president of Muskegon Construction Company, I led our company to build a new office in downtown Muskegon in 1998. This was the first new construction in downtown Muskegon in over ten years. Since that time, over $100 million has been invested in downtown Muskegon through various projects including housing, retail and commercial office space. Through our new company, Western Avenue Properties, LLC, we are in the process of purchasing three historic buildings in downtown Muskegon for future redevelopment. We also anticipate significant involvement in other developments in downtown Muskegon, as well. We firmly believe a casino in downtown Muskegon would significantly and negatively change the economic landscape in Muskegon – a change that would not be welcome by us or other investors, as well. We further believe that the inherent social and public costs, which are well documented, far outweigh any contributions a casino might bring to our community.

We ask that you certainly not accelerate the recognition process. And, if the underlying goal is to facilitate a casino in downtown Muskegon, we ask that the recognition not be granted at all.

Thank you for your consideration.

Sincerely,

WESTERN AVENUE PROPERTIES, LLC

Gary Post, President

Russ Strong, Vice-president

ROGER A. ANDERSEN
1215 CENTRAL AVENUE
N. MUSKEGON, MI 49445

June 19, 2006

Senator John McCain
Senate Committee on Indian Affairs

Subject: Senate Resolution #437

Dear Senator McCain:

It is with great concern that I understand that the subject resolution attempts to move the application for the Grand River Band of Ottawa Indians ahead of others in their attempt to be recognized by the Bureau of Indian Affairs. This is really an attempt to speed up the process of establishing a casino on or near the shore line of Muskegon Lake in Muskegon, Michigan. This is not an issue of fairness for the Grand River Band of Ottawa Indians but rather one of unfairness to other tribes waiting for recognition.

The negative economic and social impact of the proposed casino to the Muskegon Community is well documented and should not become lost by this hurried up process. The two Michigan senators supporting this resolution live 200 miles east of our western Michigan community and seem to have little understanding of the issues involved. A speeded up process certainly will not add clarity or fairness.

I sincerely hope that your Committee will not support this resolution.

Sincerely,

Roger A. Andersen

*G. Thomas Johnson*

*1388 Ridge Avenue*
*Muskegon, Michigan 49441*

*Phone 231 755 1563*
*Cell 231 750 8236*
*Fax 231 755 4925*
*E mail* gtj506@aol.com

June 18, 2006

Hon. John McCain, Chairman, and Hon. Members
United States Senate Committee for Indian Affairs

Re: S.R. 437 - Resolution concerning the Grand River Band of Ottawa Indians

Dear Senator McCain and Members of the Committee,

I write this in support of Rev. David Willerup's testimony and submission before the committee **in opposition to** expedited recognition of the Grand River Band of Ottawa Indians. My opposition would not be voiced at all, but for the plans, still apparently active, to locate a casino in downtown Muskegon, Michigan, the site of about 125 years of boom and bust economic pursuits, beginning with sawmills and ending with substantial, now dead, defense and automotive industries.

For the first time, because of the failure of industry and a poorly managed shopping mall, there is an opportunity to develop downtown Muskegon with a healthy and sustainable mixture of residential, academic and commercial uses, some of which have begun. They will not prosper or expand if a casino is located down town. The casino investors who will substantially profit care nothing for the future of the city, and appear to intend that it be left a desert full of parking lots to service their casino. Because they could not lobby state lawmakers to change the laws in Michigan, they, along with the owner of a little used hotel and restaurant (the "Raffertys" restaurant mentioned by David), approached the members of the Grand River Band and reached an agreement to develop the casino on the hotel/restaurant's property – an attractive waterfront location.

Now somebody appears to have convinced Senators Levin and Stabenow that casino gambling is not involved in the present recognition efforts.

I am afraid that the good senators are ill - informed. Casino gambling is the only reason you are being approached. I know the Grand River Band has sought recognition unsuccessfully for decades. But the obvious and sudden infusion of funding for their present effort should raise questions about its source, and the real intentions of those behind this request. David has outlined for you the timing of their expenses incurred in this effort. For those of us who have dealt, however casually, with the good people of the Band, the amounts are surprising.

I, like most people I know, would support the recognition of the Grand River Band, but unfortunately the engine for this proposal is the establishment of a casino in down town Muskegon, Michigan. If it were possible to condition recognition on the non-establishment of a casino, that would be wonderful. I am sure, however, that such a condition is not possible, and might even be illegal.

Please do not take an action which will lead to a casino and chill good development in our sorely depressed city. I also join David's position that further expansion of casino gambling in Michigan is wrong.

For information: I am a retired former City Attorney for the City of Muskegon. I practiced law in downtown Muskegon for over 38 years before I retired, and now practice mediation. I am a resident of the City of Muskegon. I cannot buy a quart of milk in downtown Muskegon, and neither can anyone else. I think about moving downtown someday. I will not do so if I have to live near a casino.

Yours truly,

Tom Johnson

Cc: Hon. Carl Levin
Hon. Deborah Stabenow

Letter in opposition to an amendment that would accelerate the granting of tribal status (and implementation of an agreement to establish a casino in downtown Muskegon.):

Dear Senator McCain:

I am the President of the Community Foundation for Muskegon County and of the Downtown Muskegon Development Co. The Community Foundation, together with the Chamber of Commerce and the Paul C. Johnson Foundation, are partners in a non-profit Corporation that purchased and is redeveloping the historic center of our downtown and our community, the 23 acre site of the former Muskegon Mall.

I was also very involved in creating the community planning process called "Imagine Muskegon". Through both of those efforts, the community's hope and vision of maximizing its downtown lakefront, sharing its downtown's western orientation (spectacular sunsets!), supporting its historical and high quality cultural institutions, and becoming a dense, pedestrian friendly vibrant, live, work, play, downtown has taken hold. We are about to engage an urban designer to design the green space on the site, and a public art fundraising campaign is planned. Developers are renovating the existing buildings and new ones are being planned.

Our site overlooks the waterfront location for the casino which would be operated by the GRBOI as agreed to in a pact between the GRBOI and the Archimedes Group. If the casino appears to be going in before the center of downtown has a critical mass of residential development, the vision articulated by Imagine Muskegon is destroyed; Muskegon's gorgeous lakeshore, that was only recently liberated from its ugly, gray occupation, is once again wasted and Muskegon becomes defined as a "casino town."

I am not familiar with the reasons given to justify expediting the GRBOI's tribal status. I know for certain that the white investors /officials who traveled to Washington to plead for this move are not speaking on behalf of the Community's grand vision for itself. Because such a move threatens that vision, we are vigorously opposed to the amendment.

Yours Very Truly,

Chris A. McGuigan, President

Dear Senators,

It is very unfortunate that our nation's capital continues to be more influenced by tribal casino lobbyists than by tax payer voices. I hope that you will look closely in to this to see that this is not a matter of Native American pride, but of a small group of developers attempting to take dollars way from our economy without having to pay taxes.

It is the free enterprise system and democracy that have made this country great. Geographic casino monopolies for the benefit of a few are killing our state economy and limiting our freedom of democracy. Many have studied this issue extensively and I pray that you do the same before taking any action. We know you may fear the power of the tribal lobbyists, but consider your actions carefully and try to protect the people as you have been elected to do.

Cindy Larsen
Resident
Muskegon County

**TESTIMONY OF RON YOB, CHAIRMAN**
**GRAND RIVER BANDS OF OTTAWA INDIANS**

**Hearing on S. 437**

**The Grand River Band of Ottawa Indians of Michigan Referral Act**

**Before the**

**SENATE COMMITTEE ON INDIAN AFFAIRS**

**June 21, 2006**

**485 Russell Senate Office Building**

**9:30 am**

Good morning Mr. Chairman and Members of the Senate Committee on Indian Affairs. My name is Ron Yob and I am Chairman of the Grand River Bands of Ottawa Indians of Michigan. Thank you very much for holding this hearing today on the bill, S. 437, that would expedite review of the GRBOI to secure a timely and just determination of whether the Tribe is entitled to recognition as a Federal Indian tribe. We would like to take this opportunity to express our deep appreciation to Senator Levin and Senator Stabenow for their interest and support of our Tribe and for introducing this legislation on our behalf.

For many good and valid reasons, the Tribe is very hopeful that the Committee will favorably consider S. 437. The story of our Tribe is long and varied, as is the story of recognition of all of the Michigan Indian Treaty Tribes of which the Grand River Bands of Ottawa Indians is the only one that remains unrecognized. The Grand River Bands of Ottawa Indians is the largest unrecognized Treaty Tribe in Michigan -- and perhaps in the entire United States. Our members live primarily in western Michigan, in the same area we have lived since before the Europeans first arrived there. Our pre-history burial mounds are located along the Grand River near the City of Grand Rapids and in many other areas of the River from below Lansing to Grand Haven. On the weekend of June 10, 2006 we held our annual Pow Wow on the banks of the Grand River in Riverside Park close to our ancestors' burial sites.

**Tribal History**

***Who We Are:*** The Grand River Bands of Ottawa Indians of Michigan is composed of the 19 bands of Ottawa Indian who occupied the territory along the Grand River Valley and other river valleys in what is now Southwest Michigan, including the cities of Grand Rapids and Muskegon. There are about 700 tribal members the majority living in and around the counties of Kent, Muskegon and Oceana.

***Treaties:*** Members of Grand River Bands of Ottawa Indians are descendants of the signatories of the 1795 Treaty of Greenville, the 1807 Treaty of Detroit, the 1821 Treaty of Chicago, the 1836 Treaty of Washington (DC), and the 1855 Treaty of Detroit. Grand River Bands of Ottawa Indians is a political successor Tribe to the original Tribes represented at the Treaty signings. Other Michigan Treaty Tribes include: Little Traverse Bay Bands of Odawa Indians, Little River Band of Ottawa Indians, Grand Traverse Band of Ottawa and Chippewa Indians, the Sault Ste. Marie Tribe of Chippewa Indians, and the Bay Mills Indian Community. Their members are also descendants of the signers of the 1836 Treaty of Washington and the 1855 Treaty of Detroit. All of these successor Tribes have now been recognized by the United States except for the Grand River Bands of Ottawa Indians. Below is a description of our Tribe, our continued efforts as a community to seek redress of our tribal land claims, and our recognition efforts.

***Continuous Existence:*** The Grand River Bands of Ottawa Indians consists of several inter-related extended families which comprise a kinship organization that functions today much the same way we did before Treaty times. As a community we gather for religious celebrations, social gatherings, and to attend to the graves of our ancestors. We also host the Homecoming of the Three Fires Pow Wow every year in Grand Rapids. The political leadership of our Tribe has, to a great extent, been passed down from Headmen and Chiefs of Treaty times, within the same families. Each generation of leader has represented the Tribe in dealings with the United States and other Tribes, and tried to provide health, education and economic assistance to tribal members by whatever means available.

***Tribal Land Claims:*** In the 1940s, the Grand River Bands of Ottawa Indians organized with other Tribes in Michigan under the name of the Northern Michigan Ottawa Association to pursue claims for reservation lands that were taken from us without compensation. The Tribe filed claims under the Indian Claims Act of 1946 (25 USC §70; Chap.2A) and the Indian Claims Commission (ICC) awarded judgment in favor of the Tribe in several dockets. These awards for Grand River Bands of Ottawa Indians and others became the subject of two settlement Acts of Congress for the distribution of the funds.

***1976 Tribal Judgment Fund Distribution Settlement Act***: In 1976, the Congress enacted P.L. 94-540, the Grand River Band of Ottawa Indians–Disposition of Funds. **(Appendix A)** This Act provided for the distribution of funds awarded to the Tribe in Docket 40-K of the ICC to persons of Grand River Bands of Ottawa Indian blood who were descendants of persons who appeared on the 1908 Durant Roll or other census rolls acceptable to the Secretary and who were one-quarter (1/4) degree Grand River Bands of Ottawa Indians blood.

***1997 Michigan Indian Land Claims Settlement Act:*** In 1997, the Congress passed the Michigan Indian Land Claims Settlement Act to implement distribution of several land claim awards. **(Appendix B)** By this time, five Michigan successor Tribes to the Ottawa and Chippewa Treaties had been recognized by the United States. The first, Bay Mills Indian Community (Chippewa), was recognized by the Secretary in 1935-37. In the 1970s, the Sault Ste. Marie Tribe of Chippewa Indians was recognized by the Department of the Interior prior to promulgation of the 1978 regulations governing federal acknowledgment procedures. The Grand Traverse Band of Ottawa and Chippewa Indians was among the first to be recognized under the

new regulations. Finally, the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians were recognized by the Congress in 1994.

The 1997 Settlement Act provided for the distribution of funds awarded in ICC dockets 18-E, 58, and 364 (Ottawa and Chippewa) and docket 18-R (Bay Mills and Sault Ste. Marie). The Act reflects the Tribes' agreement as to distribution and shares. The per capita shares for the members of the unrecognized Tribes is included in the 1997 Act along with a set-aside for any Tribes that might be recognized within a specified time frame. Section 106(d)(1) of the Act describes the potential eligible unrecognized treaty tribes as: Grand River, Traverse, Grand Traverse, Little Traverse, Maskigo, or L'Arbre Croche, Cheboigan, Sault Ste. Marie, Michilmackinac. We believe the Congress used tribal names from the treaties that gave rise to the land claims.

Of the nine other Michigan groups currently on the BIA list of groups petitioning for federal recognition, we are the only one that represents by name, a historic Treaty Tribe, the Grand River Bands of Ottawa Indians. However, we understand that the Burt Lake Band of Ottawa and Chippewa Indians (petitioner #101) may have some enrolled members who descend from the Chippewa/Ottawa Treaty tribes and so that Tribe may also be eligible for some funds under the Act if they are recognized. A final determination of the merits of the Burt Lake petition is due within the next few months.

This is important because the 1997 law sets aside funds for treaty descendants who are not members of federally recognized tribes but are one-quarter blood Ottawa/Chippewa. It also sets aside funds for the unrecognized Tribes for operation of tribal programs but requires that final recognition must be completed within nine (9) years of date of enactment. The roll of eligible descendants cannot be approved before eight (8) years after date of enactment (December 15, 2005) or until a final determination is made on each Tribe's petition for recognition, whichever is earlier but not later than December 15, 2006. Payments must be made 90 days after December 15, 2006 or March 15, 2007. **(Appendix C)**

The law provides that, to be eligible for the set-aside, an unrecognized Tribe must file its *documented petition* by December 15, 2000 (3 years after date of enactment). We have done so. The Act provided six years for the BIA to issue a final determination on that petition. The BIA has not done so. If the Grand River Bands of Ottawa Indians is not recognized by March 15, 2007, we will lose millions of dollars for tribal programs that would otherwise be available.

S. 437 was introduced by Senators Levin and Stabenow to insure that our petition would be acted on in time for the Grand River Bands of Ottawa Indians to qualify for the funds set aside by Congress for the Tribe.

***Tribal Recognition Efforts***: In 1934, the Tribe filed to reorganize its government under the Indian Reorganization Act enacted that same year. Commissioner of Indian Affairs John Collier (and author of the IRA) concluded that the Tribe was eligible for reorganization. However, we were put on hold because of federal funding issues. After World War II, the Federal government's position toward Tribes changed and the Termination era took hold in earnest in the 1950s. Thus, reorganization was not an option politically so the Tribe's efforts

were put on hold again. (The Tribe remained actively engaged during this period, however, in pursuing our Treaty land claims as discussed above.). During the 1970s and 1980s Tribal leaders did not pursue Federal Recognition as some of our elders and leaders, believing we were already recognized by the United States, feared that this process would actually threaten our status as a sovereign nation.

However by the early 1990s we recognized that formal federal recognition would be necessary for us to pursue treaty, statutory rights and the protection of our people. In 1994, the Tribe filed a letter of intent with the BIA to file a petition for recognition and the Grand River Bands of Ottawa Indians is petitioner #146. **(Appendix D)**

After making our submission on December 8, 2000 (21 boxes – three sets each of seven archival boxes), the Grand River Bands of Ottawa Indians did not hear from the Bureau of Indian Affairs until April 2004 when they granted us a technical assistance meeting at the request of Congressman Pete Hoekstra. It was another nine months before we received our technical assistance (TA) letter on January 26, 2005. The Grand River Bands of Ottawa Indians has spent the past 17 months gathering materials and preparing a 63-page legal response supported by a 265 page ethno-historical response, additional documents and two certified copies of all of our membership documents. We filed this as our response to TA letter on June 9, 2006.

**Conclusion:** We know the Committee is well aware of the time consuming and very expensive work that goes into filing a petition for Federal recognition as an Indian Tribe. We have no doubt that the Grand River Bands of Ottawa Indian is qualified to be recognized by the Federal government and to enjoy the benefits of the trust protection and the government-to-government relationship that will ensue. If S. 437 is not passed and Grand River Bands of Ottawa Indians remains in the Federal Acknowledgment Process, we estimate it will take 15 to 25 years to complete this process. We think the officials at the Office of Federal Acknowledgment will agree with this estimate. In the meantime, our tribal citizens do not share the benefits that their cousins in other Michigan Tribes enjoy.

The Grand River Bands of Ottawa Indians has the support of its community **(Appendix E),** other Michigan Tribes **(Appendix F),** and thankfully our Senators, as evidenced by their introduction of, and commitment to pass, S. 437. This bill does not directly recognize the Tribe but instead refers the matter to the Bureau of Indian Affairs for a determination, with timelines for deciding the Tribe's status and filing a Report to Congress.

