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**Testimony on “Authorization, standards, and procedures for whether, how and when
Indians tribes should be newly recognized by the federal government” before the
Subcommittee on Indian and Alaska Native Affairs
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Thank you Chairman Young and other distinguished members of this subcommittee for inviting me here today to speak at the oversight hearing on the “*authorization, standards, and procedures for whether, how and when Indians tribes should be newly recognized by the federal government*”. I am proud to appear before this Congressional House Subcommittee today to speak to this very important subject which looms large all across Indian Country.

I seek to provide a voice for those tribes seeking federal acknowledgement as sovereign nations regardless of the process they are pursuing. However in some specific areas, I am speaking on behalf of the Eastern Chickahominy, the Monacan, the Nansemond, the Upper Mattaponi, the Rappahannock, and my Tribe the Chickahominy, the six Tribes named in HR 783, The Thomasina Jordan Indian Tribes of Virginia Recognition Act of 2011. Hereinafter these six tribes will be referred to as the Virginia Indian Tribes.

Chairman Young, the Virginia Indian Tribes were honored to represent the very essence of democracy and freedom as we participated in events, both in the Commonwealth of Virginia and the United Kingdom, commemorating the 400th anniversary of the first permanent English Settlement in America in May 1607.

We took pride in representing the Commonwealth of Virginia and the United States of America as descendant tribes of those Virginia woodland Indians who welcomed the first permanent English settlement to what is now called America. A culminating event to the commemoration occurred in May 2007 when President George W. Bush shared the podium with dignitaries from the United Kingdom, the Governor of Virginia, and leadership from Virginia Indian tribes. However, when the hoopla subsided and the festivities were over, we remained unrecognized as sovereign nations by the United States of America.

Virginia Indian Tribes lived under the Treaty of 1677, a treaty with the English Crown, until the formation of the United States. Signatories of this treaty were deemed “sovereign subjects of the crown”. As recently as the first decade of the 21st century this treaty was applied to a court case involving Virginia Indians. And while we are now recognized by the Commonwealth of Virginia, federal recognition remains unfulfilled. While we continue to attempt to achieve recognition through the administrative tribal recognition process, it is our belief that this process is broken and unavailable to us.

Please allow me to cite a painful example of why the current administrative process falls

short in embracing the reality Virginia's Indigenous people face. In 1912, a man named Walter Ashby Plecker became head of the first Bureau of Vital Statistics in Virginia. Plecker was a rabid white separatist; he supported and enforced the Virginia Racial Integrity Act, which became law in 1924. To give you an idea of the motives surrounding this legislation, a companion bill was the Sterilization Act, which called for the forced sterilization of "feeble-minded" inmates.

The Racial Integrity Act classified all persons in the Commonwealth of Virginia as either "white" or "colored." It enforced the "one-drop" rule, in which any person with even "one drop" of African or Native American blood was deemed to be "colored." From 1924, official records of the Commonwealth of Virginia did not allow Virginia's Native American Tribes to list Indian, Native American, or any other tribal affiliation as race. According to the Commonwealth of Virginia, we were all just "colored."

This act served as the official policy of Virginia for five decades, remaining in effect until 1967. The act caused my parents and other Virginia Indians to have to travel to Washington D.C. 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 suffered other indignities. This state action distinguishes us from many other tribes in this country, tribes that were protected from this blatant denial of Indian heritage and identity.

Sadly, there was one exemption to this rule. Many of the First Families of Virginia claimed to be descendants of Pocahontas. The law contained a "Pocahontas exemption," allowing the landed white families in Virginia to be listed as "white" despite the one-drop rule, while still claiming to be descendants of Pocahontas.

Plecker and the Virginia Bureau of Vital Statistics even went so far as to retroactively change the vital records of many of our ancestors so that only white or colored were listed. As part of the Indian Reorganization Act in 1934, United States government officials contacted the Commonwealth of Virginia regarding its Indian population. The state registrar, also one Mr. Walter A. Plecker, advised there were no Indian Tribes in Virginia. Despite Plecker's response, federal government officials visited Virginia tribes, conducted interviews, and photographed people, places and things substantiating our existence. But no action was taken, and we remain unrecognized.

