



# COMMONWEALTH of VIRGINIA

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# DRAFT

TO: The Honorable Lawrence Douglas Wilder  
Governor of Virginia

The Honorable Hunter B. Andrews  
Chairman, Senate Finance Committee  
Senate of Virginia

The Honorable Robert B. Ball, Sr.  
Chairman, House Appropriations Committee  
House of Delegates of Virginia

As requested by Senate Joint Resolution 15 of the 1992 session of the Virginia General Assembly, the Office of the Secretary of Health and Human Resources and the Virginia Council on Indians has completed the enclosed status report on the state recognition petition of the United Cherokee Indian Tribe of Virginia, Incorporated.

Sincerely,

  
Howard M. Cullum

cc: The Honorable Elliot S. Schewel  
The Honorable Shirley F. Cooper  
The Honorable Charles L. Waddell  
The Honorable S. Vance Wilkins

*By Debra C. ...*

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## PREFACE

During the 1992 Session of the Virginia General Assembly, a study resolution was passed requesting the Secretary of Health and Human Resources, in cooperation with the Virginia Council on Indians, to study official recognition of the United Cherokee Indian Tribe of Amherst County, Virginia. Senate Joint Resolution 15 reads as follows:

"RESOLVED by the Senate, the House of Delegates concurring, that the Secretary of Health and Human Resources, in cooperation with the Council on Indians, be requested to study the issue of recognition for the Amherst County Cherokee, ascertaining whether the Cherokee Tribe itself wishes to seek recognition at this time.

The Secretary and the Council shall complete their work in time to submit their findings and recommendations to the Governor and the 1993 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents."

The Secretary of Health and Human Resources wishes to express appreciation to the following individuals for their help in conducting the study reported herein:

- The Honorable Shirley F. Cooper, Chair
- The Honorable Charles L. Waddell, Senate Representative
- Mr. Raymond S. Adams, Upper Mattaponi Tribe
- Mr. Stephen R. Adkins, Chickahominy Tribe
- \* Mr. Mitchell L. Bush, Jr., Indians-at-Large
- Mr. Mark Custalow, Mattaponi Tribe
- \* Ms. Phyllis B. Hicks, Monacan Tribe
- Mr. Norman K. Hogge, Eastern Chickahominy Tribe
- Ms. Joan F. Johnson, United Rappahannock Tribe
- Ms. Thomasina Jordan, Indians-at-Large
- Ms. Sara E. Patton, Citizen-at-Large
- \*\* Mr. Oliver L. Perry, Nansemond Tribe
  
- \* Subcommittee
- \*\* Subcommittee Chair

Research and staff support was provided by:  
Dr. Helen C. Rountree, Ph.D  
The Honorable B. Norris Vassar, Deputy Secretary  
Mr. Gary L. Flowers, Special Assistant

## EXECUTIVE SUMMARY

Senate Joint Resolution 15, introduced in the 1992 Session by Senator Elliot Schewel, was passed in response to a petition for state recognition by the United Cherokee Indian Tribe of Virginia, Incorporated, which is based in Amherst County, Virginia.

On June 12, 1992, a subcommittee appointed by Stephen R. Adkins, Vice-Chair (Acting Chair) of the Council met to receive the petition by the United Cherokee Indian Tribe of Virginia, Incorporated, for state recognition. The Council charged the committee to assess the petition and material provided by the Cherokee Tribe representatives under the criteria for state recognition adopted by the Council in September 1989, and report its findings and recommendations. The subcommittee reviewed a voluminous amount of data presented by the representatives.

From a review of all the information presented, the subcommittee concluded that the United Cherokee Indian Tribe of Virginia, Incorporated, did not meet the Council's criteria for state recognition of an Indian tribe. Based on the subcommittee's report of this conclusion, the Council decided that the Cherokee Tribe did not meet its criteria for state recognition. The Secretary of Health and Human Resources concurs in that decision.

## BACKGROUND

Distinct Native American groups in Virginia have been recognized since the arrival of European colonists over 300 years ago. In 1677, after years of intermittent warfare between the natives and the colonists, King Charles II of England, through the colonial government established in Virginia, recognized the sovereignty of the indigenous peoples of Virginia. By the Treaty Between Virginia and the Indians of Virginia of 1677, representatives of native groups were reserved lands on which they could hunt and fish, provided the lands were of little use to the English. For example, the Treaty reads, in part:

"VII. That the said Indians have and enjoy their wonted conveniences of Oystering, fishing, and gathering Tuccahoe, Curtenemmons, wild oats, rushes, Puckoone, or any thing else for their natural Support not usefull to the English, upon the English Devidends,..." (Appendix F)

According to the book First People, The Early Indians of Virginia (Egloff and Woodward, p.45), (Appendix G) following the Treaty of 1677, "...Indians along the coast lost their remaining land and were confined to small reservations for which an annual tribute was exacted by the colony." The annual payment of taxes ceremony, which is held each November at the Governor's Mansion, has taken place without interruption for 316 years. The tribute consists of the presentation of game and craft items from the reservation to the Governor.

