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January 24, 2020

***Delivered by hand***

Virginia Indian Advisory Board  
Board Administrator  
Virginia Secretary of the Commonwealth  
1111 E. Broad Street, 4th Floor  
Richmond, Virginia 23219

**Re: Wolf Creek Cherokee Tribe, Inc.**

Dear Sir or Madam:

Please find enclosed the Wolf Creek Cherokee Tribe's petition for formal recognition by the Commonwealth of Virginia. This petition follows the Tribe's letter of intent to apply for recognition, dated October 8, 2019. The Tribe's petition is accompanied by supporting documentation, including a binder of exhibits and a tube containing relevant genealogical charts.

If the Virginia Indian Advisory Board would like additional copies of the petition and supporting documents, please let me know and we would be glad to provide them.

We look forward to your review and answering any questions that you may have.

Sincerely,

A handwritten signature in blue ink that reads "Wm. H. Hurd".

William H. Hurd

Enclosures

cc: Chief Terry Price

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**COMMONWEALTH OF VIRGINIA**  
**Secretary of the Commonwealth**  
**Virginia Indian Advisory Board**

**In re: WOLF CREEK CHEROKEE TRIBE, INC.**

**PETITION FOR RECOGNITION**

PLEASE TAKE NOTICE that the Wolf Creek Cherokee Tribe, Inc., a now-incorporated remnant of the once wide-ranging Cherokee nation (the “Tribe”) petitions the Commonwealth of Virginia for recognition as a Virginia Indian tribe. This Petition is submitted pursuant to the resolution of the Tribal Council (the “Resolution”), adopted on September 30, 2019. A copy of the Resolution, signed by all members of the Tribal Council, is attached to this Petition as **Exhibit A**.

**INTRODUCTION**

Many Virginians seeking a connection with Indians indigenous to the Commonwealth already know about the Wolf Creek Cherokee Tribe. Their Chief, Terry Price, has been featured in numerous newspaper and magazine articles. Indeed, Chief Price and others from the Tribe are frequently called upon by public schools in their area to teach about Native American history and culture. The tribal center museum, located in eastern Henrico County, is rich in artifacts and exhibits, and it is the focal point of the Tribe’s life, serving as the gathering place for tribal council meetings and weekly drum ceremonies.

Ironically, despite its role in preserving Native American culture – and its public familiarity – the Tribe has never been formally recognized by the Commonwealth. Instead, the Commonwealth has focused primarily on those tribes that once formed part of the Powhatan confederacy. Those tribes, which are part of the Algonquian language group, were concentrated

in what is now eastern Virginia when Europeans arrived. By contrast, the Cherokee are part of the Iroquoian language group and were concentrated in the mountainous southwestern part of Virginia. Recognizing the Wolf Creek Cherokee Tribe will help promote a broader understanding of the diversity in Virginia's Native American heritage.

In presenting this Petition, the Tribe must note at the outset that, like other tribes in Virginia, the Wolf Creek Cherokee Tribe was a victim of the notorious Walter Plecker, a white supremacist who served as registrar of Virginia's Bureau of Vital Statistics from 1912 to 1946. In an effort to erase the heritage and ancestry of Virginia Indians, Plecker pressured state agencies into reclassifying Indians as "colored" on their birth certificates. In order to avoid the discrimination then heaped upon "colored" Virginians, many who knew that they were Indians had to pretend to be white and, in the process, avoid any public appearance of tribal organization or activity. As the chief of one tribe has observed, Plecker "came very close to committing statistical genocide on Native Americans in Virginia."<sup>1</sup> Plecker's malicious endeavor continues to haunt Virginia in that the decades-old falsification of official records complicates certain aspects of the Commonwealth's newly-formed tribal recognition procedures.

Even so, the Wolf Creek Cherokee Tribe endured and, eventually, re-emerged into public view. The Tribe is pleased to submit this Petition, using the procedures for recognition prescribed by the Secretary of the Commonwealth, and it is hopeful that this Petition will lead to a decision by the Virginia Indian Advisory Board to recommend formal recognition by Virginia.<sup>2</sup>

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<sup>1</sup> See Talbot, T. Walter Ashby Plecker (1861–1947), *Encyclopedia Virginia*, retrieved from [http://www.EncyclopediaVirginia.org/Plecker\\_Walter\\_Ashby\\_1861-1947](http://www.EncyclopediaVirginia.org/Plecker_Walter_Ashby_1861-1947) (last visited Jan. 23, 2020); see also *A Virginia Supremacist and His Rigid "One-Drop" Edict Still Bedevil Tribes' Quest for Recognition*, Washington Post, July 2, 2015, attached as **Exhibit B**.

