

goes against everything that Native American Indians and Cherokee people stand for.

The Chairman. Does that include the riparian areas along the river, any sites that may be environmentally sensitive?

Mr. Blankenship. There are currently 14 archaeological sites on the Ravensford tract, 12 of which will not be touched at all. The two that will be disturbed are Cherokee sites and you can be assured that we will take every precaution necessary to observe those remains because those are our people.

The Chairman. So the two sites that would be disturbed are historically Cherokee sites?

Mr. Blankenship. Yes, sir.

The Chairman. And I would assume from your answer that you do have some interest in preserving and protecting those areas?

Mr. Blankenship. Absolutely. I mean, this serves not only for our tribe as a whole, but also allows our students to be involved in our history and participating in things like archaeological digs and things of that nature. The tribe has committed itself to spending the money and taking the time to preserve these sites and ensure that none of these remains are lost.

The Chairman. So it would be part of the educational opportunities?

Mr. Blankenship. Absolutely.

The Chairman. Thank you very much.

Mr. Kildee?

Mr. Kildee. Thank you, Mr. Chairman. First I would like to ask unanimous consent to submit a document replying to the National Park Conservation Association's testimony from the Eastern Band of Cherokee Nation.

The Chairman. Excuse me. Who is it from?

Mr. Kildee. It is from the Eastern Band Cherokee.

The Chairman. Without objection, it will be included.

[The information referred to follows:]

The Truth about NECA's Testimony  
from the eastern band of Cherokee

JUNE 18, 2003

NECA makes false claims in its testimony.

Let's examine the facts:

NECA Myth: If the proposed schools are built, among other things, "school buses would have to navigate the principal North Carolina entrance to our nation's most visited national park."

FACT: Our education center would be built across the river on a road that is physically separated from the main entrance to the Park. There would be no buses navigating that entrance, nor any impact on the views from the Park entrance.

NECA Myth: There are large parcels of land suitable for school facilities on the Cherokee Reservation.

FACT: It takes more than 70 open acres of land to adequately site the school complex we need. NECA has identified no such parcel available in or near Cherokee. The sites discussed in the Tribe's Business District Master Plan are not large enough to build the school complex, or even a single school. The one large parcel we have located to the south of the Reservation is not available for us to purchase, despite repeated contacts with the many owners of that land.

NECA Myth: "The [Ravensford] tract includes approximately 7 acres of wetland."

FACT: We have worked carefully with NPS to exclude all 7 acres of wetland, along with a buffer, from the exchange site. That wetland will remain in NPS ownership and protection. We have offered to help NPS restore this long neglected and disturbed wetland. The Yellow Face Tract also has approximately 7 acres of high elevation wetland seeps that will be preserved under NPS protection upon approval of the land exchange.

**NPCA Myth:** "The Ravensford tract was flooded during the recent severe rains during the week of May 5, 2003."

**FACT:** We did have a flood on the Oconaluftee River during the week of May 5, 2003 but flood waters did not even reach the Ravensford fields, much less the proposed school building site, which is located above the 100-year flood plain.

**NPCA Myth:** The Education Campus Site Evaluation was "poorly done" based on "hand-picked" criteria.

**FACT:** The site evaluation was done by independent professional engineers based on objective criteria.

**NPCA Myth:** The Park Service has, until recently, opposed the Ravensford Land exchange.

**FACT:** In 1940, the Senate Committee on Indian Affairs sent a representative to negotiate with the Tribe, and he reached an agreement, including exchange of the Ravensford tract, that was satisfactory to the Tribe and the National Park Service, among other parties. Sen. Report No. 1491, p. 2 (1940). Without notice to the Tribe, that agreement was changed on the floor of the Senate.

**NPCA Myth:** NPCA implies that the Eastern Band has a hidden agenda, based on past efforts to acquire the property.

**FACT:** The Tribe has negotiated in good faith to restrict the development of the Ravensford tract to educational purposes, in a manner that will protect the environment. As noted in the Administration's testimony, those carefully negotiated restrictions are included in H.R. 1409.

