HARRY R. SACHSE
PARTNER
SONOSKY, CHAMBERS, SACHSE, ENDRESON AND PERRY, LLP
1425 K Street, N.W., Suite 600
Washington D. C. 20008

Testimony
Before the Committee on Resources
United States House of Representatives

Hearing on H. R. 512, to require the prompt review by the
Secretary of the Interior of the long-standing petitions for Federal recognition
of certain Indian tribes, and for other purposes

Thursday, Feb. 10, 2005, 10:00 a.m.
Longworth House office Building, Room 1324

My name is Harry R. Sachse, I am one of the founding partners of Sonosky, Chambers, Sachse, Endreson and Perry, LLP, a law firm that specializes in representing Native American Tribes. We have offices in Washington, D.C., Alaska, California, and New Mexico. Before that I was an Assistant to the Solicitor General of the United States and argued several key Indian cases in the Supreme Court, and I have taught Indian law at Harvard and the University of Virginia.

I am pleased to speak in favor of H. R. 512. This bill addresses one of the worst abuses inherent in the Department of the Interior's handling of tribal recognition: unreasonable delay, and an attitude that no one has the right to question it. There are other abuses that need to be corrected – unreasonable standards for recognition, and an intrenched bureaucracy that functions without any real supervision within the Department. See the Testimony of Kevin Gover, former Assistant Secretary for Indian Affairs Before the Committee on Indian Affairs, United States Senate concerning S. 297, dated April 21, 2004 attached. This bill is a step in the right direction.

My experience with this process came from my representation of the Muwekma Ohlone tribe of California, in their attempt to become recognized. A little of that history will demonstrate the problem.

The Muwekma Ohlone have lived in the San Francisco Bay area since before the Spanish arrived. During the Spanish period, ancestors of the Muwekma were forced to live and work at or near the Mission of San Jose and were called the Mission San Jose Indian Tribe. Prior to the incorporation of California into the United States, the missions were abolished, and the tribes who lived there were rendered largely landless and destitute. In the late nineteenth century and early twentieth century, the Muwekma settled in villages known as Alisal and El Molino, located within the Tribe's aboriginal territory in Alameda County, California.

The federal government repeatedly recognized the Tribe in the twentieth century. Congress has never enacted legislation terminating the trust relationship with the Muwekma Ohlone Tribe. Nor has a court, the Department or any division of the Executive Branch terminated the Tribe.

Nevertheless, sometime after 1927 the Department began largely to ignore the Tribe. Then when it began publishing a list of federally recognized tribes in 1979, the Department failed to include it on the list.

Notwithstanding the Department's neglect, the Tribe's leaders organized the tribe to enroll under the California Claims Act, repeatedly between 1929 and 1970. Throughout the 1960's, the Tribe worked to preserve from destruction the Ohlone Cemetery, an Indian cemetery of Mission San Jose, an effort which succeeded. Since the late 1970's the Tribe has been active in working to preserve and ensure proper treatment of archeological resources and ancestral human remains uncovered as land development expanded in the San Francisco Bay area. In 1989 the Tribe persuaded Stanford University to return Ohlone remains stored in its museum to the Tribe for reburial.

The Tribe has received wonderful local support, with letters in the record from the Sacramento Area Office of the Bureau of Indian Affairs, from Condoleezza Rice, when she was Provost of Stanford University, from Congresswoman Zoe Lofgren, the Tribe's representative, and many, many others.

Given all of that, you would not believe what has happened to this tribe in seeking return to the list of recognized tribes.

In 1989, the Tribe asked advice from the Department of the Interior on how it could be returned to the list of recognized tribes. It was told that it had to go through the procedures of 25 C.F.R. Part. 83. No suggestion was made to it that there was any other way to be returned to the list of recognized tribes. The Tribe filed its letter of intent to petition for federal acknowledgment in 1989. In 1995 the Tribe submitted a documented petition with the extraordinary detail required by the Department – which required hiring historians, anthropologists, and genealogists. In 1996, the Department concluded that the Tribe had been recognized previously. In 1998 the Bureau placed the Muwekma petition on the "ready for active consideration list."