<sup>2</sup> The Tribe notes that the procedures now erected for obtaining recognition are far more onerous than those imposed on the eleven other tribes recognized by the Commonwealth, and the Tribe reserves the

For Virginia to recognize the Wolf Creek Cherokee Tribe would not be unusual. Indeed, it would follow the precedent of other southeastern States that contain historical Cherokee territory and that maintain formal recognition of Cherokee tribes within their borders. These States, and their recognized Cherokee tribes are:

**Alabama:** (a) Cherokee Tribe of Northeast Alabama, (b) Echota Cherokee Tribe of Alabama, and (c) United Cherokee Ani-Yun Nation;<sup>3</sup>

**Georgia:** Georgia Tribe of Eastern Cherokee;<sup>4</sup> and

**South Carolina:** Eastern Cherokee, Southern Iroquois and United Tribes of South Carolina.<sup>5</sup>

While sharing a common heritage with other living Cherokee people, the Wolf Creek Cherokee Tribe (like the tribes recognized by other States) maintain a tribal structure separate from the federally-recognized Cherokee tribes: the Eastern Band of Cherokee Indians in North Carolina, the United Keetoowah Band of Cherokee Indians in Oklahoma, and the Cherokee Nation in Oklahoma. Indeed, like the federal government and other States, Virginia has already recognized that more than one modern-day tribe may trace its roots to the same ancestral tribe by recognizing

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right the right to seek recognition by means as favorable as those afforded to the other, formally-recognized tribes.

<sup>3</sup> See *Tribes Recognized by the State of Alabama*, State of Alabama, Indian Affairs Commission, available at <http://aiac.state.al.us/tribes.aspx> (last visited Jan. 23, 2020) (official state website recognizing three Cherokee tribes in Alabama).

<sup>4</sup> See Georgia Code § 44-12-300 (recognizing the Georgia Tribe of Eastern Cherokee as one of the “legitimate American Indian tribes of Georgia”).

<sup>5</sup> See *South Carolina’s Recognized Native American Entities*, South Carolina Commission for Minority Affairs, available at <https://cma.sc.gov/minority-population-initiatives/native-american-affairs/south-carolinas-recognized-native-american-indian-entities> (last visited January 23, 2020) (official state web site, listing the Eastern Cherokee, Southern Iroquois & United Tribes of South Carolina as “state recognized group”).

both the Chickahominy and Eastern Chickahominy, both of which descended from Chickahominy ancestors.<sup>6</sup>

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<sup>6</sup> See *Meet the State-Recognized Virginia Indian Tribes*, National Park Service, available at <https://www.nps.gov/jame/learn/historyculture/virginia-indian-tribes.htm> (last visited Jan. 23, 2020).

**THE TRIBE IS AN IMPORTANT PART  
OF THE LIFE OF THE COMMONWEALTH.**

Before turning to the Tribal Recognition Criteria published by the Secretary of the Commonwealth, this Petition will document some of the many times the Tribe has been recognized – and often commended – by the news media, local governments, school systems and other educational institutions, as well as various state and federal agencies. As shown by these many voices from the general public, local entities and other Indian Tribes, the Wolf Creek Cherokee are an important part of the public life of the Commonwealth, a fact that underscores their request for formal recognition.

