

used, but that is the number that I have heard. I would say a vast majority of the Western Shoshone members. I mean, 90 percent is probably fairly accurate.

Mr. Tom Udall. Can you give the Committee any documentation of that? Is there any evidence of that other than in several resolutions? There is no certified elections? I mean, what is there for the Committee to rely on to show that there is this kind of, as you put it, overwhelming or the 90 percent figure that has been used by the Chairman, what is there to show that?

Mr. Olsen. We will certainly provide, be more than happy to provide whatever we have to the Committee that demonstrates the support, absolutely.

Mr. Tom Udall. Well, I would very much like to see this kind of evidence, and please, Mr. Chairman, if it is acceptable, have it submitted for the record.

My understanding, there are about 6,000-plus members, something in--

Mr. Olsen. Yes, 6,000-plus who would be eligible for the distribution.

Mr. Tom Udall. And 1,500 voted for it? Is that right?

Mr. Olsen. That is, I believe, the number.

Mr. Tom Udall. Then how do we get to 90 percent and overwhelming if we--that is only one-quarter.

Mr. Olsen. Well, as I am being advised here, the 6,000 also includes minor children.

Mr. Tom Udall. So do you know the figure for the 6,000-plus for adults that would be eligible to vote?

Mr. Olsen. I don't. I don't.

Mr. Gibbons. Mr. Udall, would you yield to me to answer the question?

Mr. Tom Udall. Well, I would like them to answer the question, actually, because I think that is who normally certifies an election by a tribe, the Bureau of Indian Affairs and the Interior Department, if they are able to answer. No disrespect at all to you, Mr. Gibbons, but--

Mr. Olsen. I am unable to answer that question, I don't know what the percentage of voting adults--

Mr. Tom Udall. Are you able to answer?

Ms. West. First of all, I would like to clarify that most elections are not--tribal elections are not certified by the Bureau of Indian Affairs. They are certified by the tribes themselves. The only elections that we certify are those that are required to be certified within the tribal governing document. This is not the type of election that the Secretary had the authority or the requirement to certify.

Mr. Tom Udall. Is the Interior Department committed to begin negotiation with the Western Shoshone Nation to establish a culturally and economically adequate land base for all Federally recognized Western Shoshone tribal governments and communities?

Mr. Olsen. If that is something that the Committee wanted to pursue, I am sure that we would be more than happy to participate and provide support and assist in that.

Mr. Tom Udall. Is it accurate to say that--the Federally recognized Shoshone tribes in Nevada currently hold a total of about 24,000 acres of Indian trust land. This is less than one one-hundredth of the Western Shoshone ancestral lands. Is that fair to say that?

Mr. Olsen. I believe that 24,000 acres is the correct figure of trust land.

Mr. Tom Udall. And is it the position of the Interior Department that they should have more land to have an economically viable land base?

Mr. Olsen. On that I cannot say that that is the position of the Department of the Interior.

Mr. Tom Udall. And, Mr. Gibbons, Mr. Chairman, if I have time, I will be happy to yield to you to insert anything in the record that you would like to have in there.

Mr. Gibbons. That is all right, Mr. Udall. I think the answer was adequately given before. But I did notice your time is up.

Mr. Baca?

Mr. Baca. Thank you very much, Mr. Chairman.

I guess I have one question. Have the Western Shoshone Indians expressed any opposition to this measure?

Mr. Olson. Have Western Shoshone people expressed opposition?

Mr. Baca. Yes.

Mr. Olson. I am sorry, I am not hearing very well. Yes, there have been tribal members, Western Shoshone people, who have expressed opposition.

Mr. Baca. And what do you think the consequences of that will be?

Mr. Olson. The consequence of their--

Mr. Baca. The opposition right now. Is there any formal agreements that they can--

Mr. Olson. I am not aware of any formal agreement. I think it depends on what the community decides to do with the legislation.

Mr. Baca. Will the funds improve the economic conditions of the Western Shoshone Indians?

