

## STATEMENT OF PROPOSED TESTIMONY

- To:** Committee on Natural Resources
- Hearing:** Legislative Hearing on H.R.2837, the “*Indian Tribal Federal Recognition Administrative Procedures Act*” Wednesday, October 3, 2007, 10:00 a.m., Room 1324 Longworth House Office Building.
- Testifying:** Attorney David V. Cramer, Legal Counsel for Confederated Tribes of the Lower Rogue  
Also attending, Donnie Fry, Chairman, Tribal Council

### Testimony:

#### I. From 1856 to 1954: A few left behind grow into a distinct, federally recognized tribe.

The Confederated Tribes of the Lower Rogue is an entity consisting of Chetco and Tututni tribal remnants residing in the lower Rogue River valley in southwestern Oregon, in the traditional homeland where Chetco and Tututni peoples have lived from time immemorial. White settlers began moving into this area of Oregon in the mid 1800's. Between 1854 and 1856, the U.S. Army forced the bulk of the Chetco and Tututni tribes, and many other southern Oregon coastal tribes and bands, to leave their homeland, marching them north along the coast to the Siletz reservation.

However, not all members of the tribes were taken. Small numbers of Chetco and Tututni people (mostly women) were able to hide in the wilderness and remain in their homeland. Though they intermarried with white settlers, they maintained their ethnicity and their cultural identity, and preserved their traditions, stories, handicrafts, and their language. From those early days until the present, they have recognized themselves as a distinct and cohesive tribe. Throughout this time they have recognized the authority of their council of elders in matters of tribal governance. Although the Chetco and Tututni tribes recognize their blood kinship to present day members of the Confederated Tribes of Siletz Indians (now a Federally recognized tribe), they themselves are not eligible to join the Siletz tribe, because their ancestors were never on the original Siletz reservation rolls, as they are the descendants of those few who were never taken to the Siletz reservation.

In the late 19<sup>th</sup> and early 20<sup>th</sup> Centuries, the U.S. Government maintained a relationship with the combined Chetco and Tututni tribes living in their homeland. The historical records of many tribal families show that they were given Indian land allotments. Through the first half of the Twentieth Century, a Bureau of Indian Affairs agent was stationed there in Agness, Oregon. Until it was deliberately terminated, a government-to-government relationship remained in place for decades.

## II. The Western Oregon Termination Act of 1954: *A wall across the Cascades.*

In 1954, Congress passed 25 U.S.C. §§ 691-708, commonly known as the Western Oregon Termination Act. This law effectively terminated any federal relationship with western Oregon tribes, terminating Federal supervision over trust and restricted property lands and administration of federally owned land and distributing the same. The act applied to “any of the tribes, bands, groups, or communities of Indians located west of the Cascade Mountains in Oregon,” and went on to list dozens by name, including specifically the Chetco and “Tututui” (an alternate spelling of Tututni) tribes. 25 U.S.C. § 692.

Reading the Termination Act itself, along with its legislative history and secondary legal, historical, and sociological sources of the day, the clear social policy behind it was to “Kill the Indian to save the man.” The theory was that termination of the tribes would result in assimilation into white society, with resulting economic improvement for Oregon’s Native Americans. In short, this social experiment was a failure. The Native Americans of western Oregon did not experience improved socio-economic circumstances. Neither did they cease to be Indians. Despite their poverty, which became markedly worse following the Termination Act, they remained strong in their cultural identity.

One by one, different groups of western Oregon Indians have made the difficult journey to Washington to obtain restoration. Although Congress has never repealed the Western Oregon Termination Act as a whole, on five separate occasions, it has repealed the Act for specific tribes and passed laws recognizing them. The tribes and restoration acts are as follows:

Confederated Tribes of Siletz Indians, 25 U.S.C. § 711 (1977)

Cow Creek Band of Umpqua Tribe, 25 U.S.C. § 712 (1982)

Confederated Tribes of the Grand Ronde Community of Oregon, 25 U.S.C. § 713 (1983)

Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, 25 U.S.C. § 714 (1984)

Coquille Indian Tribe, 25 U.S.C. § 715 (1989)

In the committee reports and other legislative history of these restoration acts, we see that Congress came to a clear conclusion as to the merits of the Termination Act of 1954, calling it a “disastrous experiment,” “ill conceived.” Rather than accelerating the merging of Indians into mainstream America, Congress found that Indians affected by the Termination Act had “more often than not suffered great psychic, social, and economic hardships as a result.” 95 Cong. Rec. H.R. 7259, 36279-86 (Nov. 1, 1977). “This policy did not work. . . . It was a disastrous mistake. . . . The terminated tribes found themselves stuck between two cultures—ignored by the government as Indians, yet lacking the economic wherewithal to successfully manage entry into the white society.” 95 Cong. Rec. S. 1560, 36768-69 (Nov. 3, 1977). “Rather than realize the anticipated socioeconomic benefits of this policy . . . terminated Indians experienced steadily deteriorating conditions.” 98 Cong. Rec. H.R. 5540, 22420-23 (Aug. 6, 1984). “This termination came without notice, explanation, or hearings to defend their standing. It appears the only reason the tribes were terminated was because they resided west of the Cascade Mountains.” 98 Cong. Rec. H.R. 5540, 27764-66 (Sept. 28, 1984). “The termination era was one of the darkest periods of Federal Indian policy. It represented an attempt to eradicate government-to-government relations, abolish cultural values, and abrogate treaties. That era is

over and let us hope it will never return.” 101 Cong.Rec. H.R. 881, 10032-34 (May 23, 1989).

### III. The Confederated Tribes of the Lower Rogue: *Our Journey.*

When the Confederated Tribes of the Lower Rogue first began asking how they could follow in the footsteps of sister tribes like the Coquilles and obtain Federal recognition, they were informed that Congress was no longer receptive to such petitions from Indian tribes. The reason for this was that Congress had established the Board of Acknowledgement and Research (BAR) within the Bureau of Indian Affairs for the purpose of hearing petitions from Indian groups wanting to establish relations with the Federal government.

Our next step was to contact the BAR. However, this did not get us far. We soon learned that there are seven criteria, listed in 25 CFR 83.7(a)-(g) that we must prove to establish our validity as a tribe and gain acknowledgment. The first six criteria pertain to historical authenticity and legitimacy, of which we feel we can make a strong case. The seventh criterion, however, is a simple yes/no test which we fail: Neither the petitioner nor its members are the subject of congressional legislation that has expressly terminated or forbidden the Federal relationship. 25 CFR 83.7(g). We were told by BAR representatives, in effect, that since we had not yet submitted a petition, they were not sure who we were, but if we were who we said we were, and were indeed Chetco and Tututni descendants, since those two tribes were listed by name in the Western Oregon Termination Act, we were not eligible for acknowledgment under their proceeding. Our only hope would be an act of Congress. Since then, we have been working with Congressman DeFazio's office to do just that. However, if the Termination Act itself were repealed, or some other means were created to circumvent it, such as this H.R. 2837 presently before the Committee, we would not then need to go through the exhaustive procedure of seeking a restoration act for our individual tribe.