The Secretary of Interior in 1994 restored the Ione Band of Miwoks, another small California tribe that had been previously recognized then ignored, to the list of federally recognized tribes without requiring it to go through the procedures of 25 C.F.R. Part 83 at all. Similarly, in 2000, the Lower Lake Rancheria, another small California tribe which had been previously recognized and then ignored, was restored to the list of federally recognized tribes by administrative action without being required to go through the 25 C.F.R. Part 83 procedures. In addition, two Alaska tribes were similarly restored. Nevertheless, when Muwekma in 1992, 1996, 1998 and 2000 requested the Secretary to return it to the list of recognized tribes by administrative correction, the Department refused or ignored the request, and said wait in line.

In 1999, although "ready for active consideration" the Department of the Interior had not yet set a date for consideration of the Muwekma petition for recognition, and reviewing the list of tribes ahead of it and the rate at which Interior got to the petitions, we determined it could be 19 more years before Interior got to its petition. Muwekma then brought suit in the Federal District Court for the District of Columbia under the Administrative Procedure Act (APA) "to compel agency action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1). The Court's rulings in that action are published at Muwekma Tribe v. Babbitt, 133 F.Supp.2d 30 (D.D.C. 2000) and 133 F.Supp.2d 42 (D.D.C. 2001).

The Department vigorously opposed Muwekma, maintaining its right to handle these procedures one at a time at its own pace.

On June 30, 2000, the district court ordered Interior to propose a schedule for reaching a final determination on the Tribe's petition. The Department, despite the Order, proposed a schedule without any definite termination date. In subsequent orders, all initially opposed by Interior, the Court set a firm time schedule for Interior to rule on the Tribe's petition. See 133 F.Supp.2d at 51. This was the first action in which a tribe successfully challenged the Department's slow pace of deciding petitions and failure to reduce its backlog. The Court held that the fact that the Tribe was previously recognized, that it has been required to go through this long procedure when other tribes have not, and that, as applied to Muwekma, the procedure may be in contravention of an act of Congress, required an expedited decision. Id. at 36-42. The Court also found that the Department had been "glaringly disingenuous" in its pleadings before the Court. Id. at 49. As a result of this decision, other tribes also brought suit against the Department for agency action unreasonably delayed, to the consternation of the Interior officials.

On July 30, 2001 the Assistant Secretary for Indian Affairs issued a "Proposed Finding on the Ohlone/Costanoan Muwekma Tribe" in which it proposed to decline recognition of the Tribe. 66 Fed. Reg. 40,712 (2001). It made no reference to the issues raised by the Court.

The Tribe submitted comments and substantial new evidence. On September 6, 2002, the Department issued its Final Determination denying recognition. 67 Fed. Reg. 58,631 (2002). Again, it made no reference to issues raised by the Court concerning violations of federal law by the Department of the Interior or the lack of equal protection in requiring Muwekma to go through this long process while administratively correcting the omission of the other tribes. The Department findings were like a brief against Muwekma, and the same team at Interior that had fought so hard against the Administrative Procedure Act suit, were deeply involved in the determination against Muwekma.

We have appealed that decision to the Federal District Court in the District of Columbia, and face more years of litigation.

H.R. 512, which in many ways adopts legislatively what Muwekma had to obtain through litigation, will save a great deal of money for the United States in not having to defend APA suits based on failure to decide cases in a reasonable time. It will also save money for tribes applying for recognition the same way. But more than that it will help eliminate the bias that occurs when Interior first fights in court to defeat a tribal applicant and then has the right to determine whether to recognize it or not.

TESTIMONY OF KEVIN GOVER

BEFORE THE

COMMITTEE ON INDIAN AFFAIRS

UNITED STATES SENATE

concerning S. 297

April 21, 2004

Mr. Chairman and members of the Committee, my name is Kevin Gover. I am a Professor of Law at the Arizona State University College of Law in Tempe, Arizona. I appear before you as an individual, and my testimony does not necessarily represent the views of Arizona State University or the College of Law. I am honored to appear before the Committee today, and I thank the Chairman for his introduction of S. 297 and for calling this hearing today.

The Federal Recognition Process

As you know, I served as the Assistant Secretary for Indian Affairs at the Department of the Interior from November, 1997 until January, 2001. The Department and the Bureau of Indian Affairs face a number of vexing problems in their administration of the laws of the United States concerning Indian tribes. Aside from trust reform, perhaps the most visible of these problems is the administration of the process for determining whether an Indian group qualifies as an Indian tribe deserving of a government-to-government relationship with the United States.

