



# The Eastern Band of Cherokee Indians

Principal Chief Richard G. Sneed

Vice Chief Alan B. Ensley

March 14, 2019

**Adam Wachacha**  
Chairman  
Snowbird &  
Cherokee Co. Township

**David Wolfe**  
Vice-Chairman  
Yellowhill Township

**Tribal Council Members**

**Tom Wahnetah**  
Yellowhill Township

**Bucky Brown**  
Snowbird &  
Cherokee Co. Township

**Richard French**  
Big Cove Township

**Perry Shell**  
Big Cove Township

**Bo Crowe**  
Wolftown Township

**Jeremy Wilson**  
Wolftown Township

**Lisa Taylor**  
Painttown Township

**Tommye Saunooke**  
Painttown Township

**Albert D. Rose**  
Birdtown Township

**Boyd Owle**  
Birdtown Township

The Honorable John Hoeven  
Chair  
Senate Committee on Indian Affairs  
Affairs  
838 Hart Senate Office Building  
Building  
Washington, D.C. 20510

The Honorable Tom Udall  
Vice Chair  
Senate Committee on Indian  
Affairs  
838 Hart Senate Office  
Washington, D.C. 20510

**RE: Opposition to Catawba Indian Nation Legislation (S. 790)**

Dear Chair Hoeven and Vice Chair Udall:

On behalf of the Eastern Band of Cherokee Indians based in Cherokee, North Carolina, I write to express our strong opposition to legislation that would authorize the Catawba Indian Nation, a tribe based in South Carolina, to have lands taken into trust in North Carolina for the sole purpose of building an off-reservation casino. Wallace Cheves—the Catawba Indian Nation’s primary casino developer—and the Tribe first sought approval of the casino project from the Department of the Interior during both the Obama and Trump administrations. Both administrations said no. On more than one occasion, Mr. Cheves and the Tribe sought legislation to authorize the casino without introduction of a bill, a hearing, or Committee markup. These efforts failed. Now Mr. Cheves and the Tribe seek approval of the casino through legislation introduced this week (S. 790) and sent to the Indian Affairs Committee for consideration. If enacted, this bill would be the first in U.S. history to expressly authorize an Indian tribe to acquire land into trust for the sole purpose of building an off-reservation casino.

First and foremost, this legislation is a plain example of “reservation shopping,” the practice of casino developers pairing a willing Indian tribe with a city or county open to a casino and seeking to have the federal government create a new reservation outside the willing tribe’s aboriginal territory. In reservation shopping deals, the casino developer agrees to pay for the lawyers, lobbyists, and development costs in exchange for a share of the casino revenues. In this case, Mr. Cheves and other casino investors have paired Cleveland County, North Carolina, with the Catawba Indian Nation based in South Carolina to seek a gaming reservation in Cherokee aboriginal territory.

Both Congress and Indian country have repeatedly denounced the practice of reservation shopping. Congress has considered legislation to limit or prohibit

this practice and repeatedly engaged the Department of the Interior to press for changes in the Department's rules to limit these kinds of deals. As a result, Congress has not seen these type of casino deals in several years because they have been so disfavored. In fact, for over a decade, the Congress has not authorized a tribe to have lands taken into trust through legislation without an express prohibition on gaming on the lands. Indian country has also expressed its opposition to reservation shopping through formal communications from tribes and intertribal organizations, including the National Indian Gaming Association (NIGA), the Tribal Alliance of Sovereign Indian Nations (TASIN), and the United South and Eastern Tribes (USET).

Second, this legislation undermines the interests of tribal governments and the tribal gaming industry generally. Tribes and the public have a strong interest in ensuring that tribal gaming enterprises are well regulated and keep bad actors from having any place in tribal gaming. A primary purpose of the Indian Gaming Regulatory Act (IGRA) is to "provide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players." 25 U.S.C. §2702(2). The IGRA provides protections for tribal governments and the public against unscrupulous casino developers who seek to do business with tribal governments. 25 U.S.C. § 2710(b)(2)(F). Mr. Cheves and other Catawba developers are not subject to background checks and investigation because the Catawba Indian Nation has special legislation that gives it access to lands and gaming through South Carolina processes. As a result, casino developers that otherwise would be subject to thorough background checks can avoid this scrutiny. In fact, Wallace Cheves, the Catawba Indian Nation's primary casino developer, has a colorful history in the commercial gaming industry. In 2003, Mr. Cheves and others were indicted in the U.S. District Court for the Northern District of Ohio for illegal gambling, conspiracy to defraud the United States, and money laundering.<sup>1</sup> In 2013, Alabama Attorney General (and former U.S. Senator) Luther Strange successfully brought a forfeiture action against Mr. Cheves and others after Alabama law enforcement authorities seized 691 illegal slot machines and \$283,657 in cash as contraband. In 2001, the South Carolina Attorney General determined that Mr. Cheves operated illegal sweepstakes games. Congress should be working to keep bad actors out of the tribal gaming industry, not sanctioning casino deals with them.