- Chief Terry Price has stood alongside chiefs of numerous other Virginia tribes at numerous powwows and events. **Exhibit C.**
- The United States Department of Health and Human Services requested that the Wolf Creek Cherokee Tribe assist with an educational video regarding tribal child support programs, specifically noting “we are looking for some place with a real, Native American Background.” **Exhibit D.** The Office of Child Support Enforcement, a program within the Administration for Children and Families, eventually selected the Wolf Creek Cherokee museum as the backdrop for this project and recorded the program at the Tribe’s museum on April 26, 2016. **Exhibit E.**
- Director of the Virginia Military Institute Museum, Colonel Keith E. Gibson, expressed how “impressed” he was that the Wolf Creek Cherokee Tribe had established a museum and history center predicated on the Tribe’s “obvious dedication to preserving and passing on native culture.” **Exhibit F.**
- Brigadier General Ronald Kirklin noted that the Wolf Creek Cherokee Tribe’s “active participation” in the Fort Lee Native American Observance Event for 2015 “was truly exceptional to help educate and inspire” the event’s attendees. **Exhibit G.**<sup>7</sup>
- Chief Terry Price was the recipient of the Award of Merit by the Henrico County Historic Preservation Advisory Committee based upon the Wolf Creek Cherokee Tribe’s Museum and Tribal Center that “preserves the heritage of the Wolf Creek Tribe.” **Exhibit I.**

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<sup>7</sup> A list of additional “thank you notes” written by various organizations to the Wolf Creek Cherokee Tribe is attached as **Exhibit H.**

- A life-size poster of Chief Terry Price alongside other Native Americans is located at the United States government's office of Indian Health Services in Oklahoma. **Exhibit J** (Chief Terry is located on the far right of the poster).
- For a partial list of the Tribe's participation in public events, *see* **Exhibit K**. For a partial list of publications mentioning the Wolf Creek Cherokee Tribe, *see* **Exhibit L**.
- The Tribe's deep roots in Virginia – and the Tribe's petition for recognition – have been endorsed by prominent archeologist, Wm. Jack Hranicky (RPA), whose letter of support is attached. *See* **Exhibit M**.

**RESPONSE TO TRIBAL RECOGNITION CRITERIA  
PUBLISHED BY THE SECRETARY OF THE COMMONWEALTH**

In response to the Tribal Recognition Criteria published by the Secretary of the Commonwealth,<sup>8</sup> the Tribe is pleased to provide the following information and documentation:

**CRITERION 1**

**Demonstrate descent from an historical Indian group(s)  
that lived within Virginia's current boundaries at the time  
of that group's first contact with Europeans.**

**A. The Cherokee lived in Virginia at the  
time of first contact with Europeans.**

There is no doubt that, when the English arrived, the Cherokee nation stretched throughout much of what is now the southeastern United States, reaching through the Carolinas and into Virginia. This is shown by several sources:

- **Textbooks:** Even in elementary school, Virginians are taught that the indigenous people of the state included Cherokee Indians. **Exhibit N** includes pages from a grade school textbook, Horizons Virginia, Harcourt School Publishers, pp. 43-49 (2003). Used in Virginia public schools, the map on page 43 shows the historic Cherokee presence in Southwest Virginia. The text on page 47 confirms the point: "Another Iroquoian-speaking tribe, called *the Cherokees* [], *lived in southwestern Virginia*" (emphasis added; phonetic spelling of Cherokees omitted).

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<sup>8</sup> See *Tribal Recognition Criteria*, Secretary of the Commonwealth, Virginia Indian Advisory Board, available at <https://www.commonwealth.virginia.gov/virginia-indians/virginia-indian-advisory-board/tribal-recognition-criteria/> (last visited Jan. 23, 2020).

- **State Website:** The history taught in Virginia schools is underscored by the following statement on an official state website:<sup>9</sup>

Three distinctive tribes dominated the territory now known as Virginia during the late 16th century through the 17th century - the Powhatan, the Monacan and Cherokee.

They spoke three different languages - Algonquian, Siouan and Iroquoian - and lived along the banks of the coastal waterways, in woodlands and mountain valleys.

\* \* \* \* \*

The Cherokee occupied the mountain valleys of southwest Virginia and along the banks of the Nottoway River near the North Carolina border during the Jamestown landing in 1607. They spoke the Iroquoian language.

The Cherokee Nation did not have contact with the English settlers until around 1630, when they began trading with the English who migrated westward.

By 1700, the Cherokee Nation claimed most of the land in southwestern Virginia, but they were forced to give up their land to the United States government in 1768 under the Treaty of Hard Labor.