In 1983, The Virginia General Assembly officially recognized six Native American groups by legislative enactment. House Joint Resolution Number 54 set forth the following:

"RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly of Virginia recognizes the existence within the Commonwealth of the following Indian tribes:

1. Chickahominy;
2. Chickahominy, Eastern Division;
3. Mattaponi;
4. Upper Mattaponi (sometimes referred to as the Adamstown Band);
5. Rappahannock;
6. Pamunkey; and be it

RESOLVED FURTHER, That the General Assembly of Virginia by virtue of the United States census and other evidence acknowledges the fact that members of other Indian tribes reside within the Commonwealth."

On January 9, 1985, House Joint Resolution Number 205 recognized the Nansemond people:

"RESOLVED by the House of Delegates, the Senate concurring, That from and after the effective date of this resolution the General Assembly of Virginia recognizes the existence within the Commonwealth of the Nansemond Indian Tribe; and, be it

RESOLVED FURTHER, That the General Assembly, by this Resolution, does not address the question of whether the tribe has been continuously in existence since 1776."

On January 24, 1989, House Joint Resolution Number 390 recognized the Monacan people:

"RESOLVED by the House of Delegates, the Senate concurring, That from and after the effective date of this resolution the General Assembly recognizes the existence within the Commonwealth of the Monacan Indian Tribe; and, be it

RESOLVED FURTHER, That the General Assembly of Virginia, by this resolution, does not address the question of whether the tribe has been continuously in existence since 1776."

Later that same year, on September 18, 1989, the Virginia Council on Indians formally adopted the following criteria for state recognition of petitioning groups:

1. The Petitioning tribe has been identified as a tribe that is indigenous to Virginia at the time of the arrival of the first European settlers.
2. The petitioning tribe occupied a specific site in Virginia as defined by the current state boundaries.

3. The petitioning tribe is not recognized by another state.
4. The members of the petitioning tribe are Indian descendants from that indigenous tribe and are not members of any other tribe.
5. The petitioning tribe has an established tribal organization with the appropriate records and historical documentation such as governing documents and membership criteria.
6. The petitioner is not a splinter group or faction which has separated from a tribe currently recognized.

## FINDINGS

Since the arrival of European colonists, the history of Indian Tribes in Virginia has been one of travail and turmoil. The population of the Indian community was reduced to one-third of its number between 1609 and 1669, as a result of spirituous liquors, war, the smallpox, and possession by whites of part of Indian territory (Jefferson, Thomas. *Notes on the State of Virginia*. London: 1787. In Lauber, Almon W. *Indian Slavery in Colonial Times*. Williamstown, Massachusetts, 1970). Almon W. Lauber, in *Indian Slavery in Colonial Times Within the Present Limits of the United States*, indicated that another reason for the reduction of the Indian population in Virginia was the "amalgamation of the red and black slaves. Since intercourse and marriage of slaves were not generally interfered with by the whites, it was natural that the slaves of the red and black should intermingle. Since, also, the Indians were generally in the minority, as well as inferior in power of resistance, their physical characteristics gradually disappeared, while those of the Negro remained" (p. 287). The State of Virginia has a large number of such people whose appearance is clearly Indian, their traditional customs are Indian, and their surnames are connected to documented Cherokee Indian surnames. A number of these people live in the area commonly known as Buffalo Ridge in Amherst County, Virginia.

Early in the history of Virginia, it seems that marriage between whites and free Indians was encouraged. This further forced the decline of the Indian as a distinct group by the introduction of the term "mulatto" for the offspring of such



marriages. The law in 1705, provided that children born to Indians and whites "...should be deemed, accounted, held and taken to be mulatto" (Hening, 1823, p. 252; Lauber, p. 254). Such laws regulating the management of slaves in Virginia were essentially the same for blacks and Indians (Bruce, Phillip Alexander. *Institutional History of Virginia in the Seventeenth Century*. 2 Vols. New York: 1910).