**NPCA Myth:** The Yellow Face Tract is owned by a resident of Florida.

**FACT:** For almost two years, the Eastern Band has had an option to purchase the Yellow Face tract from its former owner, hoping to complete the study process before having to exercise that option. The option was due to expire this Spring, so the Tribe exercised the option, and closed on the purchase.

**NPCA Myth:** The Yellow Face Tract is worth less than the Eastern Band claims.

**FACT:** An appraiser selected from a list provided by the National Park Service has appraised the Yellow Face Tract at \$500,000, using applicable Federal appraisal standards. He considered a number of relevant factors, including recent sales of similar tracts near the Parkway, and did not rely on the county tax value cited simplistically by NPCA. Using those same appraisal standards, the Ravensford tract has a significantly lower fair market value.

**NPCA Myth:** The Tribe does not need to reunify its boundary; it has access to the Big Cove Community.

**FACT:** Access is not the only issue at stake in jurisdictional integrity. For purposes of maintaining a Tribal community, it is important for the Eastern Band to reestablish the connection to Big Cove that was taken when it was severed by the Blue Ridge Parkway. For the same fundamental reason, the Eastern Band needs to build an education center in the heart of its territory on the Ravensford tract.

**NPCA Myth:** H.R. 1409 will "short circuit" the Environmental Impact Statement process.

**FACT:** The Draft EIS has been published and it finds no impairment of NPS resources from the land exchange. The Eastern Band has made a commitment with NPS to complete the EIS process, has spent \$1.2 million to date on the process, and will honor its commitment.

Mr. Kildee. Thank you, Mr. Chairman.

Chief Jones, in your testimony you reference a situation about 60 years ago where the tribe tried to acquire this land but Congress changed the legislation at the last minute. What exactly happened there? You had been told that that land would be yours?

Mr. Leonard Jones. At the time the Blue Ridge Parkway was going to be built through our reservation, the tribe and U.S.

Government made an agreement, after much time and nagging. There was a right-of-way planned and given. Along with that right-of-way, the Cherokee were to be given the right to purchase Ravensford. It was in the bill when it came to Washington. When the bill came to be heard, a Senator, I believe it was, from Oklahoma, asked that that part, Ravensford, be deleted from the bill. So the legislation passed. The Blue Ridge Parkway was built. We were allowed to buy the Boundary Tree tract, which was the other part that we were going to be able to have, but they took the Ravensford Tract out of the legislation. That was the second time it was taken from us.

The first time was many years before, 1938, at the time of the Trail of Tears. This property has belonged to us for many, many years, sir.

Mr. Kildee. You mentioned 1938. I make it part of my job to read treaties. I remember several years ago reading the Treaty of Detroit, how they treated the Michigan Indians and how very often they made the Indians follow the treaty but the U.S. Government did not always follow the treaty.

You have been really more than patient in this whole situation. I think you have been long suffering on this. Can you go into more detail as to how you plan to mitigate environmental concerns on that land?

Mr. Leon Jones. The tribe has already spent \$1.5 million on mitigation of these sites, on exploring them. We have also committed to another \$3 million to expand on the sites that remain and the ones that will be disturbed. So our commitment is firm. Our commitment will be honored and all of the sites on this property will be taken care of in the manner and the dignity that they should be treated, sir.

Mr. Kildee. Mr. Blankenship, if you were a Michigan Indian, belonged to a Michigan tribe, under a bill which I introduced probably 37 years ago in Michigan, which is still a law in Michigan, the Ottawa, the Chippewa, the Potawatomi can go to a public college in Michigan and the State pays the tuition. So maybe you can get that done in your State some day down there.

Mr. Blankenship. Absolutely. I mean our State does an excellent job at getting us the funding to go to school, but.

Mr. Kildee. Let me ask you, Mr. Blankenship, you seem to feel that it will be helpful to have all the schools situated on the same educational campus. Could you tell us why you think that might be helpful?