[Note: Although the Virginia website is correct in describing the loss of Cherokee land under the Treaty of Hard Labor, it is mistaken in its reference to the United States. Signed in 1768, the Treaty of Hard Labor predated the Revolution].

- **Encyclopedia Virginia:** The well-respected guide to Virginia history reports that, in 1756, “William Byrd III and Peter Randolph represent[ed] Virginia in negotiations with

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<sup>9</sup> See *Virginia Indians*, Virginia.org, available at <https://www.virginia.org/virginiaindians/> (last visited January 23, 2020).

Catawba and Cherokee Indians in South Carolina.”<sup>10</sup> They were sent by the Governor of Virginia, Robert Dinwiddie, in an effort to pursue an alliance against the French.<sup>11</sup>

- **National Register of Historic Places:** The historical presence of the Cherokee in Southwest Virginia is also documented by this authoritative discussion about Fort Chiswell in Wythe County, Virginia showing that the fort was a venue for trading with the Cherokee: “Fort Chiswell continued to be used as a military outpost during 1761 and the early months of 1762, when a formal treaty was made with the Cherokees. According to a portion of the April 23, 1762 Indian Treaty, traders were to go as far as Fort Chiswell with goods for the Indians.” **Exhibit O** pp. 3-4 (Fort Chiswell Site, Nomination Form, National Park Service, submitted by Virginia Research Center for Archeology, College of William and Mary (1976)).
- **Scholarship:** A prominent scholar of Cherokee history and professor at Virginia Commonwealth University, Gregory D. Smithers, confirms the presence of Cherokee in Virginia at the time of first European contact. As Professor Smithers writes:

What, then, do we know about the Cherokee? Since the late nineteenth century, historians, anthropologists, and archeologists have pieced together a historical narrative of the Cherokee past. That narrative routinely begins with scholars noting that the Cherokee are an Iroquoian-speaking people ... who settled in a vast and diverse area that included the modern-day states of Virginia, West Virginia, North and South Carolina, Georgia, Alabama, Tennessee, and Kentucky. By the time Europeans encountered Cherokees in the sixteenth century, the Cherokee people knew this vast region as their homeland.

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<sup>10</sup> See *William Byrd (1728-1777)*, Encyclopedia Virginia, retrieved from [https://www.encyclopediavirginia.org/Byrd\\_William\\_1728-1777#start\\_entry](https://www.encyclopediavirginia.org/Byrd_William_1728-1777#start_entry) (last visited Jan. 23, 2020).

<sup>11</sup> See *Instructions for Peter Randolph and William Byrd, Esquires, Appointed Commissions to Treat on Behalf of the Colony and Dominion of Virginia, with the Catawbas and Cherokees*, Envisaging the West, available at [http://jeffersonswest.unl.edu/archive/view\\_doc.php?id=jef.00096](http://jeffersonswest.unl.edu/archive/view_doc.php?id=jef.00096) (last visited Jan. 23, 2020).

Smithers, The Cherokee Diaspora: An Indigenous History of Migration, Resettlement, and Identity, Yale University (2015), pp. 4-5 (emphasis added). Professor Smithers also notes:

In the decades between the French and Indian War (1754 – 1763) and the Treaty of Washington in 1819... the Cherokee diaspora was born. During these tumultuous decades Cherokee chiefs ceded 58,555,280 acres of land in Virginia, Georgia, Tennessee, Alabama, and North Carolina either to British colonial governments in North America or to the federal government of the United States. For a people whose homeland once included portions of present-day southwestern Virginia, West Virginia Kentucky, Tennessee, Georgia, the Carolinas, and Alabama, the loss of land and loss of access to the rivers and streams that sustained Cherokee towns and farms was life altering.

*Id.* at 28-29 (emphasis added).