Mr. Olson. I am assuming that it would. A \$10,000 payment to each eligible member, I think the feeling is that, yes, it would improve the economic condition. That is why I think there is a desire for this to move forward. This money has been sitting. The Western Shoshone people are entitled to it. It is their money. And I think the feeling is that, yes, it would improve the economic condition. It is their money, and they should receive it.

Mr. Baca. What are the current conditions right now?

Mr. Olson. I can't speak specifically. I have not visited the area. But my understanding is the vast--well, a good portion of the people are living in poverty, that it is--suffer some. It is a desperate situation.

Mr. Baca. Well, it is something that I would support. I believe when you look at sovereign countries and you look at Native--we have not given enough, even from what we have done--we have always taken, and it seems like we have the right to give back not only for sovereignty but to improve conditions in education, health, road conditions, tribal pride, tribal respect, and give them back a portion of the land. I think it is what we have done; we have taken the land away. It is time that we give it back as well. And that is toward any Native American Indian that we have in this country. Hopefully, if we have hearings, we will produce and we begin to identify and to give back to Native Americans, because they truly are the first people in this country and should be recognized as contributors. And I think we have an obligation to improve conditions within each of the reservations as well, and we should not rely on giving of others, but also as part of our responsibilities to make sure that conditions are improved and they have the same rights that anybody else. Because when we talk about leave no child behind, that means in our reservations and other places as well, from both educational, technology, health improvements. So hopefully we will work along those areas and that we as individuals can all come together in a bipartisan and again support our Native Americans who are truly in a lot of these conditions that are very poor conditions. And I think it is our responsibility to do whatever we can to make conditions a lot better.

Thank you, Mr. Chairman.

Mr. Gibbons. Thank you, Mr. Baca. Just for the Committee's record, this bill deals only with the distribution of an account which was a judgment from a court to the tribes, and without this distribution, of course, this money sits in that account growing interest, helps no one, has not helped anyone

for more than 20 years. And the purpose of this bill is not to adjudicate the validity of anybody's claim on the land, but to distribute the funds that are in this account.

We all agree with your comments, and we agree with the status of our Native Americans and needs of those individuals. But this bill does not deal with that.

Right now, since we have finished discussion and all members have questioned this panel, I would like to dismiss this panel and call up the second panel.

Mr. Gibbons. The second panel is Mr. Leon D. Jones, Principal Chief, Eastern Band of Cherokee Indians; Cory Matthew Blankenship, Eastern Band of Cherokee Indians; Don Barger, Senior Regional District Representative, National Parks Conservation Association.

Gentlemen, while we are getting prepared, we have a custom in this Committee to swear you in, so if you would all rise and raise your right hands?

[Witnesses sworn.]

Mr. Gibbons. Let the record reflect that each of the individuals testifying before us today has responded in the affirmative, and I would turn to my friend, Mr. Jones, for an introduction of the witnesses.

Mr. Jones of North Carolina. Mr. Chairman, on behalf of Congressman Charles Taylor, I am delighted to introduce Chief Leon Jones and Cory Blankenship, and I will be very brief in the introduction.

Chief Jones is the Principal Chief of the Eastern Band of Cherokee Indians based in Cherokee, North Carolina. He served as tribal court judge and council member before serving as chief, the only person to serve in all three branches of Eastern Cherokee government. Also, Chief Leon Jones is a 26-year veteran of the military, both Air Force and the United States Marine Corps. We welcome you, sir.

Cory Blankenship is a recent graduate of Cherokee High School and a product of the Cherokee school system. He will attend NC State in Raleigh, North Carolina, on a 4-year academic scholarship, and is a long-time advocate of the land exchange, and I welcome both these gentlemen to the Committee.

Mr. Gibbons. Thank you very much, Mr. Jones.

We will begin now with the testimony of Chief Leon Jones. You are welcome to the Committee. The floor is yours. We look forward to your testimony, Chief Jones.

STATEMENT OF LEON D. JONES, PRINCIPAL CHIEF,
EASTERN BAND OF CHEROKEE INDIANS

Mr. Leon Jones. Thank you, Mr. Chairman. Mr. Chairman, my name is Leon Jones. I do have the honor of being the chief of the Eastern Band of Cherokee Indians in North Carolina.