The Congress has directly reaffirmed the existence of four other Michigan Tribes -- Lac Vieux Desert in 1988, and Little River Band, Little Traverse Bay Bandss and the Pokagon Band in 1994 **(Appendix G)** so there is ample precedent for direct reaffirmation of our status. We are painfully aware that congressional Acts to recognize Tribes have fallen out of favor and believe S. 437 will give Congress the needed assurance that the Grand River Bands of Ottawa Indians is deserving of the Federal relationship. Ironically, if Congress were of a mind to enact recognition bills directly, tribal groups would not have to rely on gaming developers to assist them to meet the requirements of the OFA. We could not have done this as quickly if we had not found that others interested in economic development for the City of Muskegon would work with us and provide financial assistance.

We are attaching a copy of the September 2004 issue of National Geographic magazine. **(Appendix H)** The map of Indian country shows that the "Grand River Ottawa" are the historic Tribe of Southwestern Michigan. We know that the opinion of mapping scholars does not match the exhaustive work of the OFA in determining whether an existing tribal group is indeed the successor to an historic Tribe, but we are confident that the Grand River Bands of Ottawa Indians is such a Tribe and take pride in realizing that many others think so, too.

The Grand River Bands of Ottawa Indians has always been an active leader in the Michigan Indian community. We participate, though often unofficially, in Indian Child Welfare cases, NAGPRA repatriation matters and other dealing with state, local and private entities. We have spearheaded the return of the original 1855 Treaty to Grand Rapids to be exhibited in the Museum named for our great former President Gerald Ford.

We are attaching the "Resolution of the Grand River Bands of Ottawa Indians June 18, 2002" that authorizes the Tribe to seek legislation in Congress to direct the Department of the Interior to act timely on our petition. **(Appendix I)**

Thank you again for you attention to S. 437 and we pray that the Committee will act favorably on this legislation.

DC01/491193.4

**APPENDICES TO**
**TESTIMONY OF RON YOB, CHAIRMAN**
**GRAND RIVER BANDS OF OTTAWA INDIANS**

**Hearing on S. 437**
**The Grand River Band of Ottawa Indians of Michigan Referral Act**

**Before the**
**SENATE COMMITTEE ON INDIAN AFFAIRS**

**June 21, 2006**
**485 Russell Senate Office Building**
**9:30 am**

P.L. 94-540, the Grand River Band of Ottawa Indians–Disposition of Funds .....A

H.R. 1604, Michigan Indian Land Claims Settlement Act .....B

Summary of P.L. 105-143 .....C

Status Summary of Acknowledgment Cases (as of 2/3/2006) .....D

Community Support .....E

Michigan Tribal Support .....F

P.L. 103-324 (Precedent for direct reaffirmation) .....G

Map from National Geographic Magazine, September 2004 .....H

June 18, 2002 Resolution of the Grand River Bands of Ottawa Indians .....I

# APPENDIX A

## PUBLIC LAW 94-540 [S. 1659]; Oct. 18, 1976

## GRAND RIVER BAND OF OTTAWA INDIANS— DISPOSITION OF FUNDS

**An Act to provide for the disposition of funds appropriated to pay a judgment in favor of the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K, and for other purposes.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That, notwithstanding any other provision of law, the funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198), to pay a judgment to the Grand River Band of Ottawa Indians in Indian Claims Commission docket numbered 40-K, together with any interest thereon, after payment of attorney fees and litigation expenses and such expenses as may be necessary in effecting the provisions of this Act, shall be distributed as provided herein.

Grand River Band of Ottawa Indians. Judgment funds.

SEC. 2. The Secretary of the Interior shall prepare a roll of all persons of Grand River Band of Ottawa Indian blood who meet the following requirements for eligibility: (a) they were born on or prior to and were living on the date of this Act; and (b) their name or the name of a lineal ancestor from whom they claim eligibility appears as a Grand River Ottawa on the Ottawa and Chippewa Tribe of Michigan, Durant Roll of 1908, approved by the Secretary of the Interior, February 18, 1910, or on any available census rolls or other records acceptable to the Secretary of the Interior; (c) who possess Grand River Ottawa Indian blood of the degree of one-fourth or more; and (d) are citizens of the United States.

Requirements.

SEC. 3. Applications for enrollment must be filed with the Great Lakes Agency of the Bureau of Indian Affairs at Ashland, Wisconsin, in the manner and within the time limits prescribed for that purpose. The determination of the Secretary of the Interior regarding the eligibility of an applicant shall be final.

Applications.

SEC. 4. The judgment funds shall be distributed per capita to the persons whose names appear on the roll prepared in accordance with section 2 of this Act.

Distribution.

SEC. 5. Sums payable to adult living enrollees or to adult heirs or legatees of deceased enrollees shall be paid directly to such persons. Sums payable to enrollees or their heirs or legatees who are less than eighteen years of age or who are under legal disability shall be paid in accordance with such procedures, including the establishment of trustees, as the Secretary of the Interior determines appropriate to protect the best interests of such persons.

Income tax, exemption.

SEC. 6. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, nor shall such funds or their availability be considered as income or other resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled to under the Social Security Act or any other Federal or federally assisted program.

Rules and regulations.

SEC. 7. The Secretary of the Interior is authorized to prescribe rules and regulations to carry out the provisions of this Act.

Approved October 18, 1976.

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LEGISLATIVE HISTORY:

SENATE REPORT No. 94-577 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD:
Vol. 121 (1975): Dec. 19, considered and passed Senate.
Vol. 122 (1976): Oct. 1, considered and passed House.

See: §104 (a)(1) + (6)
(b)(6)
(d)
§106 (a)(2)
(d)
§110 (eee)

H. R. 1604

# APPENDIX B

## One Hundred Fifth Congress of the United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the seventh day of January, one thousand nine hundred and ninety-seven*

## An Act

To provide for the division, use, and distribution of judgment funds of the Ottawa and Chippewa Indians of Michigan pursuant to dockets numbered 18–E, 58, 364, and 18–R before the Indian Claims Commission.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Michigan Indian Land Claims Settlement Act".

## TITLE I—DIVISION, USE, AND DISTRIBUTION OF JUDGMENT FUNDS OF THE OTTAWA AND CHIPPEWA INDIANS OF MICHIGAN

**SEC. 101. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Short title.

TITLE I—DIVISION, USE, AND DISTRIBUTION OF JUDGMENT FUNDS OF THE OTTAWA AND CHIPPEWA INDIANS OF MICHIGAN

Sec. 101. Table of contents.
Sec. 102. Findings; purpose.
Sec. 103. Definitions.
Sec. 104. Division of funds.
Sec. 105. Development of tribal plans for use or distribution of funds.
Sec. 106. Preparation of judgment distribution roll of descendants.
Sec. 107. Plan for use and distribution of Bay Mills Indian Community funds.
Sec. 108. Plan for use of Sault Ste. Marie Tribe of Chippewa Indians of Michigan funds.
Sec. 109. Plan for use of Grand Traverse Band of Ottawa and Chippewa Indians of Michigan funds.
Sec. 110. Payment to newly recognized or reaffirmed tribes.
Sec. 111. Treatment of funds in relation to other laws.
Sec. 112. Treaties not affected.

TITLE II—LIMITATION ON HEALTH CARE CONTRACTS AND COMPACTS FOR THE KETCHIKAN GATEWAY BOROUGH

Sec. 201. Findings.
Sec. 202. Definitions.
Sec. 203. Limitation.

**SEC. 102. FINDINGS; PURPOSE.**

(a) FINDINGS.—Congress finds the following:

(1) Judgments were rendered in the Indian Claims Commission in dockets numbered 18–E, 58, and 364 in favor of the Ottawa and Chippewa Indians of Michigan and in docket numbered 18–R in favor of the Sault Ste. Marie Band of Chippewa Indians.

(2) The funds Congress appropriated to pay these judgments have been held by the Department of the Interior for the beneficiaries pending a division of the funds among the beneficiaries in a manner acceptable to the tribes and descendency group and pending development of plans for the use and distribution of the respective tribes' share.

(3) The 1836 treaty negotiations show that the United States concluded negotiations with the Chippewa concerning the cession of the upper peninsula and with the Ottawa with respect to the lower peninsula.

(4) A number of sites in both areas were used by both the Ottawa and Chippewa Indians. The Ottawa and Chippewa Indians were intermarried and there were villages composed of members of both tribes.

(b) PURPOSE.—It is the purpose of this title to provide for the fair and equitable division of the judgment funds among the beneficiaries and to provide the opportunity for the tribes to develop plans for the use or distribution of their share of the funds.

**SEC. 103. DEFINITIONS.**

For purposes of this title the following definitions apply:

(1) The term "judgment funds" means funds appropriated in full satisfaction of judgments made in the Indian Claims Commission—

(A) reduced by an amount for attorneys fees and litigation expenses; and

(B) increased by the amount of any interest accrued with respect to such funds.

(2) The term "dockets 18–E and 58 judgment funds" means judgment funds awarded in dockets numbered 18–E and 58 in favor of the Ottawa and Chippewa Indians of Michigan.

(3) The term "docket 364 judgment funds" means the judgment funds awarded in docket numbered 364 in favor of the Ottawa and Chippewa Indians of Michigan.

(4) The term "docket 18–R judgment funds" means the judgment funds awarded in docket numbered 18–R in favor of the Sault Ste. Marie Band of Chippewa Indians.

(5) The term "judgment distribution roll of descendants" means the roll prepared pursuant to section 106.

(6) The term "Secretary" means the Secretary of the Interior.

**SEC. 104. DIVISION OF FUNDS.**

(a) DOCKET 18–E AND 58 JUDGMENT FUNDS.—The Secretary shall divide the docket 18–E and 58 judgment funds as follows:

(1) The lesser of 13.5 percent and $9,253,104.47, and additional funds as described in this section, for newly recognized or reaffirmed tribes described in section 110 and eligible individuals on the judgment distribution roll of descendants.

(2) 34.6 percent to the Sault Ste. Marie Tribe of Chippewa Indians of Michigan and the Bay Mills Indian Community, of which—

(A) the lesser of 35 percent of the principal and interest as of December 31, 1996, and $8,313,877 shall be for the Bay Mills Indian Community; and

(B) the remaining amount (less $161,723.89 which shall be added to the funds described in paragraph (1)) shall be for the Sault Ste. Marie Tribe of Chippewa Indians of Michigan.

(3) 17.3 percent (less $161,723.89 which shall be added to the funds described in paragraph (1)) to the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan.

(4) 17.3 percent (less $161,723.89 which shall be added to the funds described in paragraph (1)) to the Little Traverse Bay Bands of Odawa Indians of Michigan.

(5) 17.3 percent (less $161,723.89 which shall be added to the funds described in paragraph (1)) to the Little River Band of Ottawa Indians of Michigan.

(6) Any funds remaining after distribution pursuant to paragraphs (1) through (5) shall be divided and distributed to each of the recognized tribes listed in this subsection in an amount which bears the same ratio to the amount so divided and distributed as the distribution of judgment funds pursuant to each of paragraphs (2) through (5) bears to the total distribution under all such paragraphs.

(b) DOCKET 364 JUDGMENT FUNDS.—The Secretary shall divide the docket 364 judgment funds as follows:

(1) The lesser of 20 percent and $28,026.79 for newly recognized or reaffirmed tribes described in section 110 and eligible individuals on the judgment distribution roll of descendants.

(2) 32 percent to the Sault Ste. Marie Tribe of Chippewa Indians of Michigan and the Bay Mills Indian Community, of which—

(A) 35 percent shall be for the Bay Mills Indian Community; and

(B) the remaining amount shall be for the Sault Ste. Marie Tribe of Chippewa Indians of Michigan.

(3) 16 percent to the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan.

(4) 16 percent to the Little Traverse Bay Bands of Odawa Indians of Michigan.

(5) 16 percent to the Little River Band of Ottawa Indians of Michigan.

(6) Any funds remaining after distribution pursuant to paragraphs (1) through (5) shall be divided and distributed to each of the recognized tribes listed in this subsection in an amount which bears the same ratio to the amount so divided and distributed as the distribution of judgment funds pursuant to each of paragraphs (2) through (5) bears to the total distribution under all such paragraphs.

(c) DOCKET 18–R JUDGMENT FUNDS.—The Secretary shall divide the docket 18–R judgment funds as follows:

(1) 65 percent to the Sault Ste. Marie Tribe of Chippewa Indians of Michigan.

(2) 35 percent to the Bay Mills Indian Community.

(d) AMOUNTS FOR NEWLY RECOGNIZED OR REAFFIRMED TRIBES OR INDIVIDUALS ON THE JUDGMENT DISTRIBUTION ROLL OF DESCENDANTS HELD IN TRUST.—Pending distribution under this title to newly recognized or reaffirmed tribes described in section 110 or individuals on the judgment distribution roll of descendants, the Secretary shall hold amounts referred to in subsections (a)(1) and (b)(1) in trust.

**SEC. 105. DEVELOPMENT OF TRIBAL PLANS FOR USE OR DISTRIBUTION OF FUNDS.**

(a) DISBURSEMENT OF FUNDS.—(1) Except as provided in paragraphs (2), (3), and (4), the Secretary shall disburse each tribe's respective share of the judgment funds described in subsections (a), (b), and (c) of section 104 not later than 30 days after a plan for use and distribution of such funds has been approved in accordance with this section. Disbursement of a tribe's share shall not be dependent upon approval of any other tribe's plan.

(2) Section 107 shall be the plan for use and distribution of the judgment funds described in subsections (a)(2)(A), (b)(2)(A), and (c)(2) of section 104. Such plan shall be approved upon the enactment of this Act and such funds shall be distributed by the Secretary to the Bay Mills Indian Community not later than 90 days after the date of the enactment of this Act to be used and distributed in accordance with section 107.

(3) Section 108 shall be the plan for use and distribution of the judgment funds described in subsections (a)(2)(B), (b)(2)(B), and (c)(1) of section 104. Such plan shall be approved upon the enactment of this Act and such funds shall be distributed by the Secretary to the Sault Ste. Marie Tribe of Chippewa Indians of Michigan not later than 90 days after the date of the enactment of this Act to be used and distributed in accordance with section 108.

(4) Section 109 shall be the plan for use and distribution of the judgment funds described in subsections (a)(3) and (b)(3) of section 104. Such plan shall be approved upon the enactment of this Act and such funds shall be distributed by the Secretary to the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan, not later than 90 days after the date of the enactment of this Act to be used and distributed in accordance with section 109.

(b) APPROVAL OR COMMENT OF SECRETARY.—(1) Except as otherwise provided in this title, each tribe shall develop a plan for the use and distribution of its respective share of the judgment funds. The tribe shall hold a hearing or general membership meeting on its proposed plan. The tribe shall submit to the Secretary its plan together with an accompanying resolution of its governing body accepting such plan, a transcript of its hearings or meetings in which the plan was discussed with its general membership, any documents circulated or made available to the membership on the proposed plan, and comments from its membership received on the proposed plan.

(2) Not later than 90 days after a tribe makes its submission under paragraph (1), the Secretary shall—

(A) if the plan complies with the provisions of section 3(b) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)), approve the plan; or

(B) if the plan does not comply with the provisions of section 3(b) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)), return the plan to the tribe with comments advising the tribe why the plan does not comply with such provisions.

(c) RESPONSE BY TRIBE.—The tribe shall have 60 days after receipt of comments under subsection (b)(2), or other time as the tribe and the Secretary agree upon, in which to respond to such comments and make such response by submitting a revised plan to the Secretary.

(d) SUBMISSION TO CONGRESS.—(1) The Secretary shall, within 45 days after receiving the governing body's comments under subsection (c), submit a plan to Congress in accordance with the provisions of section 3(b) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)). If the tribe does not submit a response pursuant to subsection (c), the Secretary shall, not later than 45 days after the end of the response time for such a response, submit a plan to Congress in accordance with the provisions of section 3(b) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)).

(2) If a tribe does not submit a plan to the Secretary within 8 years of the date of enactment of this Act, the Secretary shall approve a plan which complies with the provisions of section 3(b) of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403(b)).

(e) GOVERNING LAW AFTER APPROVAL BY SECRETARY.—Once approved by the Secretary under this title, the effective date of the plan and other requisite action, if any, is determined by the provisions of section 5 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1405).

(f) HEARINGS NOT REQUIRED.—Notwithstanding section 3 and section 4 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1403 and 25 U.S.C. 1404), the Secretary shall not be required to hold hearings or submit transcripts of any hearings held previously concerning the Indian judgments which are related to the judgment funds. The Secretary's submission of the plan pursuant to this title shall comply with section 4 of the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1404).

**SEC. 106. PREPARATION OF JUDGMENT DISTRIBUTION ROLL OF DESCENDANTS.**

(a) PREPARATION.—

(1) IN GENERAL.—The Secretary shall prepare, in accordance with parts 61 and 62 of title 25, Code of Federal Regulations, a judgment distribution roll of all citizens of the United States who—

(A) were born on or before the date of enactment of this Act;

(B) were living on the date of the enactment of this Act;

(C) are of at least one-quarter Michigan Ottawa or Chippewa Indian blood, or a combination thereof;

(D) are not members of the tribal organizations listed in section 104;

(E) are lineal descendants of the Michigan Ottawa or Chippewa bands or tribes that were parties to either

the 1820 treaty (7 Stat. 207), the 1836 treaty (7 Stat. 491), or the 1855 treaty (11 Stat. 621);

(F) are lineal descendants of at least one of the groups described in subsection (d); and

(G) are not described in subsection (e).

(2) TIME LIMITATIONS.—The judgment distribution roll of descendants prepared pursuant to paragraph (1)—

(A) shall not be approved before 8 years after the date of the enactment of this Act or a final determination has been made regarding each petition filed pursuant to section 110, whichever is earlier; and

(B) shall be approved not later than 9 years after the date of the enactment of this Act.