- The map attached as **Exhibit P** was prepared by the Smithsonian Institution in 1974 and shows that the historic lands of the Cherokee extended across what is now Southwest Virginia.
- **The Treaty of Hard Labor:** Signed in 1768, the Treaty of Hard Labor documents the surrender by the Cherokee of part of their lands in Southwest Virginia, and their retention of the rest. As one source explains:

The meeting took place at Hard Labor, South Carolina where the participants recognized the cession of certain lands of the Cherokee to the colonies of South Carolina, North Carolina, and Virginia. According to the terms, the king's 'white subjects' would be bound by the agreement not to move into the lands designated as belonging to the Cherokee, and the Cherokee were similarly constrained from settling on land acknowledged as belonging to the English colonies.<sup>12</sup>

This description of the treaty is confirmed by an examination of its text, which explains the document to be:

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<sup>12</sup> See *Treaty of Hard Labor with the Cherokees*, Envisaging the West, available at [http://jeffersonswest.unl.edu/archive/view\\_doc.php?id=jef.00089](http://jeffersonswest.unl.edu/archive/view_doc.php?id=jef.00089) (last visited Jan. 23, 2020) (emphasis added).

A Treaty for the Ratification and Confirmation of several Cessions to his Most Sacred Majesty George the third... made at different times by the said Nation of Cherokee Indians, of certain Lands lying within the limits of the provinces of South Carolina, North Carolina and Virginia, and for the continuance and preservation of Peace between his Majesty and the said Cherokee Indians.<sup>13</sup>

Attached as **Exhibit Q** is a National Park Service map, showing the line drawn by the Treaty of Hard Labor dividing the Cherokee's lands in what is now Southwestern Virginia from the Virginia colony's lands to the east.

- **The Treaty of Lochaber:** Signed two years after the Treaty of Hard Labor, the Treaty of Lochaber moved the line between the Cherokee and the Virginia colonists yet further to the west.<sup>14</sup> A map showing the successive cessions by the Cherokee under the Treaty of Hard Labor, the Treaty of Lochaber and thereafter is attached as **Exhibit R**.

- Jack Hranicky, registered Professional Archaeologist and the bestselling author of literature involving Virginia archeology, has written a letter identifying Burkes Garden, Virginia near Wolf Creek Mountain as where the Wolf Creek Cherokee Tribe historically lived. *See Exhibit M.*

**B. The Wolf Creek Cherokee Tribe  
is descended from the original Cherokees.**

Just as not all Cherokee left North Carolina when the Indian Removal Act was enacted in 1830, not all Cherokee left Southwest Virginia when the Treaty of Hard Labor was signed in 1768 or when the Treaty of Lochaber was signed in 1770. Some continued to live in the mountains. Of course, the colonial and state boundaries that divided Virginia from North Carolina or, later, Virginia from Tennessee, Kentucky and West Virginia, were of no great relevance to the Cherokee,

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<sup>13</sup> *Ibid* (emphasis added).

<sup>14</sup> *See Treaty of Lochaber, Envisaging the West*, available at [http://jeffersonswest.unl.edu/archive/view\\_doc.php?id=jef.00091](http://jeffersonswest.unl.edu/archive/view_doc.php?id=jef.00091) (last visited Jan. 23, 2020).

and movement from one part of their one-time domain to another was not uncommon. Many ancestors of the Wolf Creek Cherokee Tribe lived for many years in and around Southwest Virginia, passing into North Carolina or West Virginia and back according to circumstances. Among their common "English" family names are "Price" and "Milam." One is the name given to Price Mountain, which lies to the east of Wolf Creek Mountain in what is now Montgomery County, Virginia; and the other is the name given to Milam Ridge, which lies to the west of Wolf Creek Mountain in what is now Raleigh County, West Virginia.<sup>15</sup> They lived primarily as farmers.

During the Great Depression, Chief Price's grandparents, Everett Price (1909-1985) and his wife, Ertle Price (1912-2000), left their home in and around Southwest Virginia and traveled to the State of Washington in 1940, where Everett found work in a logging camp. Chief Price's father, Delbert S. Price, Sr. (1933-present), accompanied them as did Delbert's brother (Francis) and two sisters (Julia and Virginia). Another sister (Rhona) was later born after the family moved to Washington. The children attended Sedro Wooley School, a mixed-race school in a town by that name. A photograph of Delbert's class is attached as **Exhibit T**. Delbert is missing from the photograph because he was not in school that day. Delbert's sisters, Julia and Virginia, are circled in the photograph.

Everett Price and his family were not alone in their travel to Washington. Other Cherokee made the trip as well. These included Milton and Ellen Osborne and their four children, Chester and Viola Osborne and their three children, and Roland Roark. So, there were a total of eighteen (18) Cherokee who made the journey to Washington, and their presence there is documented in a 1940 census form. *See Exhibit U* (highlighted for emphasis).