Mr. Pombo, Ranking Member Mr. Kildoe--I am a little nervous, as you can probably understand--members of the Resource Committee, and other distinguished Members of Congress, thanks for this opportunity to be here.

I have a prepared statement. However, everything that is in my prepared statement has been said. There is no need for me going back over things you have already heard and repeating. I am going to hit a couple of high points and then talk from my heart, if you don't mind, sir.

This is very important not only to the Eastern Band of Cherokee Indians but the entire nation. As has been said by our President and by each one of us as we campaigned for office, education is our highest priority, to educate our children, leave no child behind. Our President says that and so do I. I have committed myself to that.

The land under consideration is tremendously important. It is important to the future of my tribe, and it is important to the future of the United States because we do want to educate every child we have.

The land under consideration, the Yellow Face, or Waterrock Knob, is a piece of property that was pointed out by the park as one that they desired, one that would be of benefit for them. We reacquired that piece of property, and we are now ready to make the exchange.

We have some pictures. We have pictures of the view of how beautiful Waterrock Knob is. You will see them right here. And this piece of property is in danger because--has been in danger because the properties on both sides of it have been bulldozed and house sites have been prepared.

This is the view from the Blue Ridge Parkway, one that the Blue Ridge Parkway was designed to protect, and we want to help the Blue Ridge Parkway to protect this property.

Seventy-five years ago, the property that we are asking for was a lumber mill. You can see that on my right. It is not pristine property. This property here is 218 acres of very pristine property. It has water on it. It has endangered species on it, Federally endangered species. Those species need to be protected.

Conversely, the piece there that you see has been disturbed greatly. It is the ancestral lands of the Eastern Band of Cherokee Indians. That has been proven through archaeological studies. We now want to use it for schools to educate our children. This piece of property was supposed to be returned to my tribe back in 1940 when the Blue Ridge Parkway was built. For some reason, when it reached Congress, this piece of property was taken out of the legislation and not returned to us. The money was given to us to buy it, and then we were not allowed to. So we feel that this property is our ancestral lands, and we feel that we should have it back. We need it for our children. We want to build three schools: an elementary, a middle school, and a high school. Having all three schools together will help us teach our native language along with a modern curriculum.

We do it in a multi-age, communal setting that is consistent with our culture. The vision will replace the dilapidated, overcrowded, and dangerous schools that the Government built for us years ago and that we still use. You have seen some of the pictures of the schools in the poor condition that they are in.

To address the Park Service concerns, we have already spent over \$1.5 million on environmental and archaeological studies. We have designed and redesigned the site plan to minimize any impact. We have changed the footprint of this school to miss things that were very important. The current site plan preserves the views from the Blue Ridge Parkway. It provides a buffer around the wetlands next to the exchange tract. It avoids any impact on 12 of the 14 archaeological sites found on this property. And it calls for approximately \$3 million of careful research for the two sites in the construction area.

We have taken all the steps to preserve and to do a fair exchange. The land that we want to exchange is the highest piece of property owned by a person east of the Mississippi, highest piece of pristine land in the United States--or east of the Mississippi, I should say. We have purchased it. The option on the property was about to run out. We went ahead and purchased it so that we could exchange it for this piece of property.

The most important thing for me, ladies and gentlemen, is the children and the future of this tribe. The future of this tribe, like the future of the United States, depends on educating our people in the highest and best way that we know how, and that is exactly what we want to do.

Before I close, I want to thank the National Park Service Director Fran Mainella and the people working with her in the Interior Department for dealing in good faith with the Eastern Band over the last 4 years. Although we have not always found agreement on every issue, they have demonstrated a willingness

to work through the issues, and in many cases, we have become friends.

Chairman Pombo and members of this Committee, the Eastern Band of Cherokee Indians has the resources to make this vision a reality. You can make it possible. Please help us as we strive to leave no child behind. Help us to protect our unique culture, our unique heritage, our language, and our identity. For the benefit of the Cherokee people and the American public, we respectfully ask that you support our land exchange.

Thank you, ladies and gentlemen.