The joint classification of blacks and Indians as "mulattos" has had a profound impact on Indians living in Virginia. As in other regions of the state, intermarrying within the southwestern area between Indians and blacks resulted in the virtual elimination of independently classified Indians. In Amherst County, for instance, between the years of 1880 and 1900, Indians were systematically eliminated from county census records. Rather than identifying Indians with an "I", "M" was commonly used on official documents. Although many of the Cherokee descendants of Amherst County did not resist the ethnically ambiguous legal distinction of "mulatto", they still considered themselves Cherokee, by passing the Cherokee oral tradition from one generation to another (Appendix B).

A band of Cherokee was known to have settled in the Amherst County Blue Ridge Mountain area after the Revolution (Percy, Alfred. *Exploring the Present and Past - Central Virginia Blue Ridge*. Madison Heights, Virginia, 1952, p.2). Many of Amherst County citizens have been informed by their ancestors that they have Cherokee ancestry. They have passed the information on to their children and grandchildren. Amherst County and surrounding

counties have oral traditions that support the view that many of their citizens have Cherokee ancestry (O'Neill, William J. "The Amherst Cherokee-Virginia's Lost Tribe." In *The Washington Post-Postmac*, June 15, 1969.; Houck, Peter W. *Indian Island in Amherst County*. Lynchburg, Virginia: Progress Printing, 1984, p. 124; Thompkins, E. P., and Davis, J. Lee. *The Natural Bridge and Its Historical Surroundings*. Natural Bridge, Virginia: Natural Bridge of Virginia, Inc., 1939, p. 82; McLeRoy, Sherrie, and McLeRoy, William. *Passages - A History of Amherst County*. Lynchburg, Virginia: Sherrie S. McLeRoy Printing, 1977, p. 13).

Senate Joint Resolution 15, introduced in the 1992 Session by Senator Elliot Schewel, was passed in response to a petition for state recognition by the United Cherokee Indian Tribe of Virginia, Incorporated, which is based in Amherst County, Virginia. The ensuing study is the result of the collaborative efforts of the United Cherokee Indian Tribe of Virginia, Incorporated, the Secretary of Health and Human Resources, the Virginia Council on Indians (Council), and Dr. Helen Rountree, Anthropologist.

On June 12, 1992, a subcommittee appointed by Stephen R. Adkins, Vice-Chair (Acting Chair) of the Council met to receive the petition by the United Cherokee Indian Tribe of Virginia, Incorporated, for state recognition. The subcommittee was composed of Mr. Oliver L. Perry, Sr. (Chair), Ms. Phyllis B. Hicks, and Mr. Mitchell L. Bush, Jr. Dr. Helen C. Rountree, Anthropologist, served as a researcher to the committee. The subcommittee first convened on August 8, 1992 and reported to the Council on December 21, 1992. The Council charged the committee to assess the petition

and material provided by the Cherokee Tribe representatives under the criteria for state recognition adopted by the Council in September 1989, and report its findings and recommendations. Pursuant to this charge, the subcommittee sought to insure that all relevant and reasonably obtainable information, pro or con, be assessed to enable the Secretary and the Council to provide the legislature a study report based on a thorough review. To that end, Dr. Horace R. Rice, serving as a researcher for Chief Samuel H. Penn and the petitioning group, compiled a voluminous amount of data and historical documents, including The Buffalo Ridge Cherokee: The Colors and Culture of a Virginian Indian Community, Rice (Appendix B); Some Common Cherokee Surnames in Amherst County and Vicinity, Rice (Appendix C); "The Buffalo Ridge Cherokee, A Report on the History of the Buffalo Ridge People of Amherst County, Virginia", dated August 12, 1992, with an accompanying document binder (Appendix D); and "Supplement to the Buffalo Ridge Cherokee Report", dated November 23, 1992, with accompanying documents (Appendix E).

From a review of all the information presented, the subcommittee concluded that the United Cherokee Indian Tribe of Virginia, Incorporated, did not meet the Council's criteria for state recognition of an Indian Tribe. Based on the subcommittee's report of this conclusion, the Council decided that the Cherokee Tribe did not meet its criteria for state recognition. The Secretary of Health and Human Resources concurs in that decision.

## CONCLUSION

The Council met on December 21, 1992 to receive the report of the subcommittee and to formally consider the petition of the United Cherokee Indian Tribe of Virginia, Incorporated for state recognition. The recommendation of the subcommittee was not to recognize the Tribe. The Council (by a vote of 5 yays, 0 nays, and 1 abstention) accepted the subcommittee's recommendation and decided that the Tribe had not met the criteria it adopted in 1989 for state recognition of Indian tribes (Appendix H). The Secretary concurs in the Council's decision. However, the Tribe is requesting a reconsideration of the decision by the Secretary of Health and Human Resources and the Council.

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