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<sup>15</sup> These place names are shown on an 1827 map prepared by the Virginia Board of Public Works (also known as the Wood/Boye Map), on file in the Library of Virginia, Map Reading Room. Segments of the 1827 map are attached as **Exhibit S**. The maps show Wolf Creek (red dots), Wolf Creek Mountain (yellow dots), Milam's Ridge (blue dot), Price Mountain (orange dot), and Burkes Garden (green dot).

Everett Price returned from Washington after about 8 years and took up temporary residence in North Carolina, again looking for work. His son, Delbert, joined the U.S. Army in 1952, where he served until 1955. After leaving the Army, Delbert worked in a coal mine until he was injured in a cave-in. In 1959, a contingent of seven inter-related Cherokee households migrated from their ancestral home near Southwest Virginia to Henrico County and took up residence in what was to become a center of Cherokee life. These families included:

- The family of Delbert Price and Lena Harvey Price;
- The family of Raymond Harvey and Judy Price Harvey (Judy was Delbert's sister; Raymond was Lena's brother);
- David Price (Delbert's brother);
- Harvey Tyree and Carol Price (Delbert's sister);
- "Jigs" Price (Lena Harvey Price's brother);
- Lloyd Harvey (Lena Harvey Price's brother); and
- Ruth ("Vinie") Harvey (Lena Harvey Price's sister).

Other Cherokee soon followed, including Darrell Price and Gene Price (Delbert's brothers).

Over the six decades since 1959, the Cherokee who migrated from Southwest Virginia to Henrico County and their descendants have grown into a tribe of 68 enrolled members.<sup>16</sup> At the

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<sup>16</sup> While size is not a criterion for tribal recognition, it should be noted that the Wolf Creek Cherokee Tribe is larger than a number of federally-recognized tribes, including:

- Blue Lake Rancheria (53 members); see *Blue Lake Rancheria v. United States*, 653 F.3d 1112, 1114 (9th Cir. 2011) ("Blue Lake Rancheria is a 53-member, federally recognized Indian tribe");
- Cabazon Band of Mission Indians (38 members). See Cabazon Band of Mission Indians, available at <http://www.planetpalmsprings.com/sovereign-nation/cabazon-cahuilla-indians.html> (last visited Jan. 23, 2020); and
- Cachil DeHe Band of Wintun Native of the Colusa Indian Community (84 members). See *Colusa Indian Community, Government*, available at <http://www.colusa-nasn.gov/Government/Government.html> (last visited Jan. 23, 2020).

time of the migration, the notorious Walter Plecker was dead; however, his campaign to erase Indian identity in Virginia was still having its effects. Racial discrimination was still the order of the day, and those who publicly declared themselves to be Indian risked being treated as “colored” and subjected to all the discriminatory treatment that Virginia law and white society then imposed on African-Americans. Thus, for many years, the Cherokee who migrated to Henrico did not formally declare themselves to be Indians, much less a tribe. Their formal declaration occurred in 2003, when the band applied for – and received – a corporate charter from the State Corporation Commission, adopting as their name the Wolf Creek Cherokee Tribe, in recognition of their origin near Wolf Creek Mountain in what is now Russell, Scott, and Tazewell Counties.

The reemergence of the Wolf Creek Cherokee Tribe as a formal tribe is not unique. The Monacan and Patowomeck are examples of other Indian people who kept quiet about who they were, and assumed no formal structure, in order to avoid being classified as “colored” and subjected to discrimination. In an article on the *Monacans*, Encyclopedia Virginia explains:

Like other Virginia Indians, the Monacans struggled to preserve their identity and culture early in the twentieth century. The Racial Integrity Act of 1924 and subsequent legislation banned interracial marriage in Virginia and asked for voluntary racial identifications on birth and marriage certificates. “White” was defined as having no trace of African ancestry, while all other people, including Indians, were defined as “colored.”... The laws essentially erased Virginia Indians as a category of people.

