

**Testimony of William Harris
Chief, Catawba Indian Nation
Before the
House Interior Appropriations Subcommittee
FY 2016 Federal Indian Programs Budget
Wednesday, March 25, 2015**

The Curious Case of the Catawba

Appropriations Request: Increased funding for the Interior Solicitor’s Office to allow for expeditious processing of trust applications and related legal review.

Introduction. On behalf of the Catawba Indian Nation, a federally recognized tribe with a congressionally established service area in North Carolina and South Carolina, thank you for this opportunity to testify before the House Interior Appropriations Subcommittee. My name is William Harris. I am the Chief of the Catawba Indian Nation. Our Settlement Act specifically refers to the “policy of the United States to promote tribal self-determination and economic self-sufficiency” and it is about fulfilling this promise of support for economic self-sufficiency that I appear before you today. According to the latest available census data, the Catawba Indian Nation had a per capita income of just \$11,096. The estimated current unemployment rate among the Catawba is more than double that of the state of South Carolina, which itself has very high unemployment. So much work needs to be done.

This Committee has been very welcoming to the Catawba Indian Nation over the last several years and we are very thankful for your assistance in several matters.

It is important to provide some historical context for our request of aid from our long-time ally, the United States:

Did you know that George Washington closely allied with the Catawba both before and during the Revolutionary war?¹

“I am sorry the Catawbas only propose staying one Moon longer, I hope You will be able to prevail with them to stay the Winter. You do well in giving them good Usage, it is also my fix’d Inclination;” (Letter of R. Dinwiddle to George Washington, December 10, 1756)

“Capt. Bullen and Capt. French two Catawbas much esteem’d for their Bravery and steady attachment to our Interest, were kill’d about ten days ago on their way from

¹ Even after the Revolutionary War, the Catawba were a force to be treated with. “This cannot Effect America but in the most advantageous manner, for the force of Germany added to that of Britain when opposed by Russia will not be so Dangerous to America as that of the Catawba Indians.” (Letters of Delegates to Congress, J. Sullivan to J. Wendell, July 17, 1781) Fortunately, the Catawba were closely allied with the young United States!

Winchester to this Camp by the Enemy we got very early notice of it at this place (it happening within 3 Miles) and sent out several Partys to pursue which they did fruitlessly.” (Letter of George Washington to F. Fauquier, September 2, 1758)

“And we are informed that the Indians of the Six Nations, and the Outawas, are coming down Scido-Creek, in order to join the French who are to meet at the Ohio; so I think it would not be amiss to invite the ... Catawbas, and the Chickasaws² to come to our Assistance....” (Letter of George Washington to R. Dinwiddie, April 25, 1754)

“Colo. Peter Randolph & Colo. Byrd are going Commissioners to the Catawbas & Cherokees, with a handsome present to confirm them to our Interest, & to prevail with them to send a Number of their Warriors to our Assistance in the Spring, & I hope they will succeed.” (Letter of R. Dinwiddie to George Washington, December 14, 1755)

“Your Honor spoke of sending some Indians to our assistance, in which no time should be lost, nor means omitted to engage all the Catawbas ... that can possibly be gathered together and immediately dispatched hither. For without Indians to oppose Indians, we may expect but small success.” (Letter of George Washington to R. Dinwiddie, April 24, 1756)

“The French policy in treating with the Indians is so prevalent, that I should not be in the least surprised, were they to engage the ... Catawbas, &c. unless timely and vigorous measures are taken to prevent it.” (George Washington to R. Dinwiddie, October 17, 1755)

“As Colonel Washington is to hold conference with the Catawba Indians, betwixt eleven and twelve o’clock. He desires all the Officers in town to attend at that time. And during the time of conference, he orders a Sergeant and Drummer to beat through the Town, ordering all Soldiers and Towns people to use the Indians civilly and kindly; to avoid giving them liquor, and be cautious what they speak before them: as all of them understand English, and ought not to be affronted.” (George Washington, General Orders, October 28, 1756)

“As the ... Catawba Indians appear to Us well attacht to our Interest We are desirous of preserving Them, therefore endeavor to please & satisfy them. We have furnished them with what could be got here: what is yet wanted and you can procure Please to accommodate them and Send or bring the Accots. thereof –” (Letter of W. Fairfax to George Washington, March 22, 1757).

Did you know that historians credit the Catawba with making the difference at the Battle of King’s Mountain, which is considered the turning of the tide of the American Revolution in favor of the Americans?