(b) APPLICATIONS.—Applications for inclusion on the judgment distribution roll of descendants must be filed with the superintendent, Michigan agency, Bureau of Indian Affairs, Sault Ste. Marie, Michigan, not later than 1 year after the date of enactment of this Act.

(c) APPEALS.—Appeals arising under this section shall be handled in accordance with parts 61 and 62 of title 25, Code of Federal Regulations.

* (d) GROUPS.—The groups referred to in subsection (a)(1)(F) are Chippewa or Ottawa tribe or bands of—

(1) Grand River, Traverse, Grand Traverse, Little Traverse, Maskigo, or L'Arbre Croche, Cheboigan, Sault Ste. Marie, Michilmackinac; and

(2) any subdivisions of any groups referred to in paragraph (1).

(e) INELIGIBLE INDIVIDUALS.—An individual is not eligible under this section, if that individual—

(1) received benefits pursuant to the Secretarial Plan effective July 17, 1983, for the use and distribution of Potawatomi judgment funds;

(2) received benefits pursuant to the Secretarial Plan effective November 12, 1977, for the use and distribution of Saginaw Chippewa judgment funds;

(3) is a member of the Keweenaw Bay Chippewa Indian Community of Michigan on the date of the enactment of this Act;

(4) is a member of the Lac Vieux Desert Band of Lake Superior Chippewa Indians on the date of the enactment of this Act; or

(5) is a member of a tribe whose membership is predominantly Potawatomi.

(f) USE OF HORACE B. DURANT ROLL.—In preparing the judgment distribution roll of descendants under this section, the Secretary shall refer to the Horace B. Durant Roll, approved February 18, 1910, of the Ottawa and Chippewa Tribe of Michigan, as qualified and corrected by other rolls and records acceptable to the Secretary, including the Durant Field Notes of 1908–1909 and the Annuity Payroll of the Ottawa and Chippewa Tribe of Michigan approved May 17, 1910. The Secretary may employ the services of the descendant group enrollment review committees.

(g) PAYMENT OF FUNDS.—Subject to section 110, not later than 90 days after the approval by the Secretary of the judgment distribution roll of descendants prepared pursuant to this section, the Secretary shall distribute per capita the funds described in

subsections (a)(1) and (b)(1) of section 104 to the individuals listed on that judgment distribution roll of descendants. Payment under this section—

(1) to which a living, competent adult is entitled under this title shall be paid directly to that adult;

(2) to which a deceased individual is entitled under this title shall be paid to that individual's heirs and legatees upon determination of such heirs and legatees in accordance with regulations prescribed by the Secretary; and

(3) to which a legally incompetent individual or an individual under 18 years of age is entitled under this title shall be paid in accordance with such procedures (including the establishment of trusts) as the Secretary determines to be necessary to protect and preserve the interests of that individual.

**SEC. 107. PLAN FOR USE AND DISTRIBUTION OF BAY MILLS INDIAN COMMUNITY FUNDS.**

(a) TRIBAL LAND TRUST.—(1) The Executive Council of the Bay Mills Indian Community shall establish a nonexpendable trust to be known as the "Land Trust". Not later than 60 days after receipt of the funds distributed to the Bay Mills Indian Community pursuant to this title, the Executive Council of the Bay Mills Indian Community shall deposit 20 percent of the share of the Bay Mills Indian Community into the Land Trust.

(2) The Executive Council shall be the trustee of the Land Trust and shall administer the Land Trust in accordance with this section. The Executive Council may retain or hire a professional trust manager and may pay the prevailing market rate for such services. Such payment for services shall be made from the current income accounts of the trust and charged against earnings of the current fiscal year.

(3) The earnings generated by the Land Trust shall be used exclusively for improvements on tribal land or the consolidation and enhancement of tribal landholdings through purchase or exchange. Any land acquired with funds from the Land Trust shall be held as Indian lands are held.

(4) The principal of the Land Trust shall not be expended for any purpose, including but not limited to, per capita payment to members of the Bay Mills Indian Community.

(5) The Land Trust shall be maintained as a separate account, which shall be audited at least once during each fiscal year by an independent certified public accountant who shall prepare a report on the results of such audit. Such report shall be a public document, and shall be available for inspection by any member of the Bay Mills Indian Community.

(6) Notwithstanding any other provision of law, the approval of the Secretary of any payment from the Land Trust shall not be required and the Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of funds from the Land Trust.

(b) LAND CLAIMS DISTRIBUTION TRUST.—(1) The Executive Council of the Bay Mills Indian Community shall establish a nonexpendable trust to be known as the "Land Claims Distribution Trust Fund". Not later than 60 days after receipt of the funds distributed to the Bay Mills Indian Community pursuant to this title, the Executive Council of the Bay Mills Indian Community

shall deposit into the Land Claims Distribution Trust Fund the principal funds which shall consist of—

(A) amounts remaining of the funds distributed to the Bay Mills Indian Community after distribution pursuant to subsections (a) and (c);

(B) 10 percent of the annual earnings generated by the Land Claims Distribution Trust Fund; and

(C) such other funds which the Executive Council chooses to add to the Land Claims Distribution Trust Fund.

(2) The Executive Council shall be the trustee of the Land Claims Distribution Trust Fund and shall administer the Land Claims Distribution Trust Fund in accordance with this section. The Executive Council may retain or hire a professional trust manager and may pay for said services the prevailing market rate. Such payment for services shall be made from the current income accounts of the trust and charged against earnings of the current fiscal year.

(3) 90 percent of the annual earnings of the Land Claims Distribution Trust Fund shall be distributed on October 1 of each year after the creation of the trust fund to any person who—

(A) is enrolled as a member of the Bay Mills Indian Community;

(B) is at least 55 years of age as of the annual distribution date; and

(C)(i) has been enrolled as a member of the Bay Mills Indian Community for a minimum of 25 years as of the annual distribution date, or

(ii) was adopted as a member of the Bay Mills Indian Community on or before June 30, 1996.

(4) In the event that a member of the Bay Mills Indian Community who is eligible for payment under subsection (b)(3), should die after preparation of the annual distribution roll and prior to the October 1 distribution, that individual's share for that year shall be provided to the member's heirs at law.

(5) In the event that a member of the Bay Mills Indian Community who is at least 55 years of age and who is eligible for payment under subsection (b)(3), shall have a guardian appointed for said individual, such payment shall be made to the guardian.

(6) Under no circumstances shall any part of the principal of the Land Claims Distribution Trust Fund be distributed as a per capita payment to members of the Bay Mills Indian Community, or used or expended for any other purpose by the Executive Council.

(7) The Land Claims Distribution Trust Fund shall be maintained as a separate account, which shall be audited at least once during each fiscal year by an independent certified public accountant who shall prepare a report on the results of such audit. Such report shall be a public document and shall be available for inspection by any member of the Bay Mills Indian Community.

(8) Notwithstanding any other provision of law, the approval of the Secretary of any payment from the Land Claims Distribution Trust Fund shall not be required and the Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of the Fund.

(c) LAND CLAIMS INITIAL PAYMENT.—As compensation to the members of the Bay Mills Indian Community for the delay in distribution of the judgment fund, payment shall be made by the

Executive Council within 30 days of receipt of the Bay Mills Indian Community's share of the judgment fund from the Secretary, as follows:

(1) The sum of $3,000 to each enrolled member of the Bay Mills Indian Community living on the date of enactment of this legislation, who has attained the age of 55 years, but is less than 62 years of age, if that individual was adopted into or a member of the Bay Mills Indian Community on or before June 30, 1996.

(2) The sum of $5,000 to each enrolled member of the Bay Mills Indian Community living on the date of enactment of this legislation, who is at least 62 years of age and less than and 70 years of age, if that individual was adopted into or a member of the Bay Mills Indian Community on or before June 30, 1996.

(3) The sum of $10,000 to each enrolled member of the Bay Mills Indian Community living on the date of enactment of this legislation, who is 70 years of age or older, if that individual was adopted into or a member of the Bay Mills Indian Community on or before June 30, 1996.

(d) ANNUAL PAYMENTS FROM LAND CLAIMS DISTRIBUTION TRUST FUND.—The Executive Council shall prepare the annual distribution roll and ensure its accuracy prior to August 30 of each year prior to distribution. The distribution roll shall identify each member of the Bay Mills Indian Community who, on the date of distribution, will have attained the minimum age and membership duration required for distribution eligibility, as specified in subsection (b)(3). The number of eligible persons in each age category defined in this subsection, multiplied by the number of shares for which the age category is entitled, added together for the 3 categories, shall constitute the total number of shares to be distributed each year. On each October 1, the shares shall be distributed as follows:

(1) Each member who is at least 55 years of age and less than 62 years of age shall receive 1 share.

(2) Each member who is between the ages of 62 and 69 years shall receive 2 shares.

(3) Each member who is 70 years of age or older shall receive 3 shares.

**SEC. 108. PLAN FOR USE OF SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS OF MICHIGAN FUNDS.**

(a) SELF-SUFFICIENCY FUND.—

(1) The Sault Ste. Marie Tribe of Chippewa Indians of Michigan (referred to in this section as the "Sault Ste. Marie Tribe"), through its board of directors, shall establish a trust fund for the benefit of the Sault Ste. Marie Tribe which shall be known as the "Self-Sufficiency Fund". The principal of the Self-Sufficiency Fund shall consist of—

(A) the Sault Ste. Marie Tribe's share of the judgment funds transferred by the Secretary to the board of directors pursuant to subsection (e);

(B) such amounts of the interest and other income of the Self-Sufficiency Fund as the board of directors may choose to add to the principal; and

(C) any other funds that the board of directors of the Sault Ste. Marie Tribe chooses to add to the principal.

(2) The board of directors shall be the trustee of the Self-Sufficiency Fund and shall administer the Fund in accordance with the provisions of this section.

(b) USE OF PRINCIPAL.—

(1) The principal of the Self-Sufficiency Fund shall be used exclusively for investments or expenditures which the board of directors determines—

(A) are reasonably related to—

(i) economic development beneficial to the tribe; or

(ii) development of tribal resources;

(B) are otherwise financially beneficial to the tribe and its members; or

(C) will consolidate or enhance tribal landholdings.

(2) At least one-half of the principal of the Self-Sufficiency Fund at any given time shall be invested in investment instruments or funds calculated to produce a reasonable rate of return without undue speculation or risk.

(3) No portion of the principal of the Self-Sufficiency Fund shall be distributed in the form of per capita payments.

(4) Any lands acquired using amounts from the Self-Sufficiency Fund shall be held as Indian lands are held.

(c) USE OF SELF-SUFFICIENCY FUND INCOME.—The interest and other investment income of the Self-Sufficiency Fund shall be distributed—

(1) as an addition to the principal of the Fund;

(2) as a dividend to tribal members;

(3) as a per capita payment to some group or category of tribal members designated by the board of directors;

(4) for educational, social welfare, health, cultural, or charitable purposes which benefit the members of the Sault Ste. Marie Tribe; or

(5) for consolidation or enhancement of tribal lands.

(d) GENERAL RULES AND PROCEDURES.—

(1) The Self-Sufficiency Fund shall be maintained as a separate account.

(2) The books and records of the Self-Sufficiency Fund shall be audited at least once during each fiscal year by an independent certified public accountant who shall prepare a report on the results of such audit. Such report shall be treated as a public document of the Sault Ste. Marie Tribe and a copy of the report shall be available for inspection by any enrolled member of the Sault Ste. Marie Tribe.

(e) TRANSFER OF JUDGMENT FUNDS TO SELF-SUFFICIENCY FUND.—

(1) The Secretary shall transfer to the Self-Sufficiency Fund the share of the funds which have been allocated to the Sault Ste. Marie Tribe pursuant to section 104.

(2) Notwithstanding any other provision of law, after the transfer required by paragraph (1) the approval of the Secretary for any payment or distribution from the principal or income of the Self-Sufficiency Fund shall not be required and the Secretary shall have no trust responsibility for the investment, administration, or expenditure of the principal or income of the Self-Sufficiency Fund.

(f) LANDS ACQUIRED USING INTEREST OR OTHER INCOME OF THE SELF-SUFFICIENCY FUND.—Any lands acquired using amounts

from interest or other income of the Self-Sufficiency Fund shall be held in trust by the Secretary for the benefit of the tribe.

**SEC. 109. PLAN FOR USE OF GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS OF MICHIGAN FUNDS.**

(a) LAND CLAIMS DISTRIBUTION TRUST FUND.—(1) The share of the Grand Traverse Band of Ottawa and Chippewa Indians of Michigan (hereafter in this section referred to as the "Band"), as determined pursuant to subsections (a)(3) and (b)(3) of section 104, shall be deposited by the Secretary in a nonexpendable trust fund to be established by the Tribal Council of the Band to be known as the "Land Claims Distribution Trust Fund" (hereafter in this section referred to as the "Trust Fund").

(2) The principal of the Trust Fund shall consist of—

(A) the funds deposited into the Trust Fund by the Secretary pursuant to this subsection;

(B) annual earnings of the Trust Fund which shall be retained, and added to the principal; and

(C) such other funds as may be added to the Trust Fund by action of the Tribal Council of the Band.

(b) MANAGEMENT OF THE TRUST FUND.—The Tribal Council of the Band shall be the trustee of the Trust Fund and shall administer the Fund in accordance with this section. In carrying out this responsibility, the Tribal Council may retain or hire a professional trust manager and may pay the prevailing market rate for such services. Such payment for services shall be made from the current income accounts of the Trust Fund and charged against the earnings of the fiscal year in which the payment becomes due.

(c) TRUST FUND AS LOAN COLLATERAL.—(1) The Trust Fund shall be used by the Band as collateral to secure a bank loan equal to 80 percent of the principal of the Trust Fund at the lowest interest rate then available. Such loan shall be used by the Band to make a one-time per capita payment to all eligible members.

(2) The loan secured pursuant to this subsection shall be amortized by the earnings of the Trust Fund. The Tribal Council of the Band shall have the authority to invest the principal of the Trust Fund on market risk principles that will ensure adequate payments of the debt obligation while at the same time protecting the principal.

(d) ELDERS' LAND CLAIM DISTRIBUTION TRUST FUND.—(1) Upon the retirement of the loan obtained pursuant to subsection (c), the Tribal Council shall establish the Grand Traverse Band Elders' Land Claims Distribution Trust Fund (hereafter in this section referred to as the "Elders' Trust Fund"). There shall be deposited into the Elders' Trust Fund the principal and all accrued earnings that are in the Land Claims Distribution Trust Fund on the date of retirement of such loan.

(2) Upon establishment of the Elders' Trust Fund, the Tribal Council of the Band shall make a one-time payment to any person who is living on the date of the establishment of the Elders' Trust Fund, and who was an enrolled member of the Band for at least 2 years prior to the date of the enactment of this Act as follows:

(A) $500 for each member who has attained the age of 55 years, but is less than 62 years of age.

(B) $1,000 for each member who has attained the age of 62 years, but is less than 70 years of age.

(C) $2,500 for each member who is 70 years of age or older.

(3) After distribution pursuant to paragraph (2), the net annual earnings of the Elders' Trust Fund shall be distributed as follows:

(A) 90 percent shall be distributed on October 1 of each year after the creation of the Elder's Trust Fund to all living enrolled members of the Band who have attained the age of 55 years upon such date, and who shall have been an enrolled member of the Band for not less than 2 years upon such date.

(B) 10 percent shall be added to the principal of the Elders' Trust Fund.

(4) Distribution pursuant to paragraph (3)(A) shall be as follows:

(A) One share for each person on the current annual Elders' roll who has attained the age of 55 years, but is less than 62 years of age.

(B) Two shares for each person who has attained the age of 62 years, but is less than 70 years of age.

(C) Three shares for each person who is 70 years of age or older.

(5) None of the funds in the Elders' Trust Fund shall be distributed or expended for any purpose other than as provided in this subsection.

(6) The Elders' Trust Fund shall be maintained as a separate account, which shall be audited at least once during each fiscal year by an independent certified public accountant who shall prepare a report on the results of such audit. Such report shall be reasonably available for inspection by the members of the Band.

(7) The Tribal Council of the Band shall prepare an annual Elders' distribution roll and ensure its accuracy prior to August 30 of each year. The roll shall identify each member of the Band who has attained the minimum age and membership duration required for distribution eligibility pursuant to paragraph (3)(A).

(e) GENERAL PROVISIONS.—(1) In the event that a tribal member eligible for a payment under this section shall die after preparation of the annual distribution roll, but prior to the distribution date, such payment shall be paid to the estate of such member.

(2) In any case where a legal guardian has been appointed for a person eligible for a payment under this section, payment of that person's share shall be made to such guardian.

(f) NO SECRETARIAL RESPONSIBILITIES FOR TRUST FUND.—The Secretary shall have no trust responsibility for the investment, supervision, administration, or expenditure of the Land Claims Distribution Trust Fund or the Elders' Trust Fund.

**SEC. 110. PAYMENT TO NEWLY RECOGNIZED OR REAFFIRMED TRIBES.**

(a) ELIGIBILITY.—In order to be eligible for tribal funds under this Act, a tribe that is not federally recognized or reaffirmed on the date of the enactment of this Act—

(1) must be a signatory to either the 1836 treaty (7 Stat. 491) or the 1855 treaty (11 Stat. 621);

(2) must have a membership that is predominantly Chippewa and Ottawa;

(3) shall not later than 6 months after the date of the enactment of this Act, submit to the Bureau of Indian Affairs

a letter of intent for Federal recognition if such a letter is not on file with the Bureau of Indian Affairs; and

(4) shall not later than 3 years after the date of the enactment of this Act, submit to the Bureau of Indian Affairs a documented petition for Federal recognition if such a petition is not on file with the Bureau of Indian Affairs.