Mr. Blankenship. Well, in all ties and aspects of our Cherokee culture and multigenerational and familial society and ways of the Cherokee people, so it is more or less a way for us to protect our identity by protecting our language and our culture by keeping it all in one area. Language is key to this culture, so we bring in native language speakers, like I mentioned in my testimony, where they are able to travel from students in one school to the next. We also have a situation set up where older students will be able to assist in the education of younger ones.

Mr. Kildee. I always carry with me the Constitution of the United States, and Article I, Section 8 says, "Congress shall have the power to regulate commerce with foreign nations, and among the several States, and with the Indian tribes." That lists the three sovereignties right there in the Constitution, which is very, very important.

I think two of the great anchors for sovereignty, one is land, that is a great anchor for your sovereignty. The other is language. Many of the tribes in my State have lost their language. Some are trying to recreate it, but I think you are on the right track, and you should get involved in Government some day yourself.

Mr. Blankenship. Thank you.

Mr. Kildee. Thank you, Mr. Chairman.

The Chairman. Mr. Jones?

Mr. Jones of North Carolina, Mr. Chairman, Thank you very much.

Chief, let me ask you a question. The land that you propose swapping or exchanging with the Federal Government, you own that land, the Cherokee own that land, is that correct?

Mr. Leon Jones, The Cherokee recently bought that land because the option we had on it was about to run out, and we thought it was so important that we keep this land available to make this exchange, that we went ahead and bought it, sir.

Mr. Jones of North Carolina, Mr. Barger was saying that there are other sites that possibly the school could be built on. Do you know if there are other sites that could even be considered that would be satisfactory?

Mr. Leon Jones, There was a study done by an independent organization, sir, to see if there were other sites available. They came up with two sites that would be likely candidates for schools like we want to build. One of them was off the reservation, very close to the reservation. We inquired of the owners, and there were multiple owners. They were not interested in selling, sir, so that was not an option. The other property they said was suitable was the Ravensford property, sir. Those were the only two sites available. Anything else would have been miles away and too far to transport our children.

Mr. Jones of North Carolina, let me ask you, how long have the Cherokee Indians been trying to get the Federal Government to work with them so that this new school could be built?

Mr. Leon Jones, I can only speak for myself, sir. I have been in office 4 years. I came up in the first 6 months of my administration, and have been working very diligently since that time.

Mr. Jones of North Carolina, let me ask you one other question. I want to pick up on what Ms. Christensen was asking earlier with the first panel. Once you get the go ahead how long would it take to construct the school?

Mr. Leon Jones, If we were to get the go ahead in the very near future, we could probably build an elementary school in the next 3 years or so, and then it would take a little longer to build the middle school and high school, sir.

Mr. Jones of North Carolina, Mr. Chairman, I do want to say to Mr. Blankenship, as you go to NC State, home of the Wolfpack, I wish you well. I know you will do extremely well in the classroom.

And thank you, all three, for being here today. Thank you.

Mr. Blankenship, Thank you.

The Chairman, Mr. Pallone?

Mr. Pallone, Thank you, Mr. Chairman.

I just wanted to say to the Chairman of Eastern Band that I am a cosponsor of the bill and I support the bill and am prepared to vote for the bill when the Committee considers it, but I wanted to mention a couple of things and then ask two brief questions.

One is, my feeling very strongly is that you have a bit of a crisis here in the sense that you have overcrowding, you have an old and dilapidated school. You need to move quickly to get this done, and I feel very strongly that we should do whatever we can to move the process forward for those reasons, not to mention what Mr. Kilday said about the issue of sovereignty. I feel kind of strange even sitting here and sort of presiding over the issue about whether or not you should be able to build the school on traditional Cherokee lands. I know that we are authorized to rule on that as Members of Congress, but it seems to me that every should be made to give the benefit of the doubt to you and what you feel is best.

