

**TESTIMONY OF
GEORGE T. SKIBINE
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
ON
S. 546, LITTLE SHELL TRIBE OF CHIPPEWA
INDIANS RESTORATION ACT OF 2011**

APRIL 14, 2011

Good morning, Mr. Chairman and Members of the Committee. My name is George Skibine. I am the Deputy Assistant Secretary for Management – Indian Affairs at the Department of the Interior (Department).

I am here today to provide the Administration’s testimony on S. 546, the Little Shell Tribe of Chippewa Indians Restoration Act of 2011.

The recognition of another sovereign is one of the most solemn and important responsibilities delegated to the Secretary of the Interior. The Department believes that the Federal acknowledgment process allows for the uniform and rigorous review necessary to make an informed decision establishing this important government-to-government relationship. However, we also acknowledge that under the United States Constitution, Congress has the authority to recognize American Indian groups as Indian tribes with a government-to-government relationship with the United States. For this reason, we do not oppose enactment of S. 546.

Background

In 1978, the Department promulgated regulations for the Federal process for groups seeking acknowledgment as Indian tribes. These Departmental regulations are found at Part 83 of Title 25 of the *Code of Federal Regulations* (25 CFR part 83) “Procedures for Establishing that an American Indian Group exists as an Indian Tribe.”

To be acknowledged under the Department’s Part 83 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 satisfied 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 under the Part 83 regulatory process.

The Department's acknowledgment process provides the thorough and deliberate evaluation which must occur before the Department acknowledges a group's tribal status. These decisions must be fact-based, equitable, and thus legally defensible. While Congress may grant recognition to Indian tribes, the Department's position is that legislative action should be reserved for those cases where there is an overriding reason or reasons to bypass the Department's regulatory process.

S. 546, the Little Shell Tribe of Chippewa Indians Restoration Act

S. 546, the Little Shell Tribe of Chippewa Indians Restoration Act of 2011 would acknowledge the Little Shell Tribe of Chippewa Indians of Montana. This group, Petitioner #31 in the Department's Federal acknowledgment process, submitted its letter of intent to the Department in 1978, and completed documenting its petition in 1995. A Final Determination against the federal Acknowledgment of the Little Shell Tribe of Chippewa Indians of Montana was issued on October 27, 2009, and published in the Federal Register on November 3, 2009, 74 Fed Reg. 56861. The decision is not final and effective for the Department because the Little Shell Tribe filed a request for reconsideration before the Interior Board of Indian Appeals (IBIA) on February 1, 2010. All briefings before the IBIA have been completed, and the matter is ready for a decision.

In its Final Determination, the Department denied Federal acknowledgment to the Little Shell Tribe because the evidence showed that the group failed to meet three of the seven mandatory criteria in 25 CFR Part 83. Having been denied acknowledgment as an Indian tribe through the Department's regulatory process, the Little Shell Tribe now has turned to Congress for federal acknowledgement, since there is no other avenue to obtain tribal status. It is the position of the Department that Congress should use its power to recognize American Indian groups through

legislation sparingly, and only in instances where there is an overriding reason to bypass the Department's regulatory process.

In closing, if the Congress chooses to move forward with S. 546, we would like to work with the Committee on clarifying some issues related to the Department's findings.

This concludes my prepared statement. I am happy to answer any questions the Committee may have. Thank you.