(b) DISTRIBUTION OF FUNDS ALLOTTED FOR NEWLY RECOGNIZED OR REAFFIRMED TRIBES.—Not later than 90 days after a tribe that has submitted a timely petition pursuant to subsection (a) is federally recognized or reaffirmed, the Secretary shall segregate and hold in trust for such tribe, its respective share of the funds described in sections 104(a)(1) and (b)(1), $3,000,000 plus 30 percent of any income earned on the funds described in section 104(a)(1) and (b)(1) up to the date of such distribution.

(c) DISTRIBUTION OF FUNDS ALLOTTED FOR CERTAIN INDIVIDUALS.—If, after the date of the enactment of this Act and before approval by the Secretary of the judgment distribution roll of descendants, Congress or the Secretary recognizes a tribe which has as a member an individual that is listed on the judgment distribution roll of descendants as approved pursuant to section 106, the Secretary shall, not later than 90 days after the approval of such judgment distribution roll of descendants, remove that individual's name from the descendants roll and reallocate the funds allotted for that individual to the fund established for such newly recognized or reaffirmed tribe.

(d) FUNDS SUBJECT TO PLAN.—Funds held in trust for a newly recognized or reaffirmed tribe shall be subject to plans that are approved in accordance with this title.

(e) DETERMINATION OF MEMBERSHIP IN NEWLY RECOGNIZED OR REAFFIRMED TRIBE.—

(1) SUBMISSION OF MEMBERSHIP ROLL.—For purposes of this section—

(A) if the tribe is acknowledged by the Secretary under part 83 of title 25, Code of Federal Regulations, the Secretary shall use the tribe's most recent membership list provided under such part;

(B) unless otherwise provided by the statutes which recognizes the tribe, if Congress recognizes a tribe, the Secretary shall use the most recent membership list provided to Congress. If no membership list is provided to Congress, the Secretary shall use the most recent membership list provided with the tribe's petition for acknowledgment under part 83 of title 25, Code of Federal Regulations. If no such list was provided to Congress or under such part, the newly recognized tribe shall submit a membership list to the Secretary before the judgment distribution roll of descendants is approved or the judgment funds shall be distributed per capita pursuant to section 106;

(C) a tribe that has submitted a membership roll pursuant to this section may update its membership rolls not later than 180 days before distribution pursuant to section 106.

(2) FAILURE TO SUBMIT UPDATED MEMBERSHIP ROLL.—If a membership list was not provided—

(A) to the Secretary, the Secretary will use the tribe's most recent membership list provided to the Bureau of Indian Affairs in their petition for Federal acknowledgment

filed under part 83 of title 25, Code of Federal Regulations, unless otherwise provided in the statute which recognized the tribe;

(B) to the Bureau of Indian Affairs, the newly recognized or reaffirmed tribe shall submit a membership list before the judgment distribution roll of descendants is approved by the Secretary, unless otherwise provided in the statute which recognized the tribe; and

(C) before the judgment distribution roll of descendants is approved, the judgment funds shall be distributed per capita pursuant to section 106.

**SEC. 111. TREATMENT OF FUNDS IN RELATION TO OTHER LAWS.**

The eligibility for or receipt of distributions under this Act by a tribe or individual shall not be considered as income, resources, or otherwise when determining the eligibility for or computation of any payment or other benefit to such tribe, individual, or household under—

(1) any financial aid program of the United States, including grants and contracts subject to the Indian Self-Determination Act; or

(2) any other benefit to which such tribe, household, or individual would otherwise be entitled under any Federal or federally assisted program.

**SEC. 112. TREATIES NOT AFFECTED.**

No provision of this Act shall be construed to constitute an amendment, modification, or interpretation of any treaty to which a tribe mentioned in this Act is a party nor to any right secured to such a tribe or to any other tribe by any treaty.

# TITLE II—LIMITATION ON HEALTH CARE CONTRACTS AND COMPACTS FOR THE KETCHIKAN GATEWAY BOROUGH

**SEC. 201. FINDINGS.**

Congress finds that—

(1) the execution of more than 1 contract or compact between an Alaska Native village or regional or village corporation in the Ketchikan Gateway Borough and the Secretary to provide for health care services in an area with a small population leads to duplicative and wasteful administrative costs; and

(2) incurring the wasteful costs referred to in paragraph (1) leads to decrease in the quality of health care that is provided to Alaska Natives in an affected area.

**SEC. 202. DEFINITIONS.**

In this title:

(1) ALASKA NATIVE.—The term "Alaska Native" has the meaning given the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(2) ALASKA NATIVE VILLAGE OR REGIONAL OR VILLAGE CORPORATION.—The term "Alaska Native village or regional

or village corporation" means an Alaska Native village or regional or village corporation defined in, or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(3) CONTRACT; COMPACT.—The terms "contract" and "compact" mean a self-determination contract and a self-governance compact as these terms are defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

(4) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

**SEC. 203. LIMITATION.**

(a) IN GENERAL.—The Secretary shall take such action as may be necessary to ensure that, in considering a renewal of a contract or compact, or signing of a new contract or compact for the provision of health care services in the Ketchikan Gateway Borough, there will be only one contract or compact in effect.

(b) CONSIDERATION.—In any case in which the Secretary, acting through the Director of the Indian Health Service, is required to select from more than 1 application for a contract or compact described in subsection (a), in awarding the contract or compact, the Secretary shall take into consideration—

(1) the ability and experience of the applicant;

(2) the potential for the applicant to acquire and develop the necessary ability; and

(3) the potential for growth in the health care needs of the covered borough.

*Speaker of the House of Representatives.*

*Vice President of the United States and*
*President of the Senate.*

# APPENDIX C

## SECTION BY SECTION SUMMARY OF

### P.L. 105-143, An Act to Provide for the Division, Use, and Distribution of Judgment Funds of the Ottawa and Chippewa Indians of Michigan (111 Stat. 2652)

Below is a section by section summary of the provisions of P.L. 105-143 as they apply to the Grand River Bands of Ottawa Indians of Michigan.

**History of the Act**

In 1946 Congress established the Indian Claims Commission to hear cases of illegal takings of Indian land by the United States, as well as cases involving trespass, accounting and similar matters. Claims by tribes needed to be filed by August 1951 and the claims must have arisen before that time. Any claim that arose before then but that was not filed by August 1951 is now barred by the Statute of Limitations, although Congress can waive this Statute of Limitations and has done so in several cases.

The Ottawa and Chippewa Treaty Tribes of Michigan received ICC judgments in three dockets, 18-E, 58, and 364 (Ottawa and Chippewa) and in docket 18-R (Sault Ste. Marie and Bay Mills Chippewa). Funds were appropriated by Congress but were held pending an agreement as to distribution. This Act reflects the Tribes' agreement for payments of the Tribes' share. All of the claims arose from the 1820, 1836 and 1855 Treaties that involve cessions of the upper peninsula of Michigan by the Chippewa and the lower peninsula of the State by the Ottawa.

**The Act as it pertains to the Grand River Bands of Ottawa Indians**

A copy of the Act in this section is marked in the margins to indicate the sections that pertain to the unrecognized Tribes. We believe the Grand River is one of only two or three tribes of Ottawa and Chippewa that may be eligible for distribution under the Act but that continues to be unrecognized. Section 106(d)(1) describes the eligible unrecognized treaty groups as: Grand River, Traverse, Grand Traverse, Little Traverse, Maskigo, or L'Arbre Croche, Cheboigan, Sault Ste. Marie, Michilmackinac, and any subdivisions of any of these groups. Traverse, Maskigo, or L'Arbre Croche, Cheboigan, and Michilmackinac are not familiar names on the BIA recognition list. Besides Grand River and Burt Lake, which received a proposed negative this year, there are nine other groups on the recognition list, including Swan River Black Creek who were not signatories to the treaties in question.

Section 104(a) of the Act makes a percentage division of the funds in dockets 18-E and 58 among (1) **"newly recognized or reaffirmed tribes described in section 110 and eligible individuals on the judgment distribution roll of descendants"** and (2)-(6) the other five Michigan Ottawa and Chippewa Tribes -- the Sault Ste. Marie, Bay Mills, Grand Traverse, Little Traverse and Little River.

Section 104(b) of the Act makes a different percentage division of the funds in docket 364 among the (1) **newly recognized tribes and individual descendants** and (2)-(6) the other five Michigan Ottawa and Chippewa Tribes.

Section 104(c) of the Act allocates all of the funds in docket 18-R to Sault Ste. Marie and Bay Mills.

Section 104(d) **requires the Secretary of the Interior to hold in trust the amounts set aside for newly recognized or reaffirmed tribes or individuals on the judgment distribution roll** of descendants.

Section 105 of the Act establishes the requirements for tribal plans for the use or distribution of funds.

Section 106 of the Act provides the requirements for preparation of the judgment distribution roll of descendants. This roll includes **all one-quarter blood Ottawa/Chippewa who are not members of one of the five Tribes and who are lineal descendants of bands that were signatories to the 1820, 1836 or 1855 Treaty**. Under subsection (a)(2)(A) **the roll "shall not be approved before 8 years after the date of the enactment of this Act or a final determination has been made regarding each petition filed pursuant to section 110, whichever is earlier," and (B) "shall be approved not later than 9 years after the date of the enactment of this Act." (Date of enactment is December 15, 1997)** This means that December 2006 is the date by which recognition must be granted in order for the Grand River to participate in the funds and the set aside.

The remainder of section 106 details the application process for individuals.

Section 107 outlines the Bay Mills plan; section 108 outlines the Sault Ste. Marie plan and section 109 outlines the Grand Traverse plan.

Section 110 **provides for the payment to newly recognized or reaffirmed tribes.** The tribes are tribes that are not recognized on date of enactment, that are signatory to either the 1836 treaty or the 1855 treaty, the membership must be predominantly Chippewa and Ottawa and that submit, within six months of enactment, a letter to the BIA of intent to file a petition and then within three years of enactment (December 2000) file a documented petition. Section 110(b) says the newly recognized tribe shall receive its share of funds described in 104(a)(1) and (b)(1), plus $3 million and 30 percent of any income earned on the set aside funds in 104(a)(1) and (b)(1) to date of distribution.

# STATUS SUMMARY OF ACKNOWLEDGMENT CASES

(as of February 3, 2006)

| | | | |
|---|---|---|---|
| **PETITIONS - ACTIVE STATUS** | | | **10** |
| **OFA's Action Items** | | **8** | |
| Petitioner Awaiting Proposed Finding | | 3 | |
| Petitioner Awaiting Amended Proposed Finding: | | 2 | |
| Final Determinations Pending: | | 3 | |
| **Petitioners' Action Items** | | **2** | |
| Commenting on Proposed Finding: | | 2 | |
| **PETITIONS – READY STATUS** | | | **9** |
| **PETITIONS - RESOLVED** | | | **60** |
| **By Department of the Interior** | | **41** | |
| Through Acknowledgment Process: | | 38 | |
| Acknowledged: | 15 | | |
| Denied Acknowledgment: | 23 | | |
| Status Clarified by Legislation at Department's Request: | | 1 | |
| Status Clarified by Other Means: | | 2 | |
| **By Congress** | | **9** | |
| Legislative Restoration: | | 2 | |
| Legislative Recognition: | | 7 | |
| **By Other Means** | | **10** | |
| Merged with another petitioner: | | 4 | |
| Withdrew from process: | | 4 | |
| Group formally dissolved: | | 1 | |
| Removed from process: | | 1 | |
| **IN POST-FINAL DECISION APPEAL PROCESS** | | | **2** |
| Before Interior Board of Indian Appeals (IBIA): | | 2 | |
| Before Secretary on Referral from IBIA: | | 0 | |
| **DECISIONS IN LITIGATION** (petitions resolved through Department) | | | **(2)** |
| **NOT READY FOR EVALUATION** | | | **232** |
| Incomplete Petitions (partial documentation): | | **77** | |
| Letters of Intent to Petition (no documentation submitted): | | **138** | |
| No Longer in Contact with OFA (inactive): | | **11** | |
| Legislative Action Required (inactive, petitioners requiring legislation to permit processing under 25 CFR 83) | | **6** | |
| **TOTAL OF ALL PETITIONERS** ---------- | | | **314** |

HISTORICAL NOTE:

| | |
|---|---|
| 40 | petitioners when 25 CFR Part 83 became effective October 1978 |
| 274 | new petitioners since October 1978 |
| 314 | total letters of intent and petitions received to date [1] |

[1] *Includes groups that initially petitioned as part of other groups but have since split off to petition separately.*

# PETITIONS UNDER CONSIDERATION WITHIN THE DEPARTMENT OF THE INTERIOR

(as of Feburary 3, 2006)

## ACTIVE STATUS - 10

**Office of Federal Acknowledgment's Action Items - 8:**

**Petitioner Awaiting Proposed Finding – 3**

# Members

ca 1462 Mashpee Wampanoag, MA (#15) (letter of intent 7/7/1975; doc'n recv'd 8/16/90; OD ltr 7/30/91; respn recv'd 1/24/96; ready 2/14/96; add'l doc'n recv'd 7/11/00, 9/27/00; active 2/2/02; circuit court granted stay 6/10/02; district court reversed 8/1/03; active 10/1/05)

ca 783 Juaneno Band of Mission Indians, CA (#84b) (withdrew from #84a 12/17/94; letter of intent 3/8/96; doc'n recv'd 3/8/96; TA ltr 5/15/96; respn recv'd 5/23/96; doc'n recv'd 8/2/04; active 9/30/05)

ca 1649 Juaneno Band of Mission Indians, CA (#84a) (letter of intent 8/17/82; doc'n recv'd 2/24/88; OD ltr 1/25/90; respn recv'd 9/24/93, complete; removed from "ready" list 05/19/95; respn recv'd 9/28/95; complete and ready 2/12/96; active 9/30/05)

**Petitioner Awaiting Amended Proposed Finding - 2**

ca 2545 Biloxi, Chitimacha Confederation of Muskogees, Inc., LA (#56a) (Withdrew from the United Houma Nation, Inc. (UHN #56) 9/6/95; responding to same proposed finding; comment period closed 5/12/97; active 2/4/05)

ca 682 Pointe-au-Chien Indian Tribe, LA (#56b) (Withdrew from the UHN #56 7/22/1996; responding to same proposed finding; comment period closed 11/6/97); active 2/4/05)

**Final Determinations Pending – 3**

3893 Little Shell Tribe of Chippewa Indians of MT (#31) (4/28/78; active 2/12/97; proposed positive finding published 7/21/00; comment period closed 1/17/01; extended at request of petitioner to 7/16/01, to 1/12/02, to 7/16/02, to 1/16/03, to 7/14/03, to 1/10/04, to 5/9/04, to 9/7/04, to 2/1/05, and to 2/5/05; response period closed 4/6/05)

17616 United Houma Nation, Inc., LA (#56) (7/10/79; active 5/20/91; proposed negative finding published 12/22/94; comment period closed 11/13/96; respn to 3rd-party comments recv'd 2/4/97; waiting to comment on proposed findings for #56a and #56b)

c 490 Burt Lake Band of Ottawa and Chippewa Indians, Inc., MI (#101) (09/12/1985; doc'n recv'd 9/4/95; TA ltr 4/5/95; respn 10/26/95; ready 10/26/95; active 10/17/98; proposed negative finding published 4/15/04; comment period closed 10/12/04; extended at request of petitioner to 2/10/05, to 4/11/05)

**Petitioners' Action Items – 2:**

**Commenting on Proposed Finding – 2**

1171 St. Francis/Sokoki Band of Abenakis of Vermont, VT (#68)(4/15/1980; OD ltr 6/14/83; "ready" 8/1/86; petitioner says "not ready" 9/18/90; complete and ready 1/17/96; active 2/4/05; proposed negative finding published 11/17/05; comment period closes 5/16/06)

612 Steilacoom Tribe, WA (#11) (8/28/1974; active 7/11/95; proposed negative finding published 2/7/00; comment period closed 8/4/00; extended at request of petitioner to 2/4/01, to 3/29/01, to 8/5/02, to 2/1/03; pending request to reopen comment period and extend at request of petitioner)

# READY STATUS - 9

## Ready, Waiting for Active Consideration – 9

Administrative Note: These petitioners have corrected deficiencies and stated their petitions should be considered "ready" for active consideration. Priority among "ready" petitions is based on the date that the Department determines the petition to be "ready." Under the regulations at 83.10(d), "The order of consideration of documented petitions shall be determined by the date of the Bureau's notification to the petitioner that it considers that the documented petition is ready to be placed on active consideration."

