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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

Statement of the Honorable Doc Hastings
Natural Resources Committee Hearing
on H.R. 31 and H.R. 1385
March 18, 2009

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Mr. Chairman, thank you for holding a hearing on H.R. 31 and H.R. 1385. There are a number of new Members of the Committee who may not have been exposed to tribal recognition issues before today and this hearing should be very informative for them.

It seems that the Lumbee and the six Virginia tribes generally enjoy the support of their respective Representatives and State governors. I am one that generally believes in deferring to the judgment of Members on matters affecting their districts. Unfortunately, this principle is not consistently applied in Congress.

Having said this, I have concerns with H.R. 31 and H.R. 1385. Recognition of a tribe conveys a unique set of benefits, legal immunities, and responsibilities. It affects the tribe's individual members, and it has an impact on states, counties, local towns and other tribes. It affects the federal government's ability to deal with the hundreds of recognized tribes in a time when the federal budget is stretched thin and huge backlogs of unmet needs exist across Indian Country.

These factors in and of themselves don't necessarily mean tribal recognition is not warranted for the Lumbee or the six Virginia tribes. But these are the practical and political realities that must be faced when the choice is made to seek recognition in the legislative arena.

Another concern I have is with how the Lumbees and the Virginia tribes are deemed to be tribes, but not the other tribes that have petitioned for recognition. Some tribes petitioned long ago, even as early as the 1970's and 1980's. Their petitions are considered ready. Other Members of Congress have also sponsored bills to recognize other tribes. There seems to be no clear reason why these groups are not under consideration today, while the Lumbees and the six Virginia tribes are receiving such consideration and are likely to be considered on the House Floor in the near future.

Even though the Bureau of Indian Affairs regulatory process for considering recognition petitions has its problems, it does use a fixed set of seven mandatory criteria to judge whether a tribe is a tribe within the meaning of Federal law. I hope the Committee carefully considers whether it might be more appropriate to defer to this process. If we do not, then perhaps such a lack of faith in this system suggests it is time for Congress to stop just ignoring the issue and, instead, examine the purpose and continued usefulness of the BIA process altogether. For both

recognized tribes and those seeking recognition, it is a matter of fundamental fairness to ensure recognition is not given in an arbitrary manner that could undermine that status for all who hold it.

Mr. Chairman, I hope there will further discussion as to what kind of criteria we should use in considering H.R. 31 and H.R. 1385, and whether such criteria will be applied equally for other petitioners. Neither this Committee, nor Congress, should be acting in an arbitrary, unclear and subjective way when considering recognition of a tribe. Thank you.