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TESTIMONY OF CHIEF W. FRANK ADAMS, UPPER MATTAPONI TRIBE, TO THE HOUSE INTERIOR APPROPRIATIONS SUBCOMMITTEE

Introduction

My name is W. Frank Adams, and I am the Chief of the Upper Mattaponi Tribe. In January 2018, Congress enacted a law extending federal recognition to six Indian tribes located in the boundaries of the State of Virginia including the Upper Mattaponi Tribe. Our ancestors were the first people to encounter Europeans in North America. We have endured centuries of hardships at the hands of multiple sovereigns including the State of Virginia, but we never gave up in our fight for official recognition of the Tribes.

Last year, the Upper Mattaponi Tribe adopted a new Constitution that includes a judicial branch of government. We have confirmed three highly qualified justices to the Tribe high Court. The Tribe also recently acquired its first Reservation trust land. The requirement to govern the Tribe's territory and people in a fair and just manner is now a reality for the Tribe.

Statement of the Issue: Denial of Federal Funds for Judicial Services

The Upper Mattaponi Tribe, and all the other newly-recognized Tribes in Virginia, have been denied federal funding for judicial services – funding that is available to all other Indian tribes in the United States – simply because the date of the Tribe's recognition is more recent

than other tribes that were federally-recognized years ago. Federal law requires federal agencies to treat all tribes in an equal manner, regardless of the date of federal recognition, including providing judicial services funds on an equitable basis. As a federally-recognized Indian tribe, the Upper Mattaponi is entitled to its share of federal funding for judicial services, and the Congress should appropriate funds for such purposes to the Eastern Region of the Bureau of Indian Affairs (“BIA”).

Testimony

The date of a tribe’s federal recognition should not dictate whether or not a tribe receives funding from the BIA. Federal law requires the BIA to treat all federally-recognized Tribes in an equal manner regardless of the date of federal recognition of the tribe. The Upper Mattaponi Tribe, as well as the other tribes located within Virginia, are entitled to receive those BIA judicial services funds provided to other tribes.

Law – Equal Footing (Indian Reorganization Act)

All federally-recognized Indian tribes, like all recognized U.S. states, are on an equal footing. Federal law requires federal agencies to treat all tribes on an equal basis and on equal footing. For example, the State of Hawaii is treated the same as the State of Delaware even though Delaware is the 1st state and Hawaii is the 50th state.

Federal law makes no distinction between *earlier*-recognized tribes and *later*-recognized tribes, *i.e.*, once a tribe is federally-recognized, the exact date of such recognition is rendered moot. In fact, Congress enacted the 1994 amendment to the Indian Reorganization Act (“IRA”)

to require all existing federal regulations, and all new federal regulations, to treat tribes on an equal footing basis. The IRA, at 25 USC §1523(f) and (g), states:

(f) **PRIVILEGES AND IMMUNITIES OF INDIAN TRIBES; PROHIBITION ON NEW REGULATIONS.**—Departments or agencies of the United States shall not promulgate any regulation or make any decision or determination pursuant to the Act of June 18, 1934 1 (25 U.S.C. 461 et seq., 48 Stat. 984) as amended, or any other Act of Congress, with respect to a federally recognized Indian tribe that classifies, enhances, or diminishes the privileges and immunities available to the Indian tribe relative to other federally recognized tribes by virtue of their status as Indian tribes.

(g) **PRIVILEGES AND IMMUNITIES OF INDIAN TRIBES; EXISTING REGULATIONS.**—Any regulation or administrative decision or determination of a department or agency of the United States that is in existence or effect on the date of enactment of this Act and that classifies, enhances, or diminishes the privileges and immunities available to a federally recognized Indian tribe relative to the privileges and immunities available to other federally recognized tribes by virtue of their status as Indian tribes shall have no force or effect. (Emphasis added).

Federal law is clear. A federally-recognized Indian tribe must be afforded the same privileges and immunities as other federally-recognized tribes. Federal agencies, including the BIA, cannot grant privileges to one tribe while denying the same privilege to another tribe.

Tribe’s Request For Judicial Services Funds and BIA’s Response Denying Tribe’s Request

On September 21, 2023, the Upper Mattaponi Tribe requested 638-Self Determination Act funding from the BIA for the Tribe’s new judicial branch of government. On December 18, 2023, after returning and redirecting the Tribe’s request for annual judicial services funding to another BIA department, the Tribe submitted its *third* request and application for 638-contract funding for judicial services.

In a January 4, 2024, letter to the Tribe, the BIA Eastern Regional Office denied the Tribe’s request for Self-determination Act funding because the BIA Eastern Region, *unlike other*

BIA Regions, "...does not have a Tribal Court Program" and has "...no Tribal Court Funding".

The BIA Eastern Regional Office directed the Tribe to request an appropriation of additional funds to the BIA, specifically to the BIA Eastern Region, for judicial services programs for tribes in the Region.

Conclusion

The Upper Mattaponi is a federally-recognized Tribe eligible for federal programs and services like other federally-recognized Indian tribes, including funds to assist with the operation of the Tribe's judicial branch of government. Recently, the BIA denied the Tribe federal funds for its judicial branch of government simply because the federal government extended federal recognition to the tribe more recently, and that no funds had been appropriated for the BIA Eastern Region for such purposes.

The Upper Mattaponi Tribe spent many decades to achieve federal recognition as an Indian tribe. The Tribe should not have to continue to fight for programs and services that are afforded to other Indian tribes, as we have the same needs for judicial services for the protection of our lands and people.