| Ready Date | Name of Petitioner |
|---|---|
| 2/28/96 | Brothertown Indian Nation, WI (#67) (4/15/80; doc'n recv'd 2/13/96; no TA review ltr, see ltr of) 2/18/98) |
| 7/30/96 | Tolowa Nation, CA (#85) (1/31/83; doc'n recv'd 5/12/86; OD ltr 4/6/88; respn recv'd 8/22/95 and 11/22/95; limited TA ltr 5/16/96; respn recv'd 7/30/96) |
| 5/29/97 | Piro/Manso/Tiwa Indian Tribe of the Pueblo of San Juan de Guadalupe (formerly Tiwa Indian Tribe), NM (#5) (1/18/71; doc'n recv'd 3/24/92; OD ltr 8/25/93; respn recv'd 1/10/97) |
| 10/6/97 | Meherrin Tribe, NC (#119b); (6/27/95; partial doc'n recv'd 9/11/95; TA ltr 3/15/96; respn recv'd 8/22/97 and 10/1/98) |
| 1/16/98 | Southern Sierra Miwuk Nation (#82) (formerly American Indian Council of Mariposa County aka Yosemite), CA (4/24/82; doc'n recv'd 4/19/84; OD ltr 5/1/85; respn 12/12/86; 2nd OD ltr 4/11/88; respn rec'd 1/26/95 and 1/16/98) |
| 1/29/03 | Muscogee Nation of Florida (#32) (formerly Florida Tribe of Eastern Creek Indians), FL (6/2/78; doc'n recv'd 9/28/95; TA ltr 4/11/96; respn recv'd 3/19/02 and 6/5/02) |
| 6/9/03 | Georgia Tribe of Eastern Cherokees, Inc. (#41) (aka Dahlonega, Cane Break Band), GA (01/09/79; doc'n recv'd 2/5/80; OD ltr 8/22/80; respn recv'd 8/10/98; TA ltr 1/19/99; respn recv'd 2/14/02 and 2/14/03) |
| 9/9/03 | Shinnecock Tribe, NY (#4) (2/8/78; partial doc'n recv'd 9/25/98; TA ltr 12/22/98; partial res'n recv'd 6/10/03 and 9/9/03) |
| 9/15/03 | Amah Mutsun Band of Ohlone/Coastanoan Indians, CA (#120) (9/18/90; doc'n recv'd 8/22/95; TA ltr 5/21/96; partial respn recv'd 9/26/96, 6/10/98; TA ltr 2/16/99; partial respn recv'd 5/20/02, 8/15/03, and 9/15/03) |

## PETITIONS RESOLVED - 60

(as of February 3, 2006)

## RESOLVED BY THE DEPARTMENT OF THE INTERIOR – 41

**Status Clarified through Acknowledgment Process – 38**

**Acknowledged through 25 CFR 83 - 15**

| # Members | |
|---|---|
| 297 | Grand Traverse Band of Ottawa & Chippewa, MI (#3) (eff. 5/27/80) |
| 175 | Jamestown Clallam Tribe, WA (#19) (eff. 2/10/81) |
| 200 | Tunica-Biloxi Indian Tribe, LA (#1) (eff. 9/25/81) |
| 199 | Death Valley Timbi-Sha Shoshone Band, CA (#51) (eff. 1/3/83) |
| 1170 | Narragansett Indian Tribe, RI (#59) (eff. 4/11/83) |
| 1470 | Poarch Band of Creeks, AL (#13) (eff. 8/10/84) |
| 521 | Wampanoag Tribal Council of Gay Head, MA (#76) (eff. 4/11/87) |
| 188 | San Juan Southern Paiute Tribe, AZ (#71) (eff. 3/28/90) |
| 972 | Mohegan Indian Tribe, CT (#38) (eff. 5/14/94) |
| 189 | Jena Band of Choctaws, LA (#45) (eff. 8/29/95) |
| 602 | Huron Potawatomi Inc., MI (#9) (eff. 3/17/96) |
| 590 | Samish Indian Tribe, WA (#14) (eff. 4/26/96) |
| 143 | Match-E-Be-Nash-She-Wish Band of Pottawatomi Indians of MI [formerly, Gun Lake Band] (#9a) (eff. 8/23/99) |
| 313 | Snoqualmie Indian Tribe, WA (#20) (eff.10/6/99) |
| 1517 | Cowlitz Tribe of Indians, WA (#16) (eff.1/4/02) |

**Denied acknowledgment through 25 CFR 83 - 23**

| # Members | |
|---|---|
| 1041 | Lower Muskogee Creek Tribe-East of the MS, GA (#8) (eff. 12/21/81) |
| 2696 | Creeks East of the Mississippi, FL (#10) (eff. 12/21/81) |
| 34 | Munsee-Thames River Delaware, CO (#26) (eff. 1/3/83) |
| 324 | Principal Creek Indian Nation, AL (#7) (eff. 6/10/85) |
| 1530 | Kaweah Indian Nation, CA (#70a) (eff. 6/10/85) |
| 1321 | United Lumbee Nation of NC and America, CA (#70) (eff. 7/2/85) |
| 823 | Southeastern Cherokee Confederacy (SECC), GA (#29) (eff. 11/25/85) [Name changed in 1996 to American Cherokee Confederacy] |
| 609 | Northwest Cherokee Wolf Band, SECC, OR (#29a) (eff. 11/25/85) |
| 87 | Red Clay Inter-tribal Indian Band, SECC, TN (#29b) (eff. 11/25/85) |
| 304 | Tchinouk Indians, OR (#52) (eff. 3/17/86) |
| 275 | MaChis Lower AL Creek Indian Tribe, AL (#87) (eff. 8/22/88) |
| 4381 | Miami Nation of Indians of IN, Inc., IN (#66) (eff. 8/17/92) |
| c2500 | Ramapough Mountain Indians, Inc., NJ (#58) (eff 1/7/98) |
| c4000 | MOWA Band of Choctaw, AL (#86) (eff. 11/26/99) |
| 327 | Yuchi Tribal Organization, OK (#121) (eff. 3/21/00) |
| 356 | Duwamish Indian Tribe, WA (#25) (eff. 5/8/02) |
| 1566 | Chinook Indian Tribe/Chinook Nation, WA (#57) (eff. 7/5/02) |
| 419 | Muwekma Ohlone Tribe of San Francisco Bay, CA [formerly Ohlone/ Coastanoan Muwekma Tribe] (#111) (eff. 12/16/02) |
| 1113 | Snohomish Tribe of Indians, WA (#12) (eff. 3/5/04) |
| 108 | Golden Hill Paugussett Tribe, CT (#81)(eff. 3/18/05) |
| 1004 | Eastern Pequot Indians of Connecticut, CT (#35)(eff. 10/14/05) |
| 144 | Paucatuck Eastern Pequot Indians of Connecticut, CT (#113)(eff. 10/14/05) |
| 271 | Schaghticoke Tribal Nation, CT (#79)(eff. 10/14/05) |

## PETITIONS RESOLVED, (cont.)

**Status Clarified by Legislation at Department's Request - 1**

| # Members | |
|---|---|
| c224 | Lac Vieux Desert Band of Lake Superior Chippewa Indians, MI (#6) (legis clarification 9/8/88) |

**Status Clarified by Other Means - 2**

| # Members | |
|---|---|
| 650 | Texas Band of Traditional Kickapoos, TX (#54) (Determined part of recognized tribe 9/14/81; petition withdrawn) |
| 32 | Ione Band of Miwok Indians, CA (#2) (Status confirmed by Assistant Secretary 3/22/94) |

## RESOLVED BY CONGRESS - 9

**Legislative Restoration - 2**

| # Members | |
|---|---|
| 328 | Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians, OR (#17) (legis restoration 10/17/84) |
| --- | Federated Coast Miwok, CA (2/8/95)(#154) (restored under the name Graton Rancheria) (legis restoration 12/27/00) |

**Legislative Recognition - 7**

| # Members | |
|---|---|
| 651 | Cow Creek Band of Umpqua Indians, OR (#72) (legis recog'n 12/29/82) |
| 55 | Western (Mashantucket) Pequot Tribe, CT (#42) (legis recog'n 10/18/83 in association with eastern land claims suit) |
| 611 | Aroostook Band of Micmacs, ME (#103) (legis recog'n 11/26/91) |
| c2500 | Pokagon Potawatomi Indians of Indiana & Michigan, IN (#75/78) (legis recog'n 9/21/94) |
| c3500 | Little Traverse Bay Bands of Odawa Indians, MI (#115) (legis recog'n 9/21/94) |
| c2700 | Little River Band of Ottawa Indians, MI (#125) (legis recog'n 9/21/94) |
| --- | Loyal Shawnee Tribe, OK (#203) (legis recog'n 12/27/00) |

## RESOLVED BY OTHER MEANS - 10

**Petition withdrawn (merged with another petition) - 4**

Potawatomi Indians of IN & MI, Inc., MI (#75) and Potawatomi Indian Nation, Inc., MI (Pokagon), (#78) merged; became Pokagon (#78)

Cane Break Band of Eastern Cherokees (#41a) (1/9/79; rejoined #41, 7/16/97)

Creek-Euchee Band of Indians of the Blountstown Indian Community of Florida (#218) (11/23/99; rejoined #41, 10/20/00)

Hatteras Tuscarora Indians, NC (#34) (6/24/78; merged with Petitioner #215, 3/22/04)

**Petition withdrawn at petitioner's request - 4**[2]

Esselen Tribe of Monterey County, CA (#131) (11/16/92; withdrawn 11/15/96)
Tuscola United Cherokee Tribe of Florida and Alabama, Inc., FL (#43) (1/19/79; withdrawn 11/24/97)
Costanoan Tribe of Santa Cruz and San Juan Bautista Missions, CA (#210) (5/11/99; withdrawn 5/10/00)
Chukchansi Yokotch Tribe of Coarsegold, CA (#99) (5/9/85; enrolled with Picayune Rancheria after 1988; withdrawn 9/06/00)

**Group formally dissolved - 1**

Tuscarora Indian Tribe, Drowning Creek Res., NC (#73) (2/25/81; group formally dissolved; withdrawn 02/19/97)

**Group removed from process - 1**

Federation: Moorish Science Temple of America, Inc. [Ancient Moabites or Moors], MD (#167) (By letter 5/15/97 the BIA determined not to treat this group as a petitioner since it does not seek identification as a tribe of Indians and does not fall within the scope of the 25 CFR Part 83 regulations)

## IN POST-FINAL DECISION APPEAL PROCESS - 2

**Before the Interior Board of Indian Appeals (IBIA) – 2**

| # Members | |
|---|---|
| 526 | Nipmuc Nation (Hassanamisco Band), MA (#69a) (Final Determination published 6/25/04; reconsideration request filed 9/23/04) |
| 357 | Webster/Dudley Band of Chaubunagungamaug Nipmuck Indians, MA (#69b) (Final Determination published 6/25/04; reconsideration request filed 9/23/04) |

## DECISIONS IN LITIGATION - (2)

| # Members | |
|---|---|
| 419 | Muwekma Ohlone Tribe of San Francisco Bay, CA [formerly Ohlone/ Coastanoan Muwekma Tribe] (#111) (denied eff. 12/16/02) |
| 271 | Schaghticoke Tribal Nation, CT (#79)(denied eff. 10/14/05) |

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[2] *One group was never included in official count: SouthEastern Indian Nation, GA (#164) (incomplete letter of intent1/5/96; withdrawn 11/10/97)*

# REGISTER
# of
# INCOMPLETE PETITIONS[3] - 77
# pursuant to 25 CFR 83.10(d)
(as of February 3, 2006)

ADMINISTRATIVE NOTE: These petitioners have submitted documentation and are not ready for evaluation. They are either preparing to submit complete documentation, awaiting TA letters, or preparing responses to OD or TA letters issued by the Department.

Numbers assigned to petitioners under the "old regs" have been retained to avoid the confusion that renumbering would create. For the purpose of this register, petitioners are listed in numerical sequence based on the chronological order in which the Branch of Acknowledgment and Research (BAR) or the Office of Federal Acknowledgment (OFA) received the letter of intent to petition. Gaps in numbering represent petitions that have already been resolved, are now in active or ready status, or have submitted only a letter of intent to petition.

| Petition # | Name of Petitioner and Status |
|---|---|
| 18 | Little Shell Band of North Dakota, ND (11/11/75; doc'n recv'd 7/27/95; TA ltr 11/8/95) |
| 22 | Washoe/Paiute of Antelope Valley, CA (7/9/76; doc'n recv'd 3/15/97; TA ltr 3/20/98) |
| 23 | Four Hole Indian Organization/Edisto Tribe, SC (12/30/76; partial doc'n recv'd 1983) |
| 24 | United Maidu Nation, CA (01/06/77; doc'n recv'd 3/8/95; TA ltr 10/27/95) |
| 27 | Cherokee Indians of Georgia, Inc., GA (8/8/77; partial doc'n recv'd 6/11/96; TA ltr 9/24/96) |
| 28 | Piscataway-Conoy Confederacy & Sub-Tribes, Inc., MD (2/22/78; doc'n recv'd 6/20/95; TA ltr 11/27/95) |
| 30 | Clifton Choctaw, LA (3/22/78; doc'n recv'd c.9/28/90; OD ltr 8/13/91) |
| 32a | Apalachicola Band of Creek Indians, FL (1/22/96; partial doc'n recv'd 1/26/01) |
| 37 | Choctaw-Apache Community of Ebarb, LA (7/2/78; doc'n recv'd 12/10/98; TA ltr 9/18/02) |
| 55 | Delawares of Idaho, ID (6/26/79; doc'n recv'd 6/14/79; OD ltr 9/24/79; partial respn recv'd 12/10/79) |
| 61 | Rappahannock Indian Tribe (formerly United Rappahannock Tribe, Inc.), VA (11/16/79; partial doc'n recv'd 9/6/01) |
| 62 | The Upper Mattaponi Indian Tribe (formerly Upper Mattaponi Indian Tribal Association, Inc.), VA (11/26/79; partial doc'n recv'd 7/2/01 and 9/6/01) |
| 63 | Haliwa-Saponi, NC (11/27/79; doc'n recv'd 10/19/89; OD ltr 4/20/90) |
| 74 | Coharie Intra-Tribal Council, Inc., NC (3/13/81; partial doc'n recv'd 12/19/03) |
| 83 | Shasta Nation, CA (5/28/82; doc'n recv'd 7/24/84; OD ltr 5/30/85; respn 6/8/86; 2nd OD ltr 10/22/87; partial respn recv'd 8/21/95) |
| 89 | Seminole Nation of Florida, FL (aka Traditional Seminole) (8/5/83; doc'n recv'd 11/10/82; OD ltr 10/5/83, partial respn recv'd 12/7/83) |
| 90 | North Fork Band of Mono Indians, CA (9/7/83; doc'n recv'd 5/15/90; OD ltr 10/28/91) |
| 93 | Nor-El-Muk Nation (formerly Hayfork Band of Nor-El-Muk Wintu Indians of Northern California; formerly Nor-El-Muk Band of Wintu Indians), CA (1/5/84; doc'n recv'd 9/27/88; OD ltr 2/26/90; partial respn recv'd 8/22/95 and 12/29/05) |
| 95 | Indians of Person County (formerly Cherokee-Powhattan Indian Association), NC (9/7/84; partial doc'n recv'd 3/16/00; **awaiting TA ltr)** |

[3] *Petitioners have submitted some documentation to the OFA and either have received OD or TA letters indicating that the materials submitted are not yet adequate for the Assistant Secretary to make evaluations of the petitions or are awaiting TA letters. Groups that have submitted partial documentation without letters of intent to petition are not included in this list.*

**Register of Incomplete Petitions, cont.**

104 Yokayo Tribe of Indians, CA (3/9/87; doc'n recv'd 3/9/87; OD ltr 4/25/88)
108 Snoqualmoo of Whidbey Island, WA (6/14/88; doc'n recv'd 4/16/91; OD ltr 8/13/92)
112 Indian Canyon Band of Coastanoan/Mutsun Indians of California, CA (6/9/89;doc'n recv'd 7/27/90; OD ltr 8/23/91)
114 Canoncito Band of Navajos, NM (7/31/89; partial doc'n recv'd 1/23/98; partial doc'n recv'd 9/3/98; TA ltr 3/25/03)
117 Oklewaha Band of Yamassee Seminole Indians, FL (2/12/90; doc'n recv'd 2/12/90; OD ltr 4/24/90)
128 Tsnungwe Council, CA (9/22/92; partial doc'n recv'd 8/8/95; TA ltr 12/4/95; partial doc'n rec'd 7/2/98)
132 Ohlone/Costanoan-Esselen Nation, CA (12/3/92; partial doc'n rec'd 1/25/95, 8/23/95; TA ltr 5/21/96; partial resp'n recv'd 5/18/98, 7/27/98, 6/16/00, 1/23/01, and 9/16/03; 2nd TA ltr 11/22/04)
135 Swan Creek Black River Confederated Ojibwa Tribes, MI (5/4/93; doc'n recv'd 11/13/00; TA ltr 8/16/04)
137 Wintu Tribe, CA (doc'n recv'd 8/25/93; OD ltr 12/15/93; partial respn recv'd 7/24/02)
138 Caddo Adais Indians, Inc., LA (9/13/93; doc'n recv'd 11/15/99; TA ltr 9/24/02)
141 Langley Band of the Chickamogee Cherokee Indians of the Southeastern U.S., AL (4/15/94) (doc'n recv'd 1/11/95; TA ltr 05/08/95)
142 Wyandot Nation of Kansas, KS (5/12/94; doc'n recv'd 4/12/95; TA ltr 3/15/96)
145 Pokanoket Tribe of the Wamapanoag, RI (10/5/94; partial doc'n recv'd 12/11/96, 6/29/01, 8/13/01, 10/11/01, and 1/24/04; TA ltr 3/15/04)
146 Grand River Bands of Ottawa Indians, MI (formerly Grand River Band Ottawa Council) (10/16/94; doc'n recv'd 12/8/00; TA ltr 1/26/05)
147 Costanoan Ohlone Rumsen-Mutsun Tribe, CA (12/7/94; partial doc'n recv'd 1/26/95; limited TA ltr 3/14/95)
148 Occaneechi Band of Saponi Nation, NC (1/6/95; partial doc'n recv'd 5/8/99)
152 PeeDee Indian Association, Inc., SC (1/30/95; partial doc'n recv'd 11/12/98; limited TA ltr 12/22/98)
153 Pocasset Wampanoag Indian Tribe, MA (2/1/95; partial doc'n recv'd 3/11/95)
158 Fernandeno/Tataviam Tribe, CA (4/24/95; doc'n recv'd 1/16/96; TA ltr 3/3/97)
160 United Tribe of Shawnee Indians, KS (7/3/95; partial doc'n recv'd 11/28/01; TA ltr 8/10/04)
161 Monacan Indian Nation (formerly Monacan Indian Tribe of Virginia, Inc.), VA (7/11/95; partial doc'n recv'd 7/2/01 and 9/18/01; **awaiting TA ltr**)
162 Montauk Indian Nation aka Montaukett Indian Nation, NY (7/31/95; doc'n recv'd 6/23/98; TA ltr 1/19/99)
166a Talimali Band, The Apalachee Indians of Louisiana (formerly Apalachee Indians of Louisiana), LA (2/5/1996; partial doc'n recv'd 8/29/97; TA ltr 1/20/98; partial doc'n recv'd 2/18/99 and 9/23/99; 2nd TA ltr 12/31/01)
168 Chickahominy Indian Tribe, VA (3/19/1996; partial doc'n recv'd 9/6/01)
169 Mendota Mdewakanton Dakota Community, MN (4/11/96; partial doc'n recv'd 6/10/97, 6/20/97; TA ltr 12/18/97)
171 Powhatan Renape Nation, NJ (4/12/1996; doc'n recv'd 4/12/96; TA ltr 10/29/96)
173 Western Mohegan Tribe and Nation, NY (1/27/97; doc'n recv'd 1/29/98; TA ltr 9/24/98)
174 Federation of Old Plimoth Indian Tribes, Inc. Circa 1620, MA (5/16/00; partial doc'n recv'd 8/19/96, 5/16/00, and 10/18/00; **awaiting TA ltr**)
182 Eno-Occaneechi Tribe of Indians, NC (11/24/97; partial doc'n recv'd 2/3/1997; petitioner says not ready for TA)
185 Calusa-Seminole Nation of California, CA (4/28/98; partial doc'n recv'd prior to letter of intent; partial doc'n recev'd 12/2/98; limited TA ltr 3/29/99)
189 Comanche Penateka Tribe, TX (4/3/98; partial doc'n recv'd 3/18/99; TA ltr 10/29/99)
191 Western Cherokee Nation of Arkansas and Missouri, AR (5/1/98; partial doc'n recv'd 5/1/98, 6/22/05, 9/20/05, 12/30/05, 1/5/06; **awaiting TA ltr**))
195 Southern Pequot Tribe, CT (7/7/98; partial doc'n recv'd 6/10/99 and 8/4/00; TA ltr 7/11/03)