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<sup>1</sup> See *United States v. Simmons, et al*, 5:02-cr-00504-PCE-14 (N.D. Ohio Eastern Division).

Third, the Catawba Indian Nation can acquire land into trust for gaming purposes under existing federal law—in South Carolina. The settlement agreement between the Catawba Indian Nation and the State of South Carolina and the laws ratifying the agreement establish a comprehensive process by which the Catawba can acquire trust land in South Carolina. There is no process for the Catawba to acquire lands outside of South Carolina because Congress never intended them to be able to do so. This land acquisition process allows the Catawba to restore the trust status of their “Existing Reservation” in South Carolina, authorizes them to acquire additional lands in trust as a part of their “Expanded Reservation,” and allows them to acquire additional “Non-Reservation properties” in fee simple, non-trust status. But the agreement and laws specifically require that any trust land acquisitions must first be approved by the county in which the land is located and the Governor of South Carolina. If the Catawba follow the process set forth in the settlement agreement, which allows for direct and substantial local and state input into the process, then the BIA would be able to take the land into trust in what would arguably be a streamlined federal process.

The only time a state other than South Carolina is mentioned is in the Catawba Settlement Act where Congress delineated a Federal Service Area in which the individual tribal members living in that area could receive federal health care benefits. The sole purpose of this Federal Service Area is to ensure that those individual Catawba members living across the border in North Carolina from the Tribe’s reservation in South Carolina could access health care services being provided by a South Carolina Tribe. The inclusion of certain counties in North Carolina in the Federal Service Area was specifically needed because the Catawba did not, and was not anticipated to ever have, a land base in North Carolina or anywhere other than the State in which they were traditionally located.

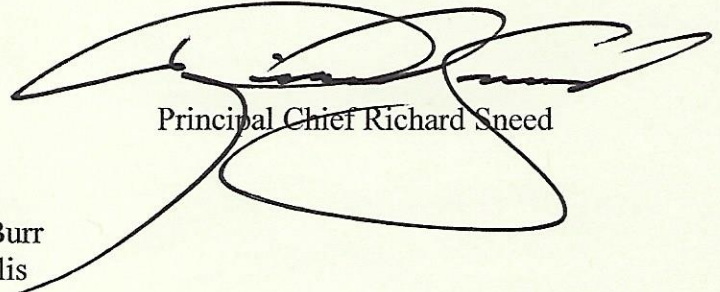
Significantly, the Catawba Settlement Act is very clear that it extinguished any land interests that Catawba had outside of South Carolina. But it acknowledged that Catawba has land interests in South Carolina, and provided a process by which Catawba could get their South Carolina reservation into trust status and expand it. Congress knew how to extinguish Catawba’s land interests in other states and Congress would have included other states in the land acquisition process if it intended for Catawba to acquire trust land outside of South Carolina.

Finally, the off-reservation lands that Wallace Cheves and the Catawba Indian Nation would like to acquire and have taken into federal trust are located within the Cherokee aboriginal territory. As one example of this extensive history and record, the Cherokees in the Treaty of July 20, 1777, ceded their lands

between the Catawba River and the Broad River, which includes the lands that currently include Cleveland County, North Carolina. Indian country has repeatedly stated that federal law and policy should respect tribal aboriginal and historical territories. This legislation would ignore and erase the voices of Indian country that have worked through this thorny area of law and policy and made express statements against aboriginal lands encroachments.

We respectfully request that you oppose this legislation.

Sincerely,

A large, stylized handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Principal Chief Richard Sneed

Cc: The Honorable Richard Burr  
The Honorable Thom Tillis