

**TESTIMONY FOR THE
RECORD BY THE
HICKORY GROUND TRIBAL TOWN OF THE
MUSCOGEE (CREEK) NATION**

**George Thompson, Mekko of Hickory Ground Tribal
Town**

**Provided to the
Subcommittee on Indigenous Peoples of the United
States 1324 Longworth House Office Building
Washington, D.C., 20515**

**Legislative Hearing on H.R. 1884 (Rep. Raúl Grijalva) (To repeal section 3003 of
the Carl Levin and Howard P. “Buck” McKeon National Defense Authorization
Act for Fiscal Year 2015, and for other purposes).**

April 21, 2021

On behalf of the Hickory Ground (Oce Vpofa) Tribal Town, I am honored to provide this testimony in support of the Save Oak Flat Act (H.R. 1884). My name is George Thompson. I have been the Oce Vpofa Mekko (Hickory Ground Chief)—my lifetime position—for over 50 years. As the chief of one of the Muscogee (Creek) Nation’s oldest ceremonial grounds—a chief who has seen his ancestors unearthed and ancient ceremonial grounds desecrated—I strongly support Congressional protection of sacred places, including Oak Flat.

It is my understanding that Oak Flat has been an important cultural site for nine tribes in Arizona since time immemorial. If the land exchange legislation is not repealed, Oak Flat will be transferred into private ownership and control of Resolution Copper. Resolution Copper intends to develop a massive copper mine that will destroy these tribes’ sacred site. These actions would violate the religious freedoms of the tribes—freedoms protected under the First Amendment to the United States Constitution, the American Indian Religious Freedom Act (42 U.S.C. § 1996), and the Religious Freedom Restoration Act (42 U.S.C. § 2000bb-2000bb-4).

Although the importance of religious liberty has been acknowledged by the United States since its inception, the United States has not treated tribal religious and cultural practices on par with the religious liberties of other citizens of this country. As Felix Cohen (known as “the Blackstone of Federal Indian Law”) famously said:

the Indian plays much the same role in our American society that the Jews played in Germany. Like the miner's canary, the Indian marks the shifts from fresh air to poison gas in our political atmosphere; and our treatment of Indians, even more than our treatment of other minorities, reflects the rise and fall in our democratic faith.

Felix S. Cohen, *The Erosion of Indian Rights*, 62 *YALE L.J.* 348, 390 (1953). It is past time for Congress to rectify the wrongs of the past. Passing the Save Oak Flat Act is one step Congress can make towards achieving this goal.

I have personally experienced the pain wrought by the federal government's failure to protect tribal religions and sacred places. This is a pain I share with the ceremonial grounds members of Hickory Ground, and with the citizens of the Muscogee (Creek) Nation. I share the story of our pain with you today to emphasize the importance of protecting sacred places like Oak Flat.

It was only four chiefs ago that our people sat at our traditional ceremonial grounds in our homelands: the original Hickory Ground, located in what is now Wetumpka, Alabama. This was the beginning of our people and our traditional home. The chiefs that came before me shepherded generations of young Muscogee (Creeks) to know their heritage, their culture, and the special place that was Hickory Ground. Hickory Ground was the wellspring of our lives and our loves: it was our identity and our homeland. Indeed, Hickory Ground was the last tribal capital of the Muscogee (Creek) Nation before we were forcibly removed from our home.

In the 1830s, the United States government forced us to relocate to Oklahoma along the Trail of Tears. We lost thousands of our people in this Road to Misery (Nene Estemerkv) to Indian Territory, now known as Oklahoma. But our people survived. Our ceremonial fires still burn today. Despite the death and chaos wrought by removal, we gathered the ashes of our fires from our ceremonial grounds in our homelands, and we transported them safely to the foreign lands of Indian Territory.

Today, the Muscogee (Creek) Nation is the fourth largest tribe in the country, with over 90,000 tribal citizens. Despite our removal from the southeast, we remain connected to our homelands and to our sacred places in our homelands. Our lifeblood remains in the southeast along with generations of our ancestors whose final resting places mark our place in the world and way of life.

Like Oak Flat, Hickory Ground is listed on the National Register of Historic Places. Hickory Ground was placed on the National Register of Historic Places in 1980, after the Poarch Band of Creek Indians obtained the Site using federal preservation grant funds. In its application for these funds, the Poarch Band stated that its purpose in acquiring the Hickory Ground Site was to preserve the historic property for the benefit of all Creek Indians, including the "existing Hickory Ground tribal town in Oklahoma," and to preserve the Site "without excavation." The Poarch Band promised that its acquisition of the Site "will prevent development on the property," and emphasized that "[t]here is still an existing Hickory Ground tribal town in Oklahoma" who "will be pleased to know their home in Alabama is being preserved."

Upon the Poarch Band's acquisition of Hickory Ground, a 20-year protective covenant was placed on the Site. In 1985, the United States took Hickory Ground into trust for the benefit of the Poarch Band. In 1999, one year before the protective covenant expired—and without consulting with or notifying the Muscogee (Creek) Nation—the National Park Service delegated its historic preservation responsibilities over Hickory Ground to the Poarch Band.

After the expiration of the protective covenant, and despite an archaeologist's warning

that “it is virtually impossible to undertake any construction activities without a high probability of seriously damaging the many irreplaceable archaeological deposits, artifacts, and human graves remaining at Hickory Ground,” the Poarch Band began a years-long excavation of Hickory Ground to make way for its second casino. Although they were required to ensure that the Muscogee (Creek) Nation was consulted before any such action took place on the Nation’s sacred site, the National Park Service and Department of the Interior failed to even notify the Nation of the desecration of its last tribal capital.

More than 57 of our ancestors were exhumed during the excavation. The federal agencies involved not only failed to consult with the Muscogee (Creek) Nation, they approved archaeological permits allowing the excavation to move forward *without so much as notifying* the Muscogee (Creek) Nation or the lineal descendants of those buried at Hickory Ground, who are members of the modern-day Hickory Ground Tribal Town in Oklahoma.

There are no words to describe the shock, horror, and heartbreak that my community and I felt when we learned of the desecration of Hickory Ground. We arranged travel to Alabama to see for ourselves whether what we heard could possibly be true. Our children wept at the site of bulldozers and dirt piles where our ancestors once laid in peace. We were overwhelmed by a sense of irreparable loss and hopelessness. We are bound by our religion to protect our ancestors and keep them at peace. We felt unbearable anguish knowing that we had failed in this duty, and that those whom we trusted—our federal “trustees”—had enabled this to happen.

No one should have to feel this anguish. The federal government must protect Indian religion on par with others’ religion. In the famous words of Justice Harlan, “Our constitution is colorblind, and neither knows nor tolerates classes among citizens.” Passage of the Save Oak Flat Act is an important step Congress can take towards this goal. Congress should also consider broader measures to protect Indian religion and culture so that no tribal leader or tribal citizen experiences what we experienced with the desecration of Hickory Ground.