**Register of Incomplete Petitions, cont.**

197 Konkow Valley Band of Maidu, CA (8/20/98; partial doc'n recv'd 10/15/01 and 2/8/05; **awaiting TA ltr)**
199 Georgia Band of Chickasaw Indians (formerly Mississippi Band of Chickasaw Indians) MS (9/15/98; partial doc'n recv'd 6/22/00; TA ltr 7/19/04)
201 Gabrieleno Band of Mission Indians, CA (11/3/98; partial doc'n recv'd 6/29/99 and 9/10/99; TA ltr 3/10/00; respn recv'd 5/17/02)
204 Lost Cherokee of Arkansas & Missouri, AR (2/10/99; partial doc'n recv'd 11/25/03, 6/14/04, 7/30/04; 3/2/05; **awaiting TA ltr)**
207 Grasmere Band of Wangunk Indians of Glastonbury, Connecticut (formerly the Pequot Mohegan Tribe, Inc.), CT (4/12/99; partial doc'n recv'd 9/28/1999, 10/12/1999, 12/27/00, 1/10/01, 1/25/01, 6/14/02, 12/9/02, 1/24/03, and 4/25/03; TA ltr 4/8/05)
214 The Wilderness Tribe of Missouri, MO (8/16/99; partial doc'n recv'd 4/18/00; TA ltr 8/26/02; partial doc'n recv'd 10/11/02, 12/13/02, 1/6/03, 2/19/03, 7/16/03, 8/14/03, 11/20/03, 6/5/04, 8/23/04, 10/20/04, and 11/23/04)
223 Honey Lake Maidu, CA (6/1/00; partial doc'n recv'd 7/2/01)
227 Cherokees of Lawrence County, Tennessee, aka Sugar Creek Band of the Southeastern Cherokee Council Inc. of the SECCI,TN (9/14/00; partial doc'n recv'd 9/14/00, 5/3/02, 8/8/02, 5/21/04, and 2/1/05; **awaiting TA ltr)**
228 Wiquapaug Eastern Pequot Tribe, RI (9/15/00; partial doc'n recv'd 9/15/00; partial doc'n recv'd 3/29/01)
231 Avogel Nation of Louisiana, LA (11/13/00; doc'n recv'd 6/1/01; TA ltr 2/8/05;partial response recv'd 4/13/05, 10/28/05)
233 The Western Pequot Tribal Nation of New Haven, CT (11/27/00; partial doc'n recv'd 7/2/01 and 2/8/01)
238 Avogel, Okla Tasannuk, Tribe/Nation, LA (3/19/01; partial doc'n recv'd 8/17/00 and 11/15/00)
239 Schaghticoke Indian Tribe, CT (5/11/01; partial doc'n recv'd 10/ /02; **awaiting TA ltr)**
241 Chickahominy Indians, Eastern Division, Inc., VA (9/6/01; partial doc'n recv'd 9/6/01)
243 Phoenician Cherokee II - Eagle Tribe of Sequoyah, AL (9/18/01; partial doc'n recv'd 12/2/02)
244 Nansemond Indian Tribal Association, VA (9/20/01; partial doc'n recv'd 9/6/01, 9/26/01, and 3/8/02; **awaiting TA ltr)**
250 Unalachtigo Band of Nanticoke-Lenni Lenape Nation, NJ (2/1/02; partial doc'n recv'd 12/5/01)
253 Hudson River Band (formerly Konkapot Band), NY (4/19/02; doc'n recv'd 10/15/02; TA Ltr 7/11/03)
261 Native American Mohegans, Inc., CT (9/19/02; partial doc'n recv'd 9/19/02, 5/16/03, 6/20/03, and 7/10/03; TA ltr 9/8/04)
266 Avoyel Taensa Tribe/Nation of Louisiana, Inc., LA (1/9/03; partial doc'n recv'd 10/21/05)
273 Muhheconnuck and Munsee Tribes, WI (6/4/03; partial doc'n recv'd 6/4/03
276 Choctaw Allen Tribe, CA (10/20/03; partial doc'n recv'd 5/16/05)
278 Indian Creek Band, Chickamauga Creek & Cherokee, Inc., FL (02/19/04; 1/6/05, 1/10/05, 2/1/05, and 3/8/05)
283 Monachi Indian Tribe, CA (10/14/04; partial doc'n recv'd 10/14/04; **awaiting TA ltr)**
292 Avoyel-Kaskaskia Tribe of Louisiana, LA (6/20/05; partial doc'n recv'd 8/29/05)

# REGISTER
# of
# LETTERS OF INTENT TO PETITION - 138
## pursuant to 25 CFR 83.10(d)
(as of February 3 2006)

ADMINISTRATIVE NOTE: These petitioners are not ready for evaluation and have not submitted any documentation.

Numbers assigned to petitioners under the 1978 regulations have been retained to avoid the confusion that renumbering would create. For the purpose of this Register, petitioners are listed in numerical sequence based on the chronological order in which the Branch of Acknowledgment and Research (BAR) or Office of Federal Acknowledgment (OFA) received the letter of intent to petition. Gaps in numbering represent letters of intent that have already been resolved or are now in incomplete, ready, or active status, or are no longer in contact with OFA.

**Petition # Name of Petitioner/Date Letter of Intent Received by AS-IA**

21 Mono Lake Indian Community, CA (7/9/76)
22a Antelope Valley Paiute Tribe, CA (7/9/76)
33 Delaware-Muncie, KS (6/19/78)
36 Tsimshian Tribal Council, AK (7/2/78)
39 Coree [aka Faircloth] Indians, NC (8/5/78)
40 Nanticoke Indian Association, DE (8/8/78; requested petition be placed on hold 3/25/89)
47 Kern Valley Indian Community, CA (2/27/79)
48 Shawnee Nation U.K.B., IN (formerly Shawnee Nation, United Remnant Band), OH (3/13/79)
49 Hattadare Indian Nation, NC (3/16/79)
50 North Eastern U.S. Miami Inter-Tribal Council, OH (4/9/79)
53 Santee Indian Organization (formerly White Oak Indian Community), SC (6/4/79)
60 Alleghenny Nation (Ohio Band), OH (11/3/79)
77 Cherokees of Northeast Alablama (formerly Cherokees of Jackson County, Alabama), AL (9/23/81)
80 Coastal Band of Chumash Indians, CA (3/25/82)
88 Waccamaw Siouan Development Association, Inc., NC (6/27/83; DOI/SOL determined ineligible to petition 10/29/89; DOI/SOL determined eligible to petition 6/29/95)
92 Dunlap Band of Mono Indians, CA (#92)(1/4/84; withdrawn 7/2/02; new letter of intent 8/9/05)
96 San Luis Rey Band of Mission Indians, CA (10/18/84)
100 Northern Cherokee Tribe of Indians, MO (7/26/85)
100a Sac River and White River Bands of the Chickamauga Cherokee Indian Nation of AR & MO (9/5/91)
100b Northern Cherokee Nation of Old Louisiana Territory, MO (2/19/92)
105 Pahrump Band of Paiutes, NV (11/9/87)
106 Wukchumni Council, CA (2/22/88)
107 Cherokees of Southeast Alabama, AL (5/27/88)
109 Choinumni Council, CA (7/14/88)
110 Coastanoan Band of Carmel Mission Indians, CA (9/16/88)
116 Salinan Nation, CA (10/10/89)
118 Revived Ouachita Indians of Arkansas and America, AR (4/25/90)
119a Meherrin Indian Tribe, NC (8/2/90)
124 Piqua Sept of Ohio Shawnee Indians, OH (4/16/91)
126 Lake Superior Chippewa of Marquette, Inc., MI (12/31/91)
127 Nanticoke Lenni-Lenape Indians, NJ (1/3/92)
129 Mohegan Tribe and Nation, CT (10/6/92)

**Register of Letters of Intent to Petition, cont.**

134 Chicora Indian Tribe of SC (formerly Chicora-Siouan Indian People) SC (2/10/93)
136 Chukchansi Yokotch Tribe of Mariposa, CA (5/25/93)
139 Salinan Tribe of Monterey County, CA (11/15/93)
140 Gabrielino/Tongva Tribal Council, CA (3/21/94)
140a Gabrielino/Tongva Indians of California Tribal Council, CA (8/14/97)
143 Costanoan-Rumsen Carmel Tribe, CA (8/24/94)
144 Chicora-Waccamaw Indian People, SC (10/5/94)
149 Accohannock Indian Tribal Association, Inc., MD (1/18/95)
150 Ani-Stohini/Unami Nation, VA (7/8/94)
151 Cowasuck Band-Abenaki People, MA (1/23/95)
155 Amonsoquath Tribe of Cherokee, MO (2/17/95)
157 Mattaponi Tribe (Mattaponi Indian Reservation), VA (4/4/95)
159 Wadatkuht Band of the Northern Paiutes of the Honey Lake Valley, CA (1/26/95)
163 Ish Panesh United Band of Indians (formerly Oakbrook Chumash, aka SanFernando Band of Mission Indians), CA (5/25/95)
165 Tinoqui-Chalola Council of Kitanemuk and Yowlumne Tejon Indians, CA (1/16/96)
166 Apalachee Indian Tribe, LA (1/22/96)
170 Jumano Tribe (West Texas) (formerly The People of LaJunta [Jumano/Mescalero]), TX (3/26/97)
175 Ani Yvwi Yuchi, CA (7/31/96)
176 Coastal Gabrieleno Diegueno Band of Mission Indians, CA (3/18/97)
177 Chilcoot Kaagwaantaan Clan, AK (4/22/97)
178 Saponi Nation of Ohio, OH (8/4/97)
179 The Nehantic Tribe and Nation, CT (9/5/97)
180 Confederated Tribes - Rogue -Table Rock & Associated Tribes, Inc., OR (6/19/97)
181 Tap Pilam: The Coahuiltecan Nation, TX (12/2/97)
183 Chi-cau-gon Band of Lake Superior Chippewa of Iron County, MI (2/11/98)
184 Beaver Creek Band of Pee Dee Indians, SC (1/26/98)
186 Mackinac Bands of Chippewa and Ottawa Indians, MI (5/13/1998)
187 Pokanoket/Wampanoag Federation/Wampanoag Nation/Pokanoket Tribe/And Bands, RI (1/5/98).
188 Montaukett Tribe of Long Island, NY (3/16/98)
190 The Arkansas Band of Western Cherokee (formerly Western Arkansas Cherokee Tribe), AR (4/7/98)
192 Cherokee Nation West of MO & AR (formerly Cherokee Nation West - Southern Band of the Eastern Cherokee Indians of Missouri and Arkansas), MO (5/11/98)
193 The Displaced Elem Lineage Emancipated Members Alliance aka DELEMA, CA (5/11/98)
194 Tribal Council of the Carrizo/Comecrudo Nation of Texas, TX (7/6/98)
196 Shawnee Nation. Ohio Blue Creek Band of Adams County, OH (8/5/98)
198 Piedmont American Indian Association, SC (8/20/98)
200 Seaconke Wampanoag Tribe, RI (10/29/98)
202 T'si-akim Maidu, CA (11/16/98)
205 Cherokee Nation of Alabama, AL (2/16/99)
206 Knugank Tribal Council, AK (1/7/99)
208 Yamassee Native American Moors of the Creek Nation, GA (4/27/99)
209 Sierra Foothill Wuksachi Yokuts Tribe, CA (5/11/99)
211 Lipan Apache Band of Texas, Inc., TX (5/26/99)
212 Pee Dee Indian Nation of Beaver Creek, SC (6/16/99)
213 Poquonnock Pequot Tribe, CT (6/6/99)
216 The Old Settler Cherokee Nation of Arkansas, AR (9/17/99)
217 Ozark Mountain Cherokee Tribe of Arkansas and Missouri, MO (10/19/99)

**Register of Letters of Intent to Petition, cont.**

219 Ooragnak-Indian Nation, MI (12/1/99)
220 Saponi Nation of Missouri, MO (12/14/99)
221 Maconce Village Band of Ojibwa, MI (3/7/00)
222 Traditional Choinumi Tribe, CA (3/29/00)
224 United Cherokee Indian Tribe of Virginia, VA (7/31/00)
225 Cherokee River Indian Community, AL (8/3/00)
226 Wicocomico Indian Nation, VA (8/28/00)
229 North Valley Yokut Tribe, CA (9/22/00)
230 Tejon Indian Tribe, CA (10/27/00)
232 Little Owl Band of Central Michigan Indians, MI (11/27/00)
234 Rappahannock Indian Tribe, Inc., VA (1/31/01)
235 Lenape Nation, PA (5/16/00)
236 Lower Eastern Ohio Mekojay Shawnee, OH (3/5/01)
237 The Chickamauga Notowega Creeks, NY (3/5/01)
240 Calaveras Band of Miwuk Indians, CA (7/31/01)
242 Xolon Salinan Tribe, CA (9/18/01)
245 Schaghticoke Tribe (Reed Family), CT (9/27/01)
246 United Cherokee Ani-Yun-Wiya Nation (formerly United Cherokee Intertribal), AL (11/08/01)
247 Western Cherokee of Arkansas/Louisiana Territories, MO (4/21/01)
248 Barbareno/Ventureno Band of Mission Indians, CA (1/17/02)
249 Dumna Wo-Wah Tribal Government (formerly Dumna Tribe of Millerton Lake), CA (1/22/02)
251 The Golden Hill Paugussett Tribal Nation, CT (2/8/02)
252 Qutekcak Native Tribe, AK (2/13/02)
254 Pamaque Clan of Coahuila y Tejas Spanish Indian Colonial Missions Inc., TX (4/23/02)
255 The Arista Indian Village, TX (5/21/02)
256 Wesget Sipu Inc., ME (6/4/02)
257 Paugussett Tribal Nation of Waterbury, Connecticut, CT (7/3/02)
258 Muskegon River Band of Ottawa Indians, MI (7/26/02)
259 Chaloklowa Chickasaw Indian People, SC (8/14/02)
260 Tsalagi Nation Early Emigrants 1817, NC (7/30/02)
262 Ohatchee Cherokee Tribe Nation of New York and Alabama, NY (12/16/02)
263 Piro/Manso/Tiwa Tribe of Guadalupe Pueblo, NM (12/17/02)
264 Cheroenhaka (Nottoway) Indian Tribe, VA (12/30/02)
265 United Mascogo Seminole Tribe of Texas, TX (12/31/02)
267 Wyandot of Anderdon Nation, MI (1/21/03)
268 Central Tribal Council, AR (1/21/03)
269 Pine Hill Saponi Tribal Nation, OH (10/1/02)
270 Coweta Creek Tribe, AL (2/12/03)
271 United Band of the Western Cherokee Nation, OK (3/14/03)
272 The Chiricahua Tribe of California, CA (4/24/03)
274 Wappinger Tribal Nation, RI (7/7/03)
275 Digueno Band of San Diego Mission Indians, CA (10/15/03)
277 Arkansas White River Cherokee, TN (10/22/03)
279 The Roanoke-Hatteras Indians of Dare County, NC (03/10/04)
280 The People of the Mountains, IL (6/3/04)
281 Calattakapa-Choctaw Tribe, CA (7/13/04)