Two questions I have, and one of them, Mr. Barger, talked about alternative sites, but my understanding is that none of the alternative sites that have been identified are really suitable in terms of the amount of land, and so there really

isn't an alternative at this point. Would you just comment on that briefly?

Mr. Leon Jones. Yes, sir. The present elementary school is on a 9-acre site. To be an accredited school the Southern Association of Schools and Colleges requires that elementary schools the size that we need, has to be or 15 acres or more, sir. So even if we were to level the school that we have, we could not build new schools on it and be accredited because it is only a 9 acre site, sir, and besides it being in a very dangerous place, downtown Cherokee with much traffic going by it.

So it would take a piece of property the size of Ravensford to meet the criteria of the Southern Schools and Colleges, so like in mid a few minutes ago, the only other sites available are off the reservation, and we would have been willing to purchase them had they been available. The one site that was close enough and suitable was not for sale, sir.

Mr. Pallone. Then the second question, again priorly I will ask it, I understand that, again, Mr. Burger was making the point that this process should proceed administratively and suggests that there is no need for a bill. I assume the reason why you want this bill passed is because of the need to act quickly, that if you don't pass the bill it is going to take too long, and the problems that you have with overcrowding and bad conditions will just continue. But if you would just address that, the reason we need the bill versus just moving administratively.

Mr. Leon Jones. You are exactly right, sir. The administrative way is an option and might be successful in the long run and it is a long arduous process. After that, sir, if it were, then the people who oppose this land exchange would take it to court then add tie it up for many more years, so we're talking at a minimum 10 to 12 years to get through the objections. My children don't deserve that, sir. The people who are opposing us, I am sure that most of them may not be wealthy, but affluent, they send their children to the finest schools available to them, to their children, the best that they can afford. That is what I am asking for my children, sir, the best that we can afford. Why they oppose my children going to the best schools they can afford, I do not understand, sir.

Mr. Pallone. Thank you very much.

Thank you, Mr. Chairman.

The Chairman. Ms. Christensen.

Mrs. Christensen. Thank you, Mr. Chairman.

I would like to welcome the Chief and Mr. Blankenship for being here, as well as Mr. Burger from the NPCA.

Chief, I would like to ask you the first question just to follow up on the issue of alternative schools. Could you address the issue that has been raised in other testimony that maybe there were some areas identified in the Cherokee business development plan that might have been available for schools? Could you address that, the alternatives?

Mr. Leon Jones. Yes, ma'am. As I just stated, it takes many acres to build schools. It takes very small acreage to do business, ma'am. If you build a restaurant you may only need one acre or an acre and a half. If you want to build a motel, you might only need an acre, an acre and a half or two acres. Yes, there are such available for business, and I agree wholeheartedly, but I do not agree that there are sites that are suitable for schools. The size is the limitation.

Mrs. Christensen. The size, thank you. And as you have planned and done some studies around the possibility of putting a school there, do you believe that you can build a structure that would not be extremely intrusive on the park, that would blend in and maybe even enhance the park in some way?

Mr. Leon Jones. Yes, ma'am. There is a long arduous plan, and I have parts of it here. I will not take the time of this Committee. But it talks about buildings being very low

structures, being of toned-down colors to match the area, to the roofs not being of the metal type where they reflect light, being of the asphalt type where they will not be seen.

Also the parts of this piece of property that are visible from the Blue Ridge Parkway--this chart, ma'am, the use of the Blue Ridge Parkway here, the trees and the terrain will not allow the schools to be seen from this portion. The other site, this is visible, this part is visible from Blue Ridge Parkway, and we have agreed not to build anything on that part where it can be seen. So these buildings will be of low tone, low buildings. There are only about 8 football games played a year, and someone has mentioned the light from them. The Blue Ridge Parkway closes for part of that time. The winters come on, snows are on later, so the lights have been toned down and only will be used about 8 times a year to where they might be seen from the Parkway. And most of those are during the wintertime when the Parkway is closed.

