

**Prepared Statement of Senator Ben Nighthorse Campbell
Vice Chairman - Senate Committee on Indian Affairs
Oversight Hearing on the Federal Acknowledgment Process**

June 11, 2002

Good afternoon and thank you Mr. Chairman.

In the years before Columbus, some estimate the Native peoples of North America numbered near 10 million.

The Indian Tribes that existed at that time knew who they were by way of their shared culture and language, governing structure, family ties, acknowledgment by other Tribes, and their common history.

Needless to say there was no “Acknowledgment Process” or “25 CFR Part 83” that governed who was and who was not considered an “Indian Tribe”.

These processes and regulations are creations of the United States Government and it is I think we need to bear that in mind.

I find it ironic that descendants of Native people who have lived in of North America for thousands of years are the only Americans that must be “documented” to prove their status.

Indian groups can be recognized by way of the legislative route — which I generally oppose — or through the Administrative Process, known as the “Federal Acknowledgment Process” (FAP).

Because Tribal Recognition decisions were being decided inconsistently in the Courts, in 1978 the Department of Interior issued regulations to create the FAP Process to be undertaken by the Branch of Acknowledgment and Research (“BAR”).

The FAP regulations were revised in 1994 and again in 2000, but charges and countercharges about the current BAR system have reached the boiling point. The criticisms abound:

1. The GAO says BAR is “not transparent enough”;
2. The House of Representatives says it “lacks integrity”;
3. Petitioners say it is “biased” against them and “underfunded”;
4. State Attorneys General say it is “biased” against them and “underfunded”;
5. Third Parties say the BAR criteria are “too loose”
6. Petitioning groups say the BAR criteria are “too strict”.
7. Almost everyone believes the process is “too slow”.

The slowness of the BAR process has been made worse by a wave of lawsuits from 3rd parties — filed by local governments, State Attorneys General and some filed by already-recognized Tribes.

In addition to its normal duties of analyzing petitions, the BAR is also being flooded with requests under the “Freedom of Information Act” (FOIA) that are resulting in a “constant churning” of documents and keeping the BAR from performing its core functions.

All of these factors have lead to a near-standstill in the processing of petitions before the BAR.

I am anxious to hear from the witnesses, but like you Mr. Chairman I feel strongly that we must act in the few months remaining in the 107 th Congress.

As you know, Mr. Chairman, legislation you and I introduced last year to establish an “Independent Recognition Commission” (S.504) is still pending before the Committee and if our collective efforts to improve BAR fail, I will press for further consideration of the bill.

Thank you Mr. Chairman — I look forward to hearing from our witnesses today.

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