**Register of Letters of Intent to Petition, cont.**

282 The Apalachicola River Community, FL (8/17/04)
284 The Yanaguana Bands of Mission Indians of Texas, TX (10/19/04)
285 Nashville-Eldorado Miwok Tribe, CA (11/9/04)
287 Maple River Band of Ottawa, MI (1/31/05)
288 Hunter Tsalagi-Choctaw Tribe, FL (3/2/05)
289 The Wintoon Tribe of Northern California, Inc., CA (4/27/05)
290 Eshom Valley Band of Michahai and Wuksachi, CA (5/24/05)
291 Alleghenny Nation Indian Center (Ohio Band), OH (6/2/05)
293 Tutelo Nahyssan Tribal Nation, OH (7/27/05)
294 Chumash Council of Bakersfield, CA (10/18/05)
295 Yosemite-Mono Lake Paiute Indian Community, CA (12/06/05)
296 Pee Dee Indian Nation of Upper South Carolina, SC (12/14/05)
297 The United Cherokee Indian Tribe of West Virginia, WV (12/30/05)
298 Tuolumne Algerine Band of Yokut, CA (1/23/06)

NOTE: *On hold awaiting letter of intent signed by full council – #172 Ahon-to-ays Ojibwa Band, MT (2/1/96 council)*

*Discrepancy between assigned petition numbers and the total number of petitions is caused by splinter groups which have received "a" and "b" designations.*

## INACTIVE PETITIONERS

**No Longer in Contact with OFA – 11**

**Petition # Name of Petitioner and Status**

46 Kah-Bay-Kah-Nong (Warroad Chippewa), MN (2/12/79)
64 Consolidated Bahwetig Ojibwas and Mackinac Tribe, MI (12/4/79)
94 Christian Pembina Chippewa Indians, ND (6/26/84)
97 Wintu Indians of Central Valley, California, CA (10/26/84)
98 Wintoon Indians, CA (10/26/84)
122 Etowah Cherokee Nation, TN (1/2/91)
123 Upper Kispoko Band of the Shawnee Nation, IN (4/10/91)
130 Waccamaw-Siouan Indian Association, SC (10/16/92)
133 Council for the Benefit of Colorado Winnebagos, CO (1/26/93)
141 The Langley Band of the Chickamogee Cherokee Indians of the Southeastern United States, AL (4/20/94)
156 Katalla-Chilkat Tlingit Tribe of Alaska, AK (2/2/95; doc'n recv'd 3/6/95)

**Legislative Action Required - 6**

**Petition # Name of Petitioner and Status**

44 Cherokee Indians of Robeson and Adjoining Counties, NC (2/1/79)
65 Lumbee Regional Development Association (LRDA/Lumbee), NC (1/7/80)
91 Cherokee Indians of Hoke County, Inc., NC (aka Tuscarora Hoke County) (9/20/83)
102 Tuscarora Nation of North Carolina, NC (11/19/85)
215 Tuscarora Nation East of the Mountains, NC (9/8/99; partial doc'n rec'vd 8/30/99)
286 Tuscarora Nation of Indians of the Carolinas, NC (12/21/04)

**Prepared by:**

**Office of Federal Acknowledgment**
**Assistant Secretary - Indian Affairs**
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MUSKEGON CHRONICLE SEPTEMBER 8, 2004

# Local leaders go to bat for tribe

By Steve Gunn
and Robert C. Burns
CHRONICLE STAFF WRITER

MUSKEGON COUNTY

Whether the issue is ultimately tied to casino gambling or not, Muskegon County commissioners believe the Grand River Band of Ottawa Indians deserve to be recognized as an autonomous Indian tribe.

Describing it as a "civil rights issue," commissioners, meeting Tuesday at Montague City Hall, voted to urge Congress to pass legislation giving federal recognition to the tribe, whose population is scattered throughout West Michigan, with many members living in Muskegon County.

Muskegon city officials were expected to follow suit at a special meeting, called for another purpose, at 4:30 this afternoon.

Mayor Steve Warmington said he would ask commissioners to pass a resolution of support of tribal recognition. The commission is already on record, by way of a resolution passed last fall, as supporting gambling within the city limits, following a successful citywide advisory vote on the casino issue.

Warmington said he planned to travel to Washington, D.C., next Tuesday to press the tribal recognition issue with Sens. Carl Levin and Debbie Stabenow and possibly other members of Michigan's congressional delegation, having already met with U.S. Rep. Pete Hoekstra, R-Holland, on the matter.

He and others will be asking either for the introduction of legislation or for Congress to exert influence on the U.S. Bureau of Indian Affairs to recognize the tribe.

"We are talking about federal recognition, which this tribe deserves," Warmington said.

Congress generally does not decide whether Indian tribes gain federal recognition. That job usually falls to the Bureau of Indian Affairs.

Inevitably, Warmington said, local gestures of support of tribal recognition could also be construed as support for a gambling casino. Last January, the Grand River Band announced an alliance with the Archimedes Group LLC, which footed the cost of the September advisory election and has plans to build a casino in downtown Muskegon once the tribe is recognized.

Please see TRIBE 2B ▶

▶ TRIBE from 1B

But Grand River Ottawa officials have been trying without success since 1994 to gain recognition through normal channels, according to county documents. That prompted commissioners to formally ask U.S. Senators Carl Levin and Debbie Stabenow to step in and take action.

"This board is mindful of the fact that the United States Congress has, on occasion, acted to recognize Indian tribes by direct legislative action in instances of delay," said the resolution passed by the board.

"The Muskegon County Board of Commissioners hereby urges its U.S. senators. . .To work closely with representatives of the Grand River Band of Ottawa Indians to introduce, and support legislation, providing for federal recognition of the Grand River Band of Ottawa Indians as a tribe, pursuant to federal law and treaty."

The need to request special action from Congress seemed sad to some commissioners.

"It seems so ironic that we take the country away from them in the first place, and now we're telling them whether they will be recognized or not," said Commissioner Paul Baade, chairman of the county board, who joined seven other commissioners in supporting the motion. "I think it's pretty silly."

But three commissioners —Bob Scolnik, Louis McMurray and John Snider — abstained during the roll call, claiming they didn't have enough information about the situation.

Legalized gambling seems to be one of the central concerns. Federally-recognized tribes have the right to negotiate with the federal and state governments to own and operate gambling casinos in Michigan.

Ron Yob of Grand Rapids, tribal chairman of the Grand River Ottawas, admitted to commissioners that his group has been approached about pursuing a casino in Muskegon, and has not rejected the idea. But he said gaining federal recognition is the tribe's primary goal, simply because the tribe members believe they deserve it.

"Our priority is the recognition of our tribe," said Yob.

County Commissioner Marvin Engle said he understood that position.

"This is a human rights issue more than a casino issue," Engle said. "They were once one of the biggest tribes of Indians in West Michigan. They're not getting the recognition they deserve."

# Tribal recognition tied

By Robert C. Burns
CHRONICLE STAFF WRITER

MUSKEGON

The Muskegon City Commission on Monday is expected to adopt a resolution in support of federal recognition of the Grand River Band of Ottawa Indians, a move seen by some as an attempt to boost a casino proposal for Muskegon.

As reported Wednesday, commissioners were to have taken up the issue at a special meeting scheduled for 4:30 p.m. that day. It had been called to approve a fireworks permit for a boxing event at the L.C. Walker Arena this Saturday, but under the state's Open Meetings Act, the Indian question would have to have been advertised 18 hours before the meeting took place.

Instead, Mayor Steve Warmington said he will introduce the proposal during the commission's next work session at 5:30 p.m. Monday — a meeting that had been set aside for a discussion of the 2005 budget.

When it happens, the commission's action will mirror that of the Muskegon County Board of Commissioners last Tuesday, in which members voted to ask Congress to recognize the band via direct legislative action.

Normally, such recognition comes

# up in red tape

MUSKEGON CHRONICLE Sept 9, 2004

from the Department of Interior's Office of Federal Acknowledgment. But according to the county resolution, the tribe's petition has not been acted upon since 1994 and "is nowhere capable of being bureaucratically processed."

The delay in resolving what the county called a civil rights issue amounts to a "denial of justice," its resolution said.

Muskegon Mayor Steve Warmington, who was present for the county's action, said the Ottawa band "deserves to be recognized," and would ask his fellow city commissioners to pass a similar supporting resolution.

The mayor said he has already spoken to U.S. Peter Hoekstra, R-Holland, about interceding the tribe's behalf. But Hoekstra has taken the position that Congress should not get involved.

Please see TRIBAL 2B ▶

▶ TRIBAL from 1B

"Circumventing the acknowledgment process would undermine its legitimacy and replace it with a process based on political expediency, not merit," Hoekstra wrote in a letter to the Rev. David Willerup of Muskegon. Willerup is the leader of the anti-casino group Positively Muskegon.

Hoekstra says he doesn't think Congress is equipped to trace generations of genealogical and anthropological data needed to determine whether a tribe is a distinct Indian community worthy of sovereign status.

Once recognized, he said, a tribe is allowed certain immunities and privileges, including exemptions from state and federal jurisdiction and the ability to develop casino gambling.

"I understand the Grand River Tribe's interest in receiving federal recognition as soon as possible, and I support its efforts to move through the administrative process. However, I am in no position to determine that it is more deserving of federal recognition than any of the 294 tribes also petitioning for federal recognition."

On Tuesday, Warmington said he would travel to Washington, D.C., to urge Michigan's two United States senators, Carl Levin and Debbie Stabenow, and others in Michigan's congressional delegation to either recognize the Grand River Ottawas legislatively, or to at least push for speedier movement through the much lengthier bureaucratic process.

He said the reason he felt that way was not related to plans by the Archimedes Group LLC to establish a casino in the downtown Muskegon area, although he acknowledged that some would believe otherwise.

The city commission, when it passed an earlier resolution last October in support of a casino somewhere in the city limits, was careful not to mention a specific developer.

However, the Grand River Band and Archimedes have been working together at least since last January, when they announced a push to gain tribal recognition for the Ottawa band and, with Florida developer Group One Productions, to build a casino near the Muskegon lakeshore.

"They want to avoid the language of a casino, but it clearly is driven by a casino," said the Rev. David Willerup, head of the anti-casino group Positively Muskegon.

Willerup said Wednesday that he does support federal recognition of the tribe, even though its historic base is in Ottawa and Kent counties, not Muskegon County.

"I think it's important for them to claim the heritage that was promised to them," he said. "What I don't support is circumventing the BIA for the sake of political expedience."

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# *Holy Trinity Institutional Church of God in Christ*


Bishop Nathaniel Wells, Jr., A.A. B. TH
*Senior Pastor*


*September 13, 2004*

*Senator Debbie Stabenow*
*269 Russell Office Building*
*Washington, DC 20510*

*Dear Senator Stabenow,*

*I'm writing on behalf of the Grand River Bands of Ottawa Indians. As you know they are desperately seeking federal recognition and I have been informed that it is a possibility that this will take them nearly 10 to 20 years to receive it if they were to follow the normal procedure through the department of Indian Affairs.*

*It is hard to conceive that Americans in the year 2004 have a need to be recognized or seek equal rights from its government when we as a flagship nation of the entire world have lost over 1000 lives in our effort to give men, women, boys and girls equal rights, freedom and justice in the nation of Iraq.*

*It is my prayer that you will assist our fellow citizens in their effort to be recognized so that their human rights and equal rights are not denied.*

*Sincerely,*

*Bishop Nathaniel W. Wells, Jr.*
*Bishop of the Western Michigan Jurisdiction*
*General Board Member of the Churches of God in Christ, Worldwide*

*:js*

*Office of the Bishop*

**RESOLUTION OF MUSKEGON COUNTY BOARD OF COMMISSION IN SUPPORT OF FEDERAL EXPEDITED RECOGNITION OF THE "GRAND RIVER BANDS" OF OTTAWA INDIAN TRIBE**

WHEREAS, this Board is informed and believes that there is a substantial Indian population residing within Muskegon County and that a significant number of such individuals trace their lineage to the "Grand River Bands" of Ottawa Indians; and,

WHEREAS, the United States Government, through the Bureau of Indian Affairs, has established a process for recognizing groups as Indian tribes, but that this process, either as a result of bureaucratic inertia, or financial limitations, has been incapable of timely responding to requests by legitimate Indian tribes for recognition; and,

WHEREAS, the Grand River Bands has been pursuing Federal acknowledgment through the established administrative process since 1994; and,

WHEREAS, it appears that said petition is nowhere near being capable of being bureaucratically processed; and,

WHEREAS, this Board is mindful of the fact that the United States Congress has, on occasion, acted to recognize Indian tribes by direct legislative action in instances of delay, such as have occurred in connection with the recognition of the Little River Bands and Traverse Bay Bands of Ottawa Indians; and,

WHEREAS, this Board believes that the Federal recognition of tribes such as the Grand River Bands is a civil rights issue, and that continuing delays in the recognition of such tribe amounts to a denial of justice; and,

WHEREAS, said tribe, has requested assistance from this Board in urging its Congressional representatives to support Federal recognition and the Board is desirous of doing so;

NOW THEREFORE, be it, and the same is hereby RESOLVED, that the Muskegon County Board of Commission hereby urges its United States Senators, Senator Carl Levin, and Senator Debbie Stabenow, to work closely with representatives of the Grand River Bands of Ottawa Indians to introduce, and support legislation, providing for the Federal recognition of the "Grand River Bands of Ottawa Indians" as a tribe, pursuant to Federal law and Treaty.

IN WITNESS WHEREOF, this Resolution has been signed by Paul T. Baade, Chairperson, Muskegon County Board of Commission, as of the 7th day of September, 2004.

Paul T. Baade, Chairperson
Muskegon County Board of Commission

Mary Villanueva

**Little Traverse Bay Bands of Odawa Indians**
915 Emmet Street • P. O. Box 246
Petoskey, Michigan 49770

616-348-3410 • FAX 616-348-2589

**RESOLUTION 07119902**

**ACKNOWLEDGMENT OF THE GRAND RIVER BANDS OF OTTAWA INDIANS**

**WHEREAS,** the Grand River Bands of Ottawa Indians (GRB) preexists the formation of the State of Michigan and the United States of America;

**WHEREAS,** GRB and Little Traverse Bay Bands of Odawa Indians were signatories to many of the same Treaties with the United States, including the Treaty of 1855, 11 Stat. 621, and Treaty of March 28, 1836, 7 Stat. 491,

**WHEREAS,** GRB has been identified as American Indian from historical times until the present;

**WHEREAS,** GRB inhabits a specific area in what is now known as the middle of Michigan's lower peninsula;

**WHEREAS,** GRB has maintained tribal political influence over its members as an autonomous entity throughout history until the present;

**WHEREAS,** the membership of GRB is composed principally of persons who are not members of any other North American Indian tribe;

**WHEREAS,** history and justice require that GRB be treated as what it is, an Indian tribe federally recognized by the United States through major land session treaties;

**THEREFORE BE IT RESOLVED THAT:**

1. The Little Traverse Bay Bands of Odawa Indians recognizes the Grand River Bands of Ottawa Indians as a full fledged tribal governmental entity;

2. The Little Traverse Bay Bands of Odawa Indians fervently supports the efforts of the GRB to obtain federal acknowledgment.

**Certification**

As Tribal Chairman and Tribal Secretary, we certify that this Resolution was duly adopted by the Tribal Council of the Little Traverse Bay Bands of Odawa Indians at a regular meeting of the Tribal Council held on July 11, 1999 at which a quorum was present, by a vote of 7 in favor, 0 opposed and 0 abstentions as recorded by this roll call.

| | In Favor | Opposed | Abstained | Absent |
|---|---|---|---|---|
| George Anthony | ✓ | | | |
| Frank Ettawageshik | ✓ | | | |
| Dorothy Gasco | ✓ | | | |
| Barry Laughlin | ✓ | | | |
| Shirley Oldman | ✓ | | | |
| Rita Shananaquet | ✓ | | | |
| Alice Yellowbank | ✓ | | | |

Date: 7-11-99

Frank Ettawageshik, Tribal Chairman

Barry Laughlin, Tribal Secretary

PUBLIC LAW 103-324 [S. 1357]; September 21, 1994

# LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS AND THE LITTLE RIVER BAND OF OTTAWA INDIANS ACT

**An Act to reaffirm and clarify the Federal relationships of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians as distinct federally recognized Indian tribes, and for other purposes.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act. Michigan. 25 USC 1300k note.

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians Act".

25 USC 1300k.

**SEC. 2. FINDINGS.**

Congress finds the following:

(1) The Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians are descendants of, and political successors to, signatories of the 1836 Treaty of Washington and the 1855 Treaty of Detroit.

(2) The Grand Traverse Band of Ottawa and Chippewa Indians, the Sault Ste. Marie Tribe of Chippewa Indians, and the Bay Mills Band of Chippewa Indians, whose members are also descendants of the signatories to the 1836 Treaty of Washington and the 1855 Treaty of Detroit, have been recognized by the Federal Government as distinct Indian tribes.

(3) The Little Traverse Bay Bands of Odawa Indians consists of at least 1,000 eligible members who continue to reside close to their ancestral homeland as recognized in the Little Traverse Reservation in the 1836 Treaty of Washington and 1855 Treaty of Detroit, which area is now known as Emmet and Charlevoix Counties, Michigan.

(4) The Little River Band of Ottawa Indians consists of at least 500 eligible members who continue to reside close to their ancestral homeland as recognized in the Manistee Reservation in the 1836 Treaty of Washington and reservation in the 1855 Treaty of Detroit, which area is now known as Manistee and Mason Counties, Michigan.