The Committee's attention to this matter is extremely important. For too long, the program has relied entirely on the administrative authorities of the Department for both its process and substance. While I believe the Department has, in general, established the correct criteria for federal recognition and afforded due process in their application, clearly these are subjects that require the attention and authority of the Congress if the program is to have the legal and political credibility that we desire.

Moreover, the program's recent notoriety in the eastern press requires that the Congress set the record straight. Far too much of the reporting on the matter is ill informed and just plain wrong. The New York Times, for example, recently reported that investigations of the program revealed that decision-making is politically influenced. That is simply untrue. Neither the General Accounting Office not the Inspector General of the Interior Department found that decisions were influenced by political pressure, partisan or otherwise.

Contrary to the thrust of these reports, the federal recognition program is not about gaming. Most of the currently noteworthy petitions were filed well before the Indian Gaming Regulatory Act was passed. I have come to view the program as being primarily about justice.

Those of us who are or have been in positions of authority in Indian affairs have few real opportunities to correct historic wrongs and make lasting improvements in the quality of life for tribal communities. The federal recognition program is one of the few undertakings in which the United States can definitively correct grievous historic wrongs and begin in an immediate way to undo the legacy of the genocidal policies of the past.

I must admit that when I entered government service in 1997, reform of the federal recognition process was not among my priorities. The federal recognition program is, after all, a minor undertaking of the Bureau of Indian Affairs in terms of the budget and personnel assigned to it. However, it soon became clear to me that the Assistant Secretary's decisions on these petitions are a crucial aspect of the overall responsibility of the Department for the execution of federal relations with Indian tribes. Moreover, because of the impact a newly-recognized tribe can have in its home region–that is to say, the impact that casinos can have on communities near the tribes–the federal recognition program had grown into one the most controversial activities of the Bureau.

From the petitioning tribes' perspective, the program is deeply troubled. It is a dense program, requiring an extraordinary amount of research, paperwork, and expense. It is an intrusive program, with its inquiry into, quite literally, the parentage and family backgrounds of hundreds or thousands of members of the petitioning tribes. And above all, it is a very, very slow program. Too many tribes have had petitions pending for more than twenty years. While accuracy and thoroughness are qualities that we all want in government work, I soon concluded that the pace of decision making in the program was indefensible and unacceptable. For petitioners qualifying as tribes, the program's delays deprive them of services and benefits that improve the lives of Indian people. Moreover, even petitioners that do not qualify for recognition deserve as much promptness as possible.

From the perspective of communities potentially affected by the recognition of a tribe in their region, the process allegedly offered too little opportunity for their concerns to be heard. I believe this concern to be somewhat overstated, because those non-Indians who seek to participate in the process and can demonstrate that the decision would affect them are allowed to participate. They are able to meet with staff, both formally and informally; they receive from the Department large amounts of information concerning the petitions; they are perfectly free to file their submissions and present their views; they are given extensions for the preparation of their submissions in opposition to recognition; they can appeal the Assistant Secretary's decisions to the Interior Board of Indian Appeals and the Secretary; and they are able to appeal the Department's final decision to federal court. They receive far more than due process demands.

Still, I believe that some of these non-Indian communities, like the tribal petitioners, have a valid point when they object to the expense of pursuing all of these procedural rights. There is no question that the phenomenon of developers funding tribal petitioners for recognition provides the tribes with resources that the creators of the federal recognition process never anticipated. I wish to be clear that I do not subscribe to the idea that gaming money has led to the recognition of undeserving petitioners. As to the allegations that expensive lobbyists exercise undue influence in the process, my experience was that lobbyists play no meaningful role in the

process of acknowledgment. However, there is little question that the resources that a small minority of petitioning tribes can now devote to the process can seem overwhelming to members of the public who are affected by the recognition process.

These factors led me to take a much deeper interest in the recognition process than I thought that I would when I assumed office. What I found was a deeply problematic and fundamentally flawed program. It was distrusted by its constituent petitioners. It was underfunded and overwhelmed by the broad research tasks it had undertaken and by the need to respond to Freedom of Information Act requests. It was under fire in several federal courts for the delays in the process. It was missing one regulatory deadline after another and making little progress in reducing the large backlog of pending petitions.