Mrs. Christensen. Mr. Barger, one of the concerns--and you have said that the exchange is controversial. One of the concerns that brings us to the point of doing legislation around this is the concern that the NPGA and other groups might see once the report is out. Is that a mistaken belief or is that a real possibility?

Mr. Barger. Our position is that the exchange bill is premature because we want to have the administrative process, that is, the examination of the facts and the environmental impact statement move forward. We in fact agree with Assistant Director Jones, who spoke earlier, that probably if something is to be effectuated, legislation is the best way to do it in the long run, and that would eliminate in fact any lawsuits.

Mrs. Christensen. I don't think I have any further questions, Mr. Chairman.

The Chairman. Mr. Inslee.

Mr. Inslee. Chief Jones, I first got involved in politics trying to build a high school on kind of a rocky, slopey area, so I'm real sensitive to your desires to try to get a new school built, but it sounds like one of the important issues here is what alternatives may exist, and so I want to ask you about that. Would the tribe have a realistic alternative of building three separate schools as it has now? Do you have that alternative available to you, do you think? But realizing that is not your desire. I understand that.

Mr. Leon Jones. You have to have pretty good size pieces of land even to build an individual school. The sites of both of our schools--the middle school and the high school are combined--are not large enough. There are not sites--have you ever visited our property, sir, may I ask you?

Mr. Inslee. I haven't. I am sorry about that. I want to come.

Mr. Leon Jones. We live in very small valleys in very steep--most of our land stands on its side, and that is not conducive to building schools. One of the reasons we live in that is because back in the days that we acquired this land, no one else wanted it. It was too steep for any use, so consequently we were in very narrow valleys, and in those very narrow valleys our people live. Our businesses are built there and they are crowded. To acquire land large enough to build schools would be very difficult, sir, it not impossible.

Mr. Inslee. Was that option evaluated? You referred to this study of an outside organization? Was that option evaluated?

Mr. Leon Jones. I believe it was, sir. I won't give you a definite yes because I might not be telling the truth.

Mr. Inslee. I think it would be helpful, at least to me, if you could share that study. We could look at it.

Mr. Leon Jones. Yes, sir.

Mr. Inslee. And then we might also ask Mr. Blankenship's organization to comment on that, specifically just to look at what alternatives exist, and I will tell you, to me this really

is a difficult issue because we have two loves here, one for your children and two, our parks. And at least I am very cognizant of the dangers of a death by a thousand cuts to our park system because there are many sort of gateway communities that are growing up around our parks now because of the tremendous desire to go to the parks. And I can just see this coming from other communities as well who live in similar geographically constrained areas as yours. So I think this is a really important issue. And if you could perhaps provide us with that alternative study. Then we can ask Mr. Blankenship's group to comment on that. I would appreciate that.

Mr. Blankenship, do you have any comments about--Mr. Barger, I am sorry.

Mr. Barger. Yes. We would be happy to give you an analysis and comment on the alternatives analysis. We do believe that it was very, very limited in scope. It did not look at, and in fact, the entire process that the National Park Service initiated limited its ability to look at what are the best options for making sure that the Cherokee schools are the best they can be. Their options were wrapped around assuming that we do the exchange. We have a no-action alternative, don't do it, and then we have two proposals for doing it in two different ways. So the analysis that the Park Service did sprang out of there. The alternative site study that was done by the consulting firm that Chief Jones mentioned was very limited in scope, and we would be happy to give you the information that we have on it.

Mr. Inslee. Thank you. Thank you very much.

The Chairman. Mr. Udall?

Mr. Tom Udall. I would just thank the panel members. I don't have any questions, Mr. Chairman.

The Chairman. Mr. Baca?