(5) The Bands filed for reorganization of their existing tribal governments in 1935 under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"). Federal agents who visited the Bands, including Commissioner of Indian Affairs, John Collier, attested to the continued social and political existence of the Bands and concluded that the Bands were eligible for reorganization. Due to a lack of Federal appropriations to implement the provi-

sions of such Act, the Bands were denied the opportunity to reorganize.

(6) In spite of such denial, the Bands continued their political and social existence with viable tribal governments. The Bands, along with other Michigan Odawa/Ottawa groups, including the tribes described in paragraph (2), formed the Northern Michigan Ottawa Association in 1948. The Association subsequently pursued a successful land claim with the Indian Claims Commission.

(7) Between 1948 and 1975, the Bands carried out many of their governmental functions through the Northern Michigan Ottawa Association, while retaining individual Band control over local decisions.

(8) In 1975, the Northern Michigan Ottawa Association petitioned under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), to form a government on behalf of the Bands. Again in spite of the Bands' eligibility, the Bureau of Indian Affairs failed to act on their request.

(9) The United States Government, the government of the State of Michigan, and local governments have had continuous dealings with the recognized political leaders of the Bands from 1836 to the present.

**SEC. 3. DEFINITIONS.** 25 USC 1300k-1.

For purposes of this Act—

(1) the term "Bands" means the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians;

(2) the term "member" means those individuals enrolled in the Bands pursuant to section 7; and

(3) the term "Secretary" means the Secretary of the Interior.

**SEC. 4. FEDERAL RECOGNITION.** 25 USC 1300k-2.

(a) FEDERAL RECOGNITION.—Federal recognition of the Little Traverse Bay Bands of Odawa Indians and the Little River Band of Ottawa Indians is hereby reaffirmed. All laws and regulations of the United States of general application to Indians or nations, tribes, or bands of Indians, including the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), which are not inconsistent with any specific provision of this Act shall be applicable to the Bands and their members.

(b) FEDERAL SERVICES AND BENEFITS.—

(1) IN GENERAL.—The Bands and their members shall be eligible for all services and benefits provided by the Federal Government to Indians because of their status as federally recognized Indians, and notwithstanding any other provision of law, such services and benefits shall be provided after the date of the enactment of this Act to the Bands and their members without regard to the existence of a reservation or the location of the residence of any member on or near any Indian reservation.

(2) SERVICE AREAS.—

(A) LITTLE TRAVERSE BAY BANDS.—For purposes of the delivery of Federal services to the enrolled members of the Little Traverse Bay Bands of Odawa Indians, the area of the State of Michigan within 70 miles of the boundaries of the reservations for the Little Traverse Bay Bands as

set out in Article I; paragraphs "third" and "fourth" of the Treaty of 1855, 11 Stat. 621, shall be deemed to be within or near a reservation, notwithstanding the establishment of a reservation for the tribe after the date of the enactment of this Act. Services may be provided to members outside the named service area unless prohibited by law or program regulations.

(B) LITTLE RIVER BAND.—For purposes of the delivery of Federal services to enrolled members of the Little River Band of Ottawa Indians, the Counties of Manistee, Mason, Wexford and Lake, in the State of Michigan, shall be deemed to be within or near a reservation, notwithstanding the establishment of a reservation for the tribe after the date of the enactment of this Act. Services may be provided to members outside the named Counties unless prohibited by law or program regulations.

25 USC 1300k-3.

**SEC. 5. REAFFIRMATION OF RIGHTS.**

(a) IN GENERAL.—All rights and privileges of the Bands, and their members thereof, which may have been abrogated or diminished before the date of the enactment of this Act are hereby reaffirmed.

(b) EXISTING RIGHTS OF TRIBE.—Nothing in this Act shall be construed to diminish any right or privilege of the Bands, or of their members, that existed prior to the date of enactment of this Act. Except as otherwise specifically provided in any other provision of this Act, nothing in this Act shall be construed as altering or affecting any legal or equitable claim the Bands might have to enforce any right or privilege reserved by or granted to the Bands which were wrongfully denied to or taken from the Bands prior to the enactment of this Act.

Real property.
25 USC 1300k-4.

**SEC. 6. TRANSFER OF LAND FOR THE BENEFIT OF THE BANDS.**

(a) LITTLE TRAVERSE BAY BANDS.—The Secretary shall acquire real property in Emmet and Charlevoix Counties for the benefit of the Little Traverse Bay Bands. The Secretary shall also accept any real property located in those Counties for the benefit of the Little Traverse Bay Bands if conveyed or otherwise transferred to the Secretary, if at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages or taxes owed.

(b) LITTLE RIVER BAND.—The Secretary shall acquire real property in Manistee and Mason Counties for the benefit of the Little River Band. The Secretary shall also accept any real property located in those Counties for the benefit of the Little River Band if conveyed or otherwise transferred to the Secretary, if at the time of such acceptance, there are no adverse legal claims on such property including outstanding liens, mortgages or taxes owed.

(c) ADDITIONAL LANDS.—The Secretary may accept any additional acreage in each of the Bands' service area specified by section 4(b) of this Act pursuant to his authority under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act").

(d) RESERVATION.—Subject to the conditions imposed by this section, the land acquired by or transferred to the Secretary under or pursuant to this section shall be taken in the name of the United States in trust for the Bands and shall be a part of the respective Bands' reservation.

SEC. 7. MEMBERSHIP. 25 USC 1300k-5.

Not later than 18 months after the date of the enactment of this Act, the Bands shall submit to the Secretary membership rolls consisting of all individuals currently enrolled for membership in such Bands. The qualifications for inclusion on the membership rolls of the Bands shall be determined by the membership clauses in such Bands' respective governing documents, in consultation with the Secretary. Upon completion of the rolls, the Secretary shall immediately publish notice of such in the Federal Register. The Bands shall ensure that such rolls are maintained and kept current.

Federal Register, publication. Records.

SEC. 8. CONSTITUTION AND GOVERNING BODY. 25 USC 1300k-6.

(a) CONSTITUTION.—

(1) ADOPTION.—Not later than 24 months after the date of the enactment of this Act, the Secretary shall conduct, by secret ballot, elections for the purposes of adopting new constitutions for the Bands. The elections shall be held according to the procedures applicable to elections under section 16 of the Act of June 18, 1934 (25 U.S.C. 476; commonly referred to as the "Indian Reorganization Act").

(2) INTERIM GOVERNING DOCUMENTS.—Until such time as new constitutions are adopted under paragraph (1), the governing documents in effect on the date of the enactment of this Act shall be the interim governing documents for the Bands.

(b) OFFICIALS.—

(1) ELECTION.—Not later than 6 months after the Bands adopt constitutions and bylaws pursuant to subsection (a), the Bands shall conduct elections by secret ballot for the purpose of electing officials for the Bands as provided in the Bands' respective governing constitutions. The elections shall be conducted according to the procedures described in the Bands' constitutions and bylaws.

(2) INTERIM GOVERNMENTS.—Until such time as the Bands elect new officials pursuant to paragraph (1), the Bands' governing bodies shall be those governing bodies in place on the date of the enactment of this Act, or any new governing bodies selected under the election procedures specified in the respective interim governing documents of the Bands.

Approved September 21, 1994.

LEGISLATIVE HISTORY—S. 1357:

HOUSE REPORTS: No. 103-621 (Comm. on Natural Resources).
SENATE REPORTS: No. 103-260 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 140 (1994):
May 25, considered and passed Senate.
Aug. 3, considered and passed House.

**Resolution of the Grand River Bands of Ottawa Indians, June 18, 2002**

**Whereas,** the Grand River Bands of Ottawa Indians (the "Tribe") is composed of descendants of, and is the political successor to, signatories of the 1795 Treaty of Greenville, 1807 Treaty of Detroit, the 1821 Treaty of Chicago, the 1836 Treaty of Washington, and the 1855 Treaty of Detroit.

**Whereas**, the Little Traverse Bay Band of Odawa Indians, Little River Band of Ottawa Indians, Grand Traverse Band of Ottawa and Chippewa Indians, the Sault Ste. Marie Tribe of Chippewa Indians, and the Bay Mills Indian Community, whose members are also descendants of the signatories to the 1836 Treaty of Washington and the 1855 Treaty of Detroit, have been recognized by the Federal Government as distinct Indian Tribes.

**Whereas**, the Grand River Bands of Ottawa Indians, consists of at least 1,000 enrolled members who continue to reside close to their ancestral lands in the Grand River Valley and other river valleys in the west central region of Michigan.

**Whereas**, the Tribe filed for reorganization of their existing tribal governments in 1935 under the Act of June 18, 1934 (25 U.S.C. et seq.; commonly referred to as the "Indian Reorganization Act"). Federal agents who visited the Tribe including Commissioner of Indian Affairs John Collier, who authored the Act, attested to the continued social and political existence of the Tribe and concluded that the Tribe was eligible for reorganization. Due to a lack of federal appropriations to implement the provisions of the Act, the Tribe was denied the opportunity to reorganize.

**Whereas**, in spite of such denial, the Tribe continued its political and social existence as a viable tribal government that interacts on a continuing basis with other tribal governments. The Grand River Bands of Ottawa Indians, along with other Michigan Odawa/Ottawa groups including the tribes described in Paragraph (2), formed the Northern Michigan Ottawa Association in 1948. The Association subsequently pursued a successful land claim with the Indian Claims Commission.

**Whereas**, between 1948 and 1975, the Tribe carried out many of its governmental functions through the Northern Michigan Ottawa Association, while retaining individual tribal control over decisions affecting its members (Grand River Bands of Ottawa Indians in Indian Claims Commission Docket 40-K, one-quarter or more degree blood quantum).

**Whereas**, in 1975, the Northern Michigan Ottawa Association petitioned under the Act of June 18, 1934 (25 U.S.C. 461 et seq.; commonly referred to as the "Indian Reorganization Act"), to form a government on behalf of the Grand River Bands of

Ottawa Indians and other Bands of Ottawa. The Bureau of Indian Affairs failed to act on their request.

**Whereas**, the Grand River Bands of Ottawa Indians is the only Ottawa treaty tribe in Michigan that has not been restored to recognition.

**Whereas**, the United States Government, the Government of the State of Michigan, and local governments have had continuous dealings with the recognized political leaders of the Grand River Bands of Ottawa Indians from 1795 to the present.

**Whereas**, the Tribe filed a completed petition to the Branch of Acknowledgment and Research at the Bureau of Indian Affairs on December 8, 2000 requesting recognition as a federal tribe with a government to government relationship with the United States and having the benefit of the trust obligations of the United States that is owed to American Indian tribal governments.

**Whereas,** the Tribe has received no reply or response from the BAR as to the status of their petition.

**Whereas,** the United States holds several million dollars in trust for the Tribe under the Michigan Indian Land Claims Settlement Act, P.L. 105-143 (111 Stat. 2652) for tribal operations, programs and distributions to members.

**Whereas,** if recognition is not accomplished, the money will paid to individuals who are descendants of the treaty tribes and no funds will be available for the Tribe's government operations; and

**Whereas,** the State of Michigan intends to bring a claim against Michigan Indian Tribes relating to inland hunting and fishing treaty rights under the 1836 Treaty of Washington. The GRBOI, the modern successor to the historic tribe that was signatory to the treaty, will not be eligible to participate in such lawsuit to protect its vested and legal treaty rights until recognition is established, even though its rights derive from the same treaty as the other recognized Michigan tribes who will be party to the lawsuit.

**Whereas,** the Tribe cannot intervene in cases involving the welfare and custody rights of its children under the Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.); and,

**Whereas**, the Tribe is being denied the right to repatriate the remains of ancestors under the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001) and to protect their sacred sites because they are not yet federally recognized;

**Now, therefore, be it hereby resolved that,**

The Tribe request the Congress to enact legislation directing the Department of the Interior through its Bureau of Indian Affairs' Branch of Acknowledgment and Research to complete final action on the petition of the Grand River Bands of Ottawa Indians by no later than December 8, 2005, and

The Tribe shall request the United States Congress to grant the Grand River Bands of Ottawa Indians the right to intervene in any lawsuit in any federal court that involves its treaty rights; and

The Tribe shall request the United States Congress to direct federal agencies that Grand River Bands of Ottawa Indians be considered a federally recognized tribe for purposes of NAGPRA and any other federal laws designed to protect the sacred sites and religious freedoms of Native Americans.

The Tribe shall request the United States Congress to allow the Grand River Bands of Ottawa Indians to intervene in cases under the Indian Child Welfare Act that involve children of members of the Tribe.

This resolution was agreed to on the 18th of June, 2002 by conducting a telephone conference call of all available members of the Council of the Grand River Bands of Ottawa Indians, five members voting in favor and no members voting against and no members abstaining.

Attested by:

Ron Yob

Ron Yob, Chairman
Grand River Bands of Ottawa Indians

Frances Compo

Frances Compo, Secretary
Grand River Bands of Ottawa Indians

Those present on the call were: Ron Yob, Chairperson; Gilbert DiPiazza Jr., Vice Chairperson; Patsy Beatty, Treasurer; Frances Compo, Secretary; Elmer Knox, Councilor, and Patrick Wilson, Councilor. Joseoph Genia, Anna Detz and Phillip Cantu, Councilors, were not available for the call.

21ST CENTURY COMPETITIVENESS
EMPLOYER-EMPLOYEE RELATIONS

CO-CHAIR:
CONGRESSIONAL AUTOMOTIVE CAUCUS
CONGRESSIONAL NATIVE AMERICAN CAUCUS

Congress of the United States
House of Representatives

**DALE E. KILDEE**
5TH DISTRICT, MICHIGAN

FORESTS AND FOREST HEALTH
NATIONAL PARKS, RECREATION, AND PUBLIC LANDS

June 28, 2005

The Honorable Peter Hoekstra
2234 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Hoekstra:

I am writing to you about a matter of great importance to me: the federal recognition of the Grand River Bands of Ottawa Indians.

As you know, the Grand River Bands of Ottawa Indians consists of the 19 bands of Indians who occupy territory along the Grand River in what is now southwest Michigan, including the cities of Grand Rapids and Muskegon. The Grand River Bands has been in some form indigenous to the State of Michigan for over 200 years. The members of the Grand River Bands are the descendants and political successors to signatories of the 1821 Treaty of Chicago and the 1836 Treaty of Washington. They are also one of six tribes who is an original signatory of the 1855 Treaty of Detroit. However, the Grand River Bands is the only one of those tribes which is not recognized by the Federal Government.

In 1994, I introduced legislation, H.R. 2376, that was passed by Congress and signed into law (P.L. 103-324) that recognized two other Michigan Ottawa tribes whose histories are virtually identical to that of the Grand River: the Little River Band of Ottawa Indians and the Little Traverse Bay Bands of Odawa Indians. I was proud to have you as a cosponsor of my bill, and I appreciate your support of this important legislation. Unfortunately, Grand River wasn't included in this legislation because tribal elders feared federal government intrusion if they were recognized. I want to be clear that I had every intention of including the tribe in the original legislation because of their cultural, social, and historical ties to the land.

The tribal elders now believe that federal recognition is best for the tribe. For this reason, I am asking you to join with me to introduce legislation similar to S. 437, introduced by Michigan Senators Levin and Stabenow, that would provide for an expedited review at the Department of Interior to determine if the Grand River tribe meets the criteria for federal recognition. This legislation would rightfully take the recognition out of the political process and put the decision in the hands of experts at the Office of Federal Acknowledgment, who are charged with making these decisions. Let me be clear: Congress would not recognize the tribe; federal recognition would be determined by the experts at the Bureau of Indian Affairs and the Department of the Interior.

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Why is it important that Congress pass an expedited process for Grand River? Let me explain why. In 1997, the Congress enacted P.L. 105-143, the Michigan Indian Land Claims Settlement Act which reserves a percentage of the funds appropriated for payment of land claims to "newly recognized or reaffirmed tribes described in section 110." Section 110 states that eligible non-recognized tribes are those (1) who are signatory to either the 1836 Treaty or the 1855 Treaty, (2) whose members are predominately Chippewa and Ottawa, and (3) who file a documented petition by December 15, 2000.

The Grand River Bands of Ottawa Indians is the only unrecognized Michigan Tribe who meets the requirements of section 110 of the 1997 Act. The Tribe is comprised of descendants of members who signed three treaties: the Treaties of 1820, 1836 and 1855. The Tribe filed a fully documented petition with the BIA on December 8, 2000, and thus meets the Act's filing deadline.

Therefore, the tribe meets all of the criteria for distribution of the judgment funds reserved for an unrecognized tribe under section 110. However, unless they are recognized by December 2005, a substantial portion of the tribal funds will revert to the U.S. Treasury. This would be a gross miscarriage of justice because the Tribe was a full participant in the claims litigation before the Indian Claim Commission that gave rise to the judgment award.

Again, the proposed bill would direct the Bureau of Indian Affairs at the Department of Interior to make a recognition determination in a timely manner, so they would get funds that are rightly due to the tribe. This legislation will help to address this inequity to the Grand River Bands and provide a timely remedy so that the tribe can enjoy the full benefits and status of Federal recognition. Without it, the tribe stands to lose millions of dollars in federal funding that is so vitally needed by this economically-challenged tribe.

Therefore, I ask that you work with me to introduce and pass legislation similar to S. 437. I will contact you before the July 4th district work period to further discuss this issue with you. If you have any questions or concerns, please feel free to contact me, or Kimberly Teehee of my staff, at 5-3611.

Thanks in advance for your attention to this matter of great importance to me. In the meantime, please accept my best regards.

Sincerely,

Dale E. Kildee

Dale E. Kildee
Member of Congress

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