

**Natural Resources Committee  
Subcommittee for Indigenous Peoples of the United States  
Legislative Hearing on H.R. 1964, To Provide for the Recognition of the  
Lumbee Tribe of North Carolina, and for Other Purposes**

**Written Responses to Questions for the Record  
Richard Sneed, Principal Chief, Eastern Band of Cherokee Indians**

**December 18, 2019**

**Questions from Chairman Grijalva**

*You testified that all thirty of the United South and Eastern Tribes, Inc. (USET) members oppose federal recognition for the Lumbee Tribe through legislative action. The Committee, however, has received four letters or resolutions from USET member tribes supporting Lumbee Recognition Act through H.R. 1964. You also acknowledged in your testimony that Congress has the authority under the United States Constitution to extend the federal government-to-government relationship to tribes.*

1. *Can you confirm that the Eastern Band of Cherokee Indians was also recognized through federal legislation, not through the Department of the Interior's Federal Acknowledgement Process?*

**Answer:** As an elected leader of a federally recognized Tribe—that had treaty relations with the United States and separate acknowledgment as a tribe over a century before the creation of the Federal Recognition Process—I am concerned that the Committee is not taking seriously the concerns I have raised regarding the appropriation of my Tribe's identity, culture, and sovereignty. You may have accepted the false social justice narrative put forth by the Lumbees and dismissed our concerns about identity shopping and appropriation, but, as an elected member of the U.S. House of Representatives, you have a trust and moral obligation to treat elected leaders of my Tribe with respect.

So often, this Committee has risen above partisan politics and respected the voices of tribal leaders—but that was not the case at the December 4, 2019 legislative hearing on H.R. 1964, and it is not the case with these Questions for the Record. Rather, the Committee has elected to play a game of “gotcha” with these questions, instead of taking this as an opportunity to ask questions designed to learn information you do not already know, or gain a better understanding of how it harms my Tribe when groups of people attempt to claim and use our identity, culture, and sovereignty to gain federal recognition.

Indeed, this Committee appears to have already made up its mind before the hearing ever occurred, and before the Eastern Band of Cherokee Indians had an opportunity to provide its historically accurate and verified views, thereby sanctioning the continued cultural appropriation of Cherokee identity. On December 3, 2019, on the House Committee on Natural Resources: Democrats' Facebook page, the majority posted that “The state already recognizes the Lumbee

community as a sovereign tribe, and Congress should do the same.” The post was repeated the following day, prior to the Subcommittee’s hearing.

To be clear, I did not say “that all thirty of the United South and Eastern Tribes, Inc. (USET) members oppose federal recognition for the Lumbee Tribe through legislative action.” Rather, I said, “You may wonder why the Eastern Band and the thirty-member United South and Eastern Tribes (USET) care enough about this bill to express our opposition.” Thus, I did not represent that all thirty USET members oppose recognition of the Lumbee through legislative action, but that the USET organization as a whole—which consists of thirty member tribes—opposes the bill. My statement with regard to USET is supported by the letter of opposition USET submitted for the record and is available to you for your consideration. I see the point you are making by mischaracterizing my statement and calling into question the veracity of my testimony. But again, as an elected leader of a federally recognized tribe, I question whether it is appropriate to use the QFR process to do so. You have the resolution from the thirty-member tribal organization opposing Lumbee recognition in your possession, and you also have the letters you mention from a few individual member tribes who take the opposite position than the organization on the whole. As a Member of Congress, it is up to you to decide how much weight you will attribute to the resolution versus the letters, and I believe you can do so without launching petty attacks on any tribal leaders.

Furthermore, the question about the Eastern Band’s congressional recognition suggests that the Committee knows more about the legitimacy of a group that claimed to be Cherokee for forty years than the Cherokees whose ancestors walked the Trail of Tears and have resided in what is now North Carolina since time immemorial.

The Eastern Band of Cherokee Indians was recognized by the Act of July 27, 1868, following the Trail of Tears— when the United States forcibly removed fifteen thousand Cherokees from Cherokee aboriginal lands, resulting in approximately 4,000 Cherokee deaths, a quarter of all Cherokee citizens. At that point, we had signed several treaties with your nation, and there was no question as to our identity or the fact that our sovereign government pre-dated the creation of yours. To compare Eastern Band of Cherokee Indians’ path to federal recognition to that of the Lumbees is to compare apples to oranges.