“It is interesting to note that this is THE EXACT TRIBE who sided with the Patriots. It is this tribe who supported the Patriots in a roll of the dice gamble to try and create a new

² The Catawba Indian Nation remembers this tie to the Chickasaws as reflected in this letter; a tie that continues today as we appreciate the support the Tribe has received from Congressman Tom Cole.

nation that would change governance on earth away from Monarchies - over to elections. ... Here we have our local battles of **Kings Mountain**, Cowpens and Guilford Courthouse – all victories. Who are the locals that revealed the secrets of the land as warriors and scouts in battle? “The People of the River” by the noted Douglas Summers Brown and “The Indians’ New World” by James Merrell go into great detail about the Catawbas’ services in the Revolution, In Brown’s often cited book, he sums up the Catawbas’ contributions to the entire war effort (page 264): ***“The Catawbas proved highly useful as scouts. But for their friendship, the course of war in South Carolina might have taken another direction. There might have been no victory at King’s Mountain...”*** [Note: King’s Mountain is located on the North Carolina border with the main battlefield just across the border in South Carolina, approximately 30 miles from the current Catawba reservation.]

“In The Winning of the West, Theodore Roosevelt wrote of Kings Mountain, “This brilliant victory marked the turning point of the American Revolution.” Thomas Jefferson called it, “The turn of the tide of success.” Herbert Hoover’s address at Kings Mountain said, “This is a place of inspiring memories. Here less than a thousand men [including the Catawbas], inspired by the urge of freedom, defeated a superior force entrenched in this strategic position. This small band of Patriots turned back a dangerous invasion well designed to separate and dismember the united Colonies.”

Martin CJ Mongiello, MBA, Chief Financial Officer, The American Revolutionary War Living History Center (ARWLHC)

Did you know that the Catawba Indian Nation may be the only tribe that has to pay to send its children to public school? This provision, buried in the Catawba settlement agreement with the state of South Carolina, was thought harmless because the agreement provided that these payments shall be reduced by Impact Aid funds. (Agreement in Principle, §18.10) However, Impact Aid is only available to local educational agencies if the number of federally connected children is at least 400 or 3% of the children in average daily attendance. 20 U.S.C. 7703(b)(1)(B). The Catawba children in the school district number around 100 and are less than 1 % of the population. The result is that the school district charges the Catawba the out-of-county rate and asserts that the Tribe owes the district more than \$2 million, an amount greater than the Tribe’s total liquid assets! The Tribe is working with the district to find a resolution, but it is fundamentally unfair that the Tribe has been hamstrung with this obligation.

Did you know that the Catawba Indian Nation may be the only tribe, or indeed the only entity, that has to pay a tax to a state for business operations even when those operations lose money? The Tribe is required under its agreement to pay the state 10% of all gross revenues on its bingo operations. (Agreement in Principle, §16.4.3). The Tribe thought this was the price for having what the State called a “monopoly”, but subsequently the State lowered its tax rate on other competing commercial bingo operations and started a competing lottery, virtually destroying the Tribe’s advantages and leading to the shutdown 12 years ago of the Tribe’s bingo operation. The Tribe has just recently reestablished those operations. However, the new operation has yet to turn a

profit but the state has received hundreds of thousands of dollars in gross receipts-based payments! How can this be fair?

Did you know that the Catawba Indian Nation, when it gave up its treaty and land claims, negotiated for the right to operate on its reservation those electronic games the State of South Carolina “authorizes” but when the Tribe sought to do so the South Carolina Supreme Court ruled “No” and local law enforcement threatened to raid the Tribe if the Tribe sought to exercise this right? The Tribe’s settlement agreement with South Carolina expressly allows the tribe to operate electronic play devices on our reservation “to the same extent that the devices are authorized by State law” (Agreement in Principle, § 16.8). A few years ago, the State legislature authorized casino cruise ship gambling, with ships operating out of South Carolina ports, the State exercising police power over the ships and the counties taxing the revenues. Of course, South Carolina companies are involved in the gaming operations and South Carolina citizens are the principal patrons of these gaming operations. Despite a clear South Carolina policy to allow and regulate this activity, the South Carolina Supreme Court ruled that this is not the same as “authorizing” electronic play devices within the meaning of the agreement with the Tribe.

Did you know that the Catawba Indian Nation settled land- and treaty-based claims in both North Carolina and South Carolina for the right to a 4,200 acre reservation, but only has a 1,006 acre reservation? The Tribe settled any and all land- and treaty-based claims we had in North Carolina and South Carolina for the promise of a reservation of up to 4,200 acres. Twenty years later, our reservation is only 1,006 acres and our ability to add further lands has largely been thwarted by a combination of state and local action, as well as private party action that greatly inhibits the Tribe from acquiring lands or from acquiring it at a reasonable price.

Today, the Tribe seeks to place land into trust within its congressionally established service area at King’s Mountain, North Carolina (site of the famous battle referenced above), about 30 miles from the current reservation. However, the processing of this application has been delayed, in part, due to a lack of resources within the Interior Solicitor’s office, which conducts legal reviews of BIA land into trust applications.

We urge this Subcommittee to:

- provide additional funding to the Interior Solicitor’s Office; and
- encourage the Department of the Interior to expedite a positive determination on the Tribe’s land into trust application.

Conclusion. I thank you for this opportunity to talk about the needs of the Catawba Indian Nation. Your support for our people and, indeed, for all Native peoples is greatly appreciated and truly in the best traditions of the government-to-government relationship.