To achieve recognition, we are now told that we should go through the administrative process made available to us by Congress. All we have to do, we are told, is present records substantiating our claims to have been tribes. But because the Virginia Indian Tribes signed treaties with the English in 1677, our treaties aren't recognized by the United States of America, which had yet to be formed. Because courthouses containing our records were burned during the Civil War, our documentation isn't in order. And because Walter Plecker and the vile Racial Integrity Act claimed we didn't exist, it

appears that the administrative process agrees.

The history of the Virginia Indian Tribes predates 1607, our first sustained English contact. In my discussion with the Bureau of Acknowledgement and Research (BAR) now the Office of Federal Acknowledgement (OFA), I was advised we needed to supply documentation of our existence for each decade since 1607. Even though this has been relaxed to reach back to 1790, problems still exist from several fronts: (1) tribes had no written language; (2) oral history was considered inadequate; (3) colonial leadership sought to annihilate Native people versus maintaining vital statistics on them.

Ironies at the state and federal level have supported the fact that Virginia Indian Tribes have endured over time. In the 20th century the Commonwealth of Virginia supplied transportation and tuition funding for Virginia Indian students to attend high school at Bacone Indian School in Muskogee, Oklahoma. In addition to Oklahoma, the Commonwealth of Virginia provided funding for students to attend high school in other States. On the other hand, the federal government supplied funds to send Virginia Indian Students to federal government Indian boarding schools located in several different states. The former being tantamount to the Commonwealth of Virginia recognizing Virginia Indian Tribes as Indian and the latter the federal government recognizing Virginia Indian Tribes as Indian by supplying federal funding for boarding school attendance.

Probably the most telling testimony to the current system is the fact that in 1999, the head of the BIA, the Assistant Secretary for Indian Affairs, advised a Virginia Indian tribal delegation that many of those people assembled on that day would not live long enough to see federal acknowledgement for their tribe(s) through the administrative process. This proved to be prophetic for several of the tribal chiefs and other tribal members who attended that meeting in 1999 have been buried since then.

This testimony would be incomplete if I did not cite a common thread that exists among Atlantic Coast Tribes and even some Gulf Coast Tribes. The thread I am speaking of is our respective tie to colonial governments. The success of these tribes in going through the administrative process has been very low. Several factors contribute to the low success rate:

1. Lack of resources needed by tribes to “ferret” out the requisite information to be compliant with a process geared more toward post 1790 tribal histories;
2. Perceived low value/regard for tribal oral history;
3. Failure of the administrative process to recognize that one size does not necessarily fit all;
4. Perceived lack of value/regard for treaties drawn between tribes and colonial governments.

Other compelling reasons to have this conversation today include:

- 1) Time – In many cases the administrative process has taken in excess of 20 years

before a determination is reached. Even legislative recognition often takes several years before a bill reaches the floor of the House or Senate.

- 2) Cost – The road to recognition is very costly ranging from several hundred thousand to several million dollars. These costs include fees for attorneys, lobbyists, anthropologists, et al. Tribes generally are poor and can't afford these fees.
- 3) Application of administrative criteria –
 1. Criteria appear to be geared to those tribes encountered following formation of United States without taking into account regional differences in tribal experiences;
 2. Criteria seem to be interpreted more strictly with time, especially with adoption of IGRA;
 3. State recognition or state reservations don't seem to be given much weight;
 4. Many petitioners perceive that racial bias seems more prevalent regarding tribes in the East & South

The fact that congress has the authority to recognize tribes remains above dispute. Let's look at the Government Accountability Office (GAO) numbers. As of April 2011, 530 tribes had been acknowledged by Congress; 17 tribes had been acknowledged by OFA; 10 tribes had been acknowledged through the administrative process pre 1978; 7 tribes had been recognized by the administrative process post 1978 but outside of OFA. The bottom line is that Congress has recognized 92% of tribes who have official recognition from the United States government.

Regarding, *when Indian tribes should be newly recognized by the federal government*, let me put it this way: Tribes who have been able to maintain their identity over hundreds of years, who have faced abuse and insults because of their heritage, who have witnessed continued shrinking and sometimes complete loss of their tribal lands, who have seen their ranks decimated to the point that Native American Indians represent less than 1.4% of the United States population, who have lost more of their citizens per capita fighting for their country in the Armed Forces of the United States of America than any other group in the Union, and who resolutely salute Old Glory and display pride and love for their county, the answer to when is a resounding "NOW"!

Thank you for allowing me to address you today on this very important topic.

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