On the other hand, I found that some of the accusations against the Branch of Acknowledgment and Research (now the Office of Federal Acknowledgment) were untrue. As mentioned above, I saw no evidence of improper lobbyist influence in BAR or in the office of the Assistant Secretary in the processing of petitions. Further, I saw nothing to indicate that BAR staff harbored any particular hostility or prejudice toward or in favor of any of the petitioners that came before me. And never, not once, did I hear BAR staff express concern about the budget implications for the BIA of recognizing additional tribes. I do not doubt that the work performed by BAR represented the staff's best efforts and honest judgments about the petitions.

Structural Issues with the Federal Acknowledgment Program

As has been well documented, I did not always agree with the judgments and opinions of BAR researchers and the attorneys from the Solicitor's office who advised the BAR. I came to believe that the BAR and its attorneys had been essentially unsupervised for many years and that the Assistant Secretary's office had become little more than a rubber stamp for their recommendations. It is easy to see why this had happened. The length and complexity of the research that BAR conducted can easily overwhelm an Assistant Secretary, who inevitably has many other issues with which he or she must contend. When I first asked to see the technical reports supporting a proposed determination that came before me, BAR supplied nearly a thousand pages of research that it had produced. These "summaries" of the petition were alone overwhelming. There was simply no chance that an Assistant Secretary or his/her staff could or would actually review the several boxes of primary research materials accumulated by BAR to prepare those summaries.

By creating an avalanche of paper, the BAR effectively overwhelmed the office of the Assistant Secretary, and in so doing assumed an inappropriate degree of control over the program. The scholarly literature in Administrative Law refers to this phenomenon as "staff capture," meaning that agency staff essentially defies supervision by political appointees by overwhelming policy makers with information, while the public's access to the policy maker is severely limited. In this respect, the rule in 25 C.F.R. Part 83 that limits access to the Assistant Secretary for agency outsiders during final consideration of the petition gives OFA staff extraordinary power to control the outcome. The Assistant Secretary and his or her staff,

personally unable to plow through thousands of pages of research materials, has no one to turn to for help in discerning which are the key policy and factual issues in any given petition. That being the case, the urge is strong simply to sign off on the OFA recommendation. I grew well acquainted with this problem as proposed and final decisions on petitions were brought to me. To address this problem, I revised the Part 83 regulations to require BAR to present its review of the petition in a format that is more helpful to the Assistant Secretary. While I believe that was a worthwhile effort, more needs to be done.

Another troubling aspect of the program was the phenomenon of analytical tools employed by BAR hardening into rules of law. Two examples make the point. First, when applying the requirement that a tribe demonstrate the "continuous" existence of political influence of tribal leadership over the members, OFA looks to see that such influence existed in each ten-year increment of the tribe's existence. This is unobjectionable as an analytical approach, but it is in my opinion wrong and illegal to apply the "ten-year" approach as a rule of law. BAR maintained that if conclusive proof of political influence was absent during any ten-year period, continuity was broken and the petition had to be denied. I believe that, while the absence of such proof during any given decade might be some evidence of a break in continuity, it is not conclusive and it cannot fairly give rise to a presumption of a break in continuity. It may, for example, only reflect a gap in effective news reporting, record keeping, or record retention, not any actual gap in tribal existence. In my view, for the "ten-year" approach to be hardened into a rule of law, or even permitted to establish a presumption, it must go through notice-and-comment rulemaking under the Administrative Procedures Act, which it did not.

Similarly, BAR had developed a specific approach to evaluating whether the petitioner's membership consists of individuals who descend from a historical Indian tribe." BAR essentially asked whether 85% of a petitioning tribe's membership could prove descendancy. This 85% rule cannot be found in the regulations. While it may be a reasonable means of analysis, it cannot be administered as a rule of law without being subjected to notice-and-comment rulemaking.

Finally, the role of the office of the Solicitor presents difficulty. Certain individuals in the Solicitor's office were drafters of the Part 83 rules; participate in OFA's consideration of the petition; participate in OFA's drafting of recommendations to the Assistant Secretary; compile the administrative record behind each decision; advise the Assistant Secretary directly during his or her review of the petition; help to draft the decisions of the Assistant Secretary; litigate before the IBIA concerning the decision; advise the Secretary during reconsideration of decisions of the Assistant Secretary; and assist in the litigation in federal court that results from the Department's final actions. These individuals have an inappropriate degree of control, direction, and influence in the process. I believe that the work of these attorneys is essentially unsupervised in the Solicitor's office for the same reason that work of the BAR is essentially unsupervised by the Assistant Secretary: the Solicitor and his or her immediate advisors simply do not have the time to master the intricacies of the evidence because of its volume.

