

TESTIMONY
OF
KEVIN WASHBURN
ASSISTANT SECRETARY - INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS
HOUSE NATURAL RESOURCES COMMITTEE
U.S. HOUSE OF REPRESENTATIVES
ON
H.R. 872, “THOMASINA E. JORDAN INDIAN TRIBES OF VIRGINIA FEDERAL RECOGNITION ACT
OF 2015.”

SEPTEMBER 29, 2015

Chairman Young, Ranking Member Ruiz, and Members of the Subcommittee, my name is Kevin Washburn and I am the Assistant Secretary for Indian Affairs at the Department of the Interior. Thank you for the opportunity to present the Department of the Interior’s (Department) views on H.R. 872, 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.

The acknowledgment of the continued existence of another sovereign is one of the most solemn and important responsibilities of the United States. Under the United States Constitution, Congress has the authority to recognize a “distinctly Indian community” as an Indian tribe. 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, and recognizes certain legal rights under federal law. The executive branch also has the authority to acknowledge an Indian tribe and this power has been delegated to the Secretary of the Interior to act in appropriate cases.

H.R. 872 would provide 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, all of which have been petitioners in the Department’s Federal acknowledgment process under the 1994 regulations of 25 CFR Part 83. Under those regulations, each of these six groups has submitted a letter of intent and partial documentation to petition for Federal acknowledgment as an Indian tribe. To date, however, none of these petitioning groups has submitted completed documented petitions to demonstrate their ability to meet all seven mandatory criteria.

On July 1, 2015, the Department of the Interior issued a final rule amending 25 CFR Part 83 (2015 regulations). The 2015 regulations became effective on July 31, 2015. The new regulations endeavor to make the acknowledgement process more fair, transparent, flexible and efficient, while preserving the high standards set forth in the longstanding criteria. Despite the reform effort, the Department’s acknowledgment process is a lengthy and time-consuming, primarily because of the desire to have a rigorous process that earns the public trust. Also, on July 1, 2015,

the Department of the Interior published policy guidance which concluded that any group within the contiguous 48 states seeking Federal acknowledgment by the Department must petition under 25 CFR Part 83.

The Department stands ready to review petitions by any of the Virginia petitioners. Given that we are awaiting additional evidence and documented petitions under the 2015 regulations and, therefore, have not concluded our own review as to the merits of acknowledgment for these six groups, we decline to take a position as to the merits of the petitioner's recognition efforts. We have no objection to action by the Congress in using its own authority to acknowledge a group or groups as an Indian tribe.

We note that, on July 8, 2015, the Department of the Interior issued a final determination to acknowledge a Virginia group, the Pamunkey Indian Tribe, as an Indian tribe within the meaning of Federal law. The Pamunkey petitioner submitted more than sufficient evidence to satisfy each of the seven mandatory criteria for acknowledgment set forth in 25 CFR Part 83, and therefore meets the requirements for a government-to-government relationship with the United States. The Pamunkey determination is final and will become effective on October 6, 2015, unless the petitioner or interested party files a request for reconsideration under the 1994 regulations. The Pamunkey Tribe now constitutes the first and only federally-recognized tribe in the Commonwealth of Virginia.

Thank you for the opportunity to present the Department's views on this legislation. I will be happy to answer any questions the Subcommittee may have.