[The prepared statement of Leon Jones follows:]

Statement of Principal Chief Leon Jones,
Eastern Band of Cherokee Indians, on H.R. 1409

Chairman Pombo, Ranking Member Rahall, Members of the Resources Committee and other distinguished Members of Congress, thank you for the opportunity to speak today.

I come before you to speak about an important issue--perhaps the most important issue--facing our two Nations, the United States and the Eastern Band of Cherokee. That is the education of our children. Our Nations cannot be strong without well-educated members. President Bush and this Congress have pledged to "leave no child behind," and I have made the same pledge for my people, the Cherokee people.

The Ravensford-Yellow Face Land Exchange under consideration by this Committee today is tremendously important for the future of the Eastern Band of Cherokee. But first let me discuss why it is important for the National Park Service and the American public.

With Congress's approval of this exchange, the Yellow Face (or Waterrock Knob) tract will be placed under the protection of the National Park Service. We asked the Park Service what land they would like to acquire, and they selected this property, among other options.

The views from Waterrock Knob are increasingly threatened by non-Indian housing development. The parcel next to the Yellow Face tract, and just beyond this view, already has house sites bulldozed on it. Yellow Face, and the splendor of this view from Waterrock Knob, urgently need protection so they can be enjoyed by the American public for years to come. In contrast, the Ravensford tract that we seek for schools is a smaller, disturbed, and less valuable piece of land. Seventy-five years ago, it was a lumber mill town. We have a picture of what it looked like then. You can see that it was anything but pristine. We also have pictures of its current uses. It is a road corridor for tribal members and visitors traveling between downtown Cherokee and the Big Cove Community. It is also the corridor for major power, telephone, water and sewer lines serving both Big Cove and the National Park Service facilities across the river from Ravensford.

The Ravensford tract currently splits the Qualla Boundary, isolating the Big Cove community from the rest of the Qualla Boundary. Archaeological research has confirmed what we already knew--that it is part of our ancestral homeland. Sixty-five years ago, we negotiated a deal with the United States to exchange the Ravensford tract for the Blue Ridge Parkway right-of-way through our land. At the last minute, the deal was changed without our knowledge, and Ravensford was removed from the legislation. The details of this unfortunate history are described in my written testimony.

But let me get back to the main reason I am here. This exchange will provide the Cherokee people with the only suitable location we can get to build a new three-school education center. We envision this new campus as a "cultural village" where Cherokee children can honor their past while embracing the future. Having all three schools together will help with the teaching of our native language and the modern curriculum. And we can do it in a multi-age, communal setting that is consistent with our culture. This vision will replace the dilapidated, overcrowded and dangerous schools that the Government built for us years ago and that we still have to use.

We plan to build state-of-the-art facilities with all of the modern requirements for a school system, and with cultural features like a seven-sided "council" room in the school. The schools are designed

for geothermal heating to be both safe and comfortable for our children, and friendly to the environment.

Before I close, I want to thank National Park Service Director Fran Mainella, and the people working with her in the Interior Department for dealing in good faith with the Eastern Band over the last four years. Although we have not always found agreement on every issue, they have demonstrated a willingness to work through the issues. And in many cases, we have become friends.

Chairman Pomoa and members of the Committee, the Eastern Band of Cherokee Indians has the resources to make this vision a reality, and you can make it possible. Please help us as we strive to "leave no child behind." Help us protect our unique culture, heritage, language and identity, for the benefit of the Cherokee people--and the American public--we respectfully ask you to support this land exchange.

Positive Impacts of the Land Exchange

NPS will acquire the Yellow Face tract from the Eastern Band and protect it for the American public:

- Includes 718 acres adjacent to the Blue Ridge Parkway.
- In the foreground view from Waterrock Knob Visitor Center.

• Area is under rapid development; some sites are now available on an adjacent tract.

• Endangered species: Carolina Northern Flying Squirrel, Rock Gnome Lichen.

- Seven acres of high-altitude wetland seeps.
- Fair market value exceeds Ravensford value.

Transfer of Ravensford to the Eastern Band with agreed restrictions has many benefits:

• Benefits the Eastern Cherokee and American public by helping preserve Cherokee language and culture.