In the 1868 Act, Congress determined that “the secretary of the interior shall cause the commissioner of Indian affairs to take the same supervisory charge of the Eastern or North Carolina Cherokees as of other tribes of Indians.” Indeed, Congress “repeatedly, since the treaty of New Echota, recognized the Eastern Band of Cherokee Indians as [] distinct . . . Cherokee[], and [] dealt with them, not as individuals, but as a band distinctive in character, dependent on the United States, and entitled to the aid and protection of the general government.” *United States v. Boyd*, 83 F. 547, 554 (4th Cir. 1897).

In 1834, prior to the Trail of Tears and the division of the historic Cherokee Nation, the North Carolina State Legislature lamented over the presence of Indians in the state, acknowledging only the presence of Cherokee, *not the Lumbee*.<sup>1</sup>

Furthermore, Eastern Band of Cherokee Indians, as a part of the historic, pre-removal Cherokee Nation, entered no fewer than three treaties with the United States prior to the Trail of Tears. And, Cherokee presence at the site of the contemporary Eastern Band of Cherokee Indians in the Great Smoky Mountains is documented dating back thousands of years.<sup>2</sup>

The Eastern Band of Cherokee Indians has never had to rely on the advice of academics to tell them who we are, what our language is, and what our customs and traditions are. To the contrary, the Lumbee do not claim to be a historic tribe in the bill before Congress, or in the 1956 Act. The problem with this lack of connection to an identifiable historic tribe is that while Congress does have plenary authority over tribal matters, it does not mean “that Congress may bring a community or body of people within the range of this power by arbitrarily calling them an Indian tribe.” *United States v. Sandoval*, 231 U.S. 28, 46 (1913).

2. *Can you also confirm that nearly half (thirteen) of USET member tribes also received federal recognition through federal legislation, whereas only nine USET members were acknowledged through the Department of the Interior’s Federal Acknowledgement Process?*

**Answer:** The Eastern Band of Cherokee Indians, along with the three other founding members of USET—the Mississippi Band of Choctaw Indians, the Seminole Tribe of Florida and the Miccosukee Tribe of Indians of Florida—endured well-documented hardships for hundreds of years for the sake of staying in our aboriginal lands, protecting our language and preserving our culture. The efforts of our ancestors to resist assimilation and acculturation led to the recognition of our Tribes over a century before an administrative recognition process existed. Furthermore, it is worth noting that no other USET tribe has wrongfully claimed to be a legitimate Cherokee government in order to achieve federal recognition.

---

<sup>1</sup> *Report and Resolution of a Joint Committee of the Legislature of North Carolina, relative to the Cherokee Indians* (Jan. 27, 1834) (“The United States, acknowledging the rights of North Carolina, and yielding to her just claims, attempted, by the treaties of 1817 and 1819, with the Cherokee tribe of Indians, to extinguish their title to all the land Within the limits of this State. This attempt proving abortive, by a mistake in describing the territory intended to be surrendered by the Indians, the language of the treaties leaves little doubt of the intention of the contracting parties to extinguish the Indian title to all the lands within this State, but the application of a technical rule produces the difficulty. . . . The extinguishment of the Indian title to this district of country, and the removal of this unfortunate race beyond the Mississippi, is of momentous importance to the interest of this State. The fertility of the soil, the extent and value of territory, are sufficient inducements to urge the extinguishment of the Indian title, especially as we think we have just claims on the General Government. These are not the only inducements. The red men are not within the pales of civilization; they are not under the restraints of morality, nor the influence of religion, and they are always disagreeable and dangerous neighbors to a civilized people. The proximity of those red men to our white population, subjects the latter to depredations and annoyances, and is a source of perpetual and mutual irritation.”).

<sup>2</sup> Andrew L. Yarrow, *In the Land of the Cherokee*, NYT (Sept. 30, 1984), <https://www.nytimes.com/1984/09/30/travel/in-the-land-of-the-chokeee.html>.

The irony of the present bill is that the Lumbee group is actively engaged in efforts to stymie the voices of those seeking state recognition in North Carolina, claiming that at least one group does not descend from the historic Tuscarora, but rather, is a faction of the 1956 Lumbee. That is, the Lumbee seem to view their modern, academic-ordained identity as more legitimate than a claim to an actual historic tribe.