S. 297

S. 297 recognizes the problems I describe and contains a number of good ideas to address these problems. I strongly endorse S. 297 and the Committee's ongoing efforts to improve the federal recognition process. I believe that the ultimate weighing of the evidence is the job of the Assistant Secretary, not the OFA. The OFA, to be sure, has a critical role in the process, but it does not have the role of decision maker. Nor is the subject matter of the OFA's work so conceptually difficult that it cannot be questioned by an Assistant Secretary, even one whose primary expertise is outside the social sciences. Indeed, I argue that an Assistant Secretary who happens to be an attorney is better qualified than the OFA to apply the law in Part 83 to the evidence submitted by the petitioner. I believe it is no coincidence that the only Assistant Secretaries who have disagreed with and overruled a BAR/OFA recommendation have all been attorneys.

Moreover, the job of the Assistant Secretary is to bring a broader policy perspective to all of the agency's decision making. Those of us who have served in the office may fairly be called experts in Indian affairs, and most of us had devoted many years of study and professional work to Indian history, Indian culture, Indian politics, and Indian law before assuming office. Thus, there is absolutely no reason why the work of the historians and anthropologists in the OFA should receive any more deference from the Assistant Secretary than does the work of the educators, social workers, peace officers, etc. who advise the Assistant Secretary on other important policy matters.

To be sure that the Assistant Secretary has the resources necessary to review OFA's work, S. 297 would establish an Independent Review and Advisory Board. I believe this to be an excellent solution to the problem of "staff capture" that I described. This independent expertise will go far in helping the Assistant Secretary identify the key factual, legal, and policy issues raised by any given petition and ensure that, with the advice provided by the Board and by comparing the Board's analysis to that of the OFA, the Assistant Secretary will be personally engaged in making those key decisions in each case.

My primary disagreement with BAR staff related specifically to the assignment of weight to specific evidence, the inferences that could fairly be drawn from the evidence, and the degree of certainty about historical facts required by the regulations. I believe that BAR staff, being trained as historians, anthropologists, and genealogists, applied too difficult a standard. I believe they sought near certainty of the facts asserted by petitioners. They dismissed relevant evidence as inconclusive, even though conclusive proof is not required by the regulations. Moreover, BAR staff seemed thoroughly unwilling to give evidence any cumulative effect. While any given piece of evidence might be characterized as weak, for example, many pieces of weak evidence, when considered cumulatively, can make a sound case. I do not believe that the BAR staff were dishonest in their analysis. I do believe that, in accordance with their training, they applied a burden of proof far beyond what is appropriate and far beyond what is permitted by the regulations. The creation of the Board will improve the process by permitting the Assistant Secretary to review the evidence effectively and apply the appropriate standard of review.

The authorization for grants to petitioning tribes and affected communities also will address important problems. Tribes often turn to developers for resources to pursue their petitions because they have little choice. If a tribe declines help from developers, it runs the risk that its resources in pursuing the petition will be inadequate. My experience indicates that the quality of technical assistance and representation provided to petitioning tribes by their consultants and lawyers is uneven. With the additional resources that would become available under this grant program, perhaps the quality of that assistance will improve. Moreover, the grant program will provide a petitioning tribe with a meaningful choice as to whether to seek the assistance of a developer. (I note that such grants are conditioned on a showing of need, and I assume from this that a tribe supported by a developer would be unable to make a showing of need.) While the grant program will not eliminate entirely the influence of developer resources on the process, it will help.

As for grants to affected communities, my support is more reluctant. I understand the need for fairness in the process, and I realize the need for political compromise on legislation of this sort, but I am troubled by the precedent of permitting scarce funds appropriated to the BIA, generally for Indian purposes, to be awarded to non-Indian communities. To the tribes, such a "raid" on BIA funding might be seen as yet another non-Indian misappropriation of resources intended for Indians – the essence of the colonialism that this Congress has decried. However, given that the grants are conditioned on a demonstration of need by the affected community, I believe that the grants may help the process to be more accessible to communities potentially affected by the recognition of tribes.