• Cherokee children can be moved from the dilapidated, overcrowded, and dangerous elementary school to a safer location with less traffic.

• Holds United States meet a high priority goal of improving Indian education.

• Reunites two parts of the Cherokee reservation and restores Tribal territorial integrity.

• Rectifies an historical injustice to the Eastern Band (1949 Act).

• The Eastern Band's agreement to reduce its request from 168 to 143 acres protects resources.

• Wetlands and alluvial forest adjacent to site remain in NPS ownership. EBCCI has offered to help restore wetlands and will likely create additional wet meadow areas.

• 12 of 14 archeology sites are preserved in place without development. Knowledge increased through careful research of the two archeology sites affected by construction.

• Development restrictions protect views from Parkway near Ravensford.

• Federal environmental and cultural resource laws will continue to apply.

• No Federally-listed threatened or endangered species have been found at Ravensford.

History of Ravensford Tract and Eastern Band of Cherokee

The Eastern Band of Cherokee Indians' seeks to reunite the Big Cove Community with the rest of the Ocella Boundary based in part on our need for territorial integrity. The Ravensford Tract is the transportation, utilities, and geographical link between these communities. Reunification of the Boundary through the Ravensford Tract is important to the Tribe for significant historical reasons.

The history of the Cherokee Nation is known to most Americans. Between 1700 and 1838, European-Americans settled on the Tribe's original territory of over 100,000 square miles. Despite a number of treaties over more than a century promising no further incursions on

the Nation's territory, most Cherokees were forcibly removed from the Southeast over the Trail of Tears to Oklahoma. The Eastern Band consists of descendants of those Cherokees who remained in the mountains to avoid the Trail of Tears, and those who returned from Oklahoma afterward. Through determination and with some assistance from friends like Will Thomas, members of the Eastern Band eventually repurchased a small part of the Nation's original territory. They fought lawsuits in the late 1800's to keep their land and finally, in 1925, deeded the repurchased land to the United States to be preserved in trust for the Tribe.

When European-Americans settled in the Cherokee Nation's territory, they established themselves firmly in the rich bottomlands like the Ravensford Tract. After the Trail of Tears, it was difficult for the Eastern Band to repurchase very much of this prime land, so most of the present day Qualla Boundary is steep and difficult terrain.

The Ravensford Tract resonates with the Eastern Band as part of that history. Ravensford was also involved in a particular injustice the Tribe suffered in the mid-20th Century. In 1938, the Tribe had granted a right-of-way to the State of North Carolina for a highway from Soco Gap to Cherokee, to assist with transportation and economic development. That project was put on hold in 1939 when the United States Interior Department proposed to locate the last 12 miles of the Blue Ridge Parkway along that route through Soco Valley. When the Tribe learned that the Parkway would take valuable bottomland on which many enrolled members lived and require a 200 to 300 foot inaccessible right-of-way, it soundly rejected that proposed route. Tribal leaders and the Interior Department negotiated for several years to find another route, despite significant opposition among influential Tribal members. In 1939, the Secretary of the Interior proposed legislation allowing him to condemn a right of way over the Qualla Boundary. H.R. 6668, 76th Cong., 1st Sess. (1939). The Senate Committee on Indian Affairs sent a representative to negotiate with the Tribe in North Carolina. Over the course of a year, an acceptable compromise was negotiated.

The compromise negotiated with the Senate's representative is laid out in a revised Senate Committee version of H.R. 6668. See Senate Report No. 1491 at 2 (1940). The compromise had several elements: (1) The Tribe agreed to a ridge route over its territory for the Blue Ridge Parkway. (2) The State of North Carolina agreed to go back to its original plan to build the Soco Valley highway with public access for Tribal members and visitors. (3) The State agreed to pay the United States, in trust for the Tribe, \$40,000 for the Blue Ridge Parkway route. (4) With those funds, the Tribe would be permitted to purchase replacement lands adjacent to the Tribe's territory in the Great Smoky Mountains National Park, including both the Boundary Tree Tract and the Ravensford Tract. The Chief and Tribal Council supported this agreement, although the Parkway was still opposed by a vocal minority in Cherokee.