Mr. Baca. Thank you very much, Mr. Chairman. I am one of the cosponsors of the legislation. I think it is good legislation, and I appreciate the tribal chair's comment in terms of leaving no child behind. I think it is important that we create an atmosphere that is positive for a lot of the students. When you look at schools that are dilapidated, that puts kids in a very negative environment, and I think we have to put our kids in a positive environment where the schools are modernized. When we can deal with technology, we can deal with modernization. We can deal with conduit and others that need to be. If the children want to be competitive in the 21st century, it is important that our reservations have the same kind of schools that are being built outside of that area, and I think it is important that every one of children go into a positive attitude, and positive attitudes are created when you have good schools and they feel good about that environment, and I think that is positive in building it, and I commend you in terms of that effort. I think having the three sites in that area is positive when you look at elementary, intermediate and then your high school too as well. I think it is positive in that area and I support this concept, especially as well look at self sufficiency in terms of Native Americans that have worked so hard to do this. And you have invested already \$1.5 million in terms of the study that has already been conducted.

When I look at alternatives sites and I look at the delay, now it will take 5 years. We are talking about 2 years to build the first elementary school. If another site was selected, what would be the time length of that, and has any money been invested at this point and who would invest that money then?

Mr. Barger, my question is to you because you are the one that came up with the alternative site. There is already a site. There is already money that has been invested. Are you going to put up the money? Who is going to put up the additional money?

Mr. Barger. The money that has been invested is a result of an agreement between the National Park Service and the Eastern Bank of Cherokee that they both entered into, what, 3 years

ago, about 2 years ago, to do the investigation of the Ravensford site. So that money is essentially part of that agreement and not part of necessarily the search for a piece of land. This exchange would in fact, as I think has properly been characterized, would exchange one piece of land for another, and that would be the value that the Eastern Band would be essentially putting forth for the Ravensford site.

Q If they were to choose an alternative site, they would be expected to put the money forth for that one instead.

Mr. Bawa. They would be, right?

Mr. Barger. Certainly.

Mr. Bawa. They would. Not you or anyone else, so there is already money that has already been invested in this particular one site right now with an agreement. So it seems like all of a sudden we are talking about alternative sites that somebody else has to pay when yet money has been invested, and money is hard to come by, and yet we are saying because now Native Americans are self-sufficient. They have gaming. All of a sudden we are saying, well, gee, they should be able to provide additional monies for additional sites. I don't know where the other sites are at. I don't know who is going to pick up the cost out there. We already know that money has already been invested.

It seems that is the area that we should go in right now since the research has been done, the money has been invested. It is a positive site, and there is an agreement right now in terms of this particular site in exchange. I find it very difficult.

Then your comments about let the administrative process, well, the administrative process, we don't know how long it is going to even take, when another school will be built, or is that another delay tactic of not allowing them to build a site right now? To me that is prolonging it, which means then a child then loses. And every child that grows in age loses from the time that that child is in an educational environment, and we should make sure that that child has that opportunity, because every year I keep getting older, and the same thing with a child. A child gets older every year, and every year that child loses an opportunity to be in a positive environment with self-esteem, self-motivation, and aspirations to be what he or she wants to be. We have got to create that kind of an atmosphere, not create the negative one.

So it is difficult to say, we are overwhelmed. Now, they have 800 and some students going to a school that only has capacity for 450 I believe.

Mr. Leon Jones. 480, I believe.

Mr. Bawa. Somewhere in that neighborhood. But it seems like we should try to expedite this process and move the legislation. Legislation is the way to do it. Other than that, it is just another delay tactic, and we wait forever, and a child then is out of school, and before we know it, they are not competitive for the 21st century.

Mr. Barger. I completely agree with the need to try to move forward and with what happens to generations of people. I think that the manner in which the United States of America has dealt with at least these schools--they are the only one with which I am familiar--is shameful. There is money to fix and renovate those schools that has not been spent for some time.

Mr. Bawa. But it becomes difficult because you cannot even lay the conduit in a lot of these schools right now. I have dealt with a lot of the school. Yet, when you can't put the conduit that means that you can't have technology, which means then that they can't be as competitive, which means they have to have it at home or somewhere else, and you are not creating that kind of an atmosphere where a lot of them can't afford that.

Mr. Barger. Yes, sir, I completely understand. Our point in wanting to have the administrative process move forward is that