Another important idea in S. 297 is the definition of the "historical period" for determining the continuity of tribal existence as running from 1900 to the filing of the petition. My experience in evaluating petitions revealed that tribes very often could not provide the kind of documentary evidence BAR wanted for the period from roughly 1870 to 1930. As an Indian person and a scholar of Indian history, I found this unsurprising. As the Chairman well knows, this period was a bleak one for Indians. The United States sought a final solution for the "Indian problem," and that solution was assimilation, a deliberate assault on Indian tribalism. The United States sought to withdraw from its responsibilities to Indian tribes in many circumstances; other tribes suffered from benign neglect or were simply left for the states to deal with. Still other tribes, I believe, adopted a strategy of anonymity, believing it better not to be noticed than to come to the attention of federal and state authorities. Small wonder, then, that documentary evidence of some tribes in this period is sparse.

I believe that the date of 1934 well may be a better starting point. As you know, federal policy shifted radically at that point, and a number of tribal groups re-emerged at that time. Their re-emergence cannot fairly be described as the re-constitution of a community once scattered to the wind. Rather, communities that had long been underground were willing once more to reveal themselves to the light when federal policy toward tribalism became friendlier. BAR's interpretation of evidence in this period was consistently rigid and formalistic, taking little or no account of the larger historical context. I took a more generous approach, refusing to give new life and effect to the policies of an era that can only be called unenlightened.

Suggestions for Amendments

As I have indicated, I would support the enactment of S. 297 in its current form. I would like to propose, however, three possible amendments that would further improve the process.

First, I strongly believe that certain petitioners, which already have been denied recognition, should be permitted another opportunity under the revised process established by this bill. I adopted a policy when I was Assistant Secretary that I would not revisit final determinations of my predecessors in office. While I believe that this was the right policy, I remain troubled to this day that justice was denied to certain tribes, particularly the Miami Tribe. Even some of the petitions I personally acted upon leave me wishing that this revised process had been in effect when I was in office. Into this category I would place the Mowa Choctaw. Finally, I remain convinced that the Chinook Tribe is deserving of federal recognition, and I believe that, if Assistant Secretary McCaleb had the resources provided by this bill available to him when he addressed the Chinook petition, the outcome well may have been different. There may be other tribes, such as the Duwamish and the Muwekma who should be eligible for reconsideration as well.

Second, I believe that fairness in the process will be enhanced by limiting the role of the Division of Indian Affairs in the Office of the Solicitor. I described above the pervasive influence of that division. I believe that such pervasive influence is pernicious to the process. I note that the Independent Review and Advisory Board will have two attorney members, and I believe that is wise. I urge that the Congress go a step further, however, and provide that, when a matter is assigned by the Assistant Secretary to the Board, no attorney from the Division of Indian Affairs be permitted to communicate with the Board. Further, to the extent the Board requires legal assistance from the Department, as it well may, that assistance should come from another division of the Solicitor's office. I suggest that the Division of General Law have this responsibility. Similarly, after the OFA has made its recommendation to the Assistant Secretary on the final determination of a petition, neither OFA nor the Division of Indian Affairs should have any further contact with the Assistant Secretary regarding the petition. In the alternative, Congress should provide that a petitioner must receive notice of the OFA's recommendation to the Assistant Secretary and have one last opportunity to appear before the Assistant Secretary and offer any rebuttal evidence it might wish. These suggestions are offered in order to further reduce the historic inappropriate influence that BAR and the Division of Indian Affairs have asserted over the process.

Third and finally, I suggest that the Committee more broadly address the issue of the significance of continuous state recognition of Indian tribes. While the existing regulations and the bill before the Committee indicate the significance of state recognition as evidence of historic identification of the tribe, I agree wholeheartedly with the Department's position that such continuous state recognition is also evidence of continuity of political influence. In its recent decision on the petition of the Schaghticoke Tribal Nation, the Department held that "the

historically continuous existence of a community recognized throughout its history as a political community by the state and occupying a distinct territory set aside by the state, provides sufficient evidence for continuity of political influence within the community." The proposition is unremarkable; indeed, it is obvious. When a state has maintained a relationship with an Indian group throughout the state's history, and when the group has occupied a state-recognized reservation throughout that time, these facts are evidence of ongoing political organization in the tribe. I support this holding concerning the evidentiary value of state recognition. Indeed, I believe it is the only sensible interpretation of the fact of continuous state recognition.

Mr. Chairman, thank you again for this opportunity to appear before you. I would be pleased to answer any questions the Committee might have.