The agreement was approved and reported favorably by the Senate Committee on Indian Affairs. The House sponsor of the original Bill, Congressman Weaver, testified at the Senate Committee's hearing on the Bill and indicated his support for the negotiated agreement, including the transfer of both the Boundary Tree and Ravensford Tracts. Transcript of Hearing, Senate Committee on Indian Affairs, April 27, 1940.

When the bill came up for consideration on the Senate floor, however, a Senator from Oklahoma presented an amendment that deleted the Ravensford Tract. Congressional Record, May 26, 1940, at 6989. There is no indication in the record of the reason for that change, nor that the Tribe was notified. Typical of the United States' treatment of the Cherokee, another agreement negotiated in good faith was modified without the Tribe's consent, and the Ravensford Tract remained out of reach.

The 1940 legislation removed 1,333 acres from the Tribe's territory for the Blue Ridge Parkway, and effectively landlocked an even larger portion of the Tribe's high elevation property. It also completely severed the Big Cove Community from the rest of the Qualla Boundary geographically. In exchange, the Tribe was allowed to purchase 908

acres of the Boundary Tree Tract, for a net loss of at least 428 acres and effective loss of use of many more acres. If the 377-acre Ravensford Tract had not been eliminated from the Bill at the last minute, then the acreage exchanged would have been closer to equal.

This history is the source of the belief expressed by some Cherokees today that the Ravensford Tract should be given or sold to the Tribe. The Tribal leadership, however, recognizes that the NPS Director does not have that authority and has offered to enter into a fair value-for-value land exchange.

The Tribe gave up much of its hard-won land in 1940 so the United States could complete the Blue Ridge Parkway, and believes the United States should live up to the commitment its representatives made to the Tribe. The Ravensford Tract should have been sold to the Tribe over 60 years ago and should be exchanged today so the Tribe can reunite the two communities and build its education and culture center.

Archaeological research has confirmed that the Ravensford Tract is part of the Eastern Band's ancestral homeland. The Cherokee Nation was forced to give up over 100,000 square miles of land in the 18th and 19th centuries for the benefit of the American public. This land exchange would involve returning less than 1/4 of a square mile in exchange for a larger, more pristine, and more valuable tract that needs protection.

Mitigation Measures Agreed to by the Eastern Band of Cherokee

The Eastern Band has demonstrated its good faith in negotiations with the National Park Service. The Eastern Band has agreed to spend over \$1.5 million to study the feasibility of an exchange, has reduced its acreage request, and has agreed to development restrictions to avoid or mitigate impacts on natural and cultural resources. The Eastern Band expects to spend more than \$3 million on further archaeology research if the exchange is approved. Detailed mitigation measures will include the following:

[GRAPHIC] (TEXT OMITTED) T7772.001

[GRAPHIC] (TEXT OMITTED) T7772.002

[GRAPHIC] (TEXT OMITTED) T7772.003

[GRAPHIC] (TEXT OMITTED) T7772.004

[GRAPHIC] (TEXT OMITTED) T7772.005

Mr. Gibbons, thank you, Mr. Jones.

Mr. Blankenship, do you have any comments? Please pull the mike close to you so everyone can hear.

STATEMENT OF CORY MATTHEW BLANKENSHIP, EASTERN BAND OF CHEROKEE INDIANS

Mr. Blankenship, Chairman Embo, Ranking Member Kildee, members of the Resources Committee, and other Members of Congress, I, too, would like to express my thanks for being allowed to address the Committee this morning.

I am an enrolled member of the Eastern Band of Cherokee Indians and a student at Cherokee High School. I started my academic career at Cherokee Elementary School and graduated from Cherokee High School last month. Next year I will attend North Carolina State University, and when I finish my education, I will return to my home, my family, and my people. God willing, I will raise my own children in the community I love. As a student at Cherokee schools for nearly 13 years, I have seen firsthand the dangerous and dilapidated conditions that exist in our school system.

As Chief Jones has already mentioned, education is