Emphasis added.<sup>17</sup> Thus, the Monacan did not reassert their identity until late in the 20th Century, gaining state recognition in 1989. As noted by Encyclopedia Virginia, the *Patowomeck* were out

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<sup>17</sup> See *Monacan Indian Nation*, Encyclopedia Virginia, (March 11, 2019), retrieved from [http://www.EncyclopediaVirginia.org/Monacan\\_Indian\\_Nation](http://www.EncyclopediaVirginia.org/Monacan_Indian_Nation) (last visited Jan. 23, 2020).

of public sight for centuries, having disappeared from colonial records in the 17th Century, only to reemerge and gain state recognition in 2010.<sup>18</sup>

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<sup>18</sup> See Wolfe, Brendan. "Patawomeck Tribe." Encyclopedia Virginia. Virginia Foundation for the Humanities, (May 30, 2014), available at [https://www.encyclopediavirginia.org/Patawomeck\\_Tribe#start\\_entry](https://www.encyclopediavirginia.org/Patawomeck_Tribe#start_entry) (last visited Jan. 23, 2020).

## CRITERION 2

### **Show that the group's members have retained a specific Indian tribal identity.**

The Tribal Recognition Criteria published by the Secretary of the Commonwealth explains that support for Criterion 2 can be found “[c]orrespondence or photographs of group members showing that they visited with members of other tribes.”

In keeping with this approach, we have attached a list showing some of the many pow wows and other events, sponsored by other tribes, where Chief Terry Price or other representatives of the Wolf Creek Cherokee Tribe participated by dancing and/or drumming. **Exhibit V.** Reaching back to 2006, the list shows that the Wolf Creek Cherokee Tribe took part in over two dozen tribal events sponsored by eight of Virginia's state-recognized tribes, including the Cheroenhaka, Chickahominy, Mattaponi, Nansemond, Nottoway, Rappahannock, and Upper Mattaponi.<sup>19</sup> Exemplar photographs from many of these pow wows are also attached as **Exhibit W.** Similarly, the Wolf Creek Cherokee Tribe has held its own pow wows, including one that received public recognition in 2009 *see* **Exhibit X**, and was attended by other tribes from both inside and outside Virginia. Members of the Wolf Creek Cherokee Tribe have also danced and drummed at many other pow wows in Virginia, Maryland, North Carolina, Pennsylvania, South Carolina, Tennessee and Washington, D.C. *See* **Exhibits W and X.**

It is not just other tribes that have recognized the Wolf Creek Cherokee Tribe. Various local, state and federal agencies have given *de facto* recognition as well. For example:

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<sup>19</sup> The other three Virginia-recognized tribes (Eastern Chickahominy, Pamunkey and Patawomeck) are not known to hold pow wows.

- The Wolf Creek Cherokee Tribe was called upon to use its memory of traditional building methods to construct a longhouse at Henricus Historical Park in Chesterfield County, Virginia. The Tribe was successful while others had failed. *See Exhibit Y.*
- The Tribe has made cultural presentations at a wide array of venues, including the Varina Public Library, Virginia Beach, the Henrico Public County Public Schools, the Varina Christmas Parade, the Black History Museum, Virginia Commonwealth University, Fort Lee, Virginia, Langley Air Force Base, and the Office of Child Support Enforcement. Photographs from some of these presentations are attached as **Exhibit Z.**

The Tribal Recognition Criteria published by the Secretary of the Commonwealth also explain that support for Criterion 2 can be found in “[d]ocuments relative to the formal organization by the group of a group corporation, school, church, or *other such institution*, if the institution included the... tribal name.” (Emphasis added.) The Tribe’s central institution is the Wolf Creek Cherokee Museum in Henrico County, Virginia. The role of this institution in the life of the Tribe and the larger community is discussed in detail in connection with Criterion 5.

Other evidence showing the Tribe’s specific Indian tribal identity include:

- Affidavits from non-Indians who attest to the Cherokee identity of leading tribal members. *See Exhibit AA.* These include affidavits from:
  - **Teresa Henry** - attesting that she has known Sharlene Price Ladd (daughter of Delbert S. Price, Sr.), for 57 years (since first grade) and that “Sharlene Price Ladd has always identified herself as Cherokee Indian, and she has always been considered Indian by me, by our mutual friends and acquaintances.”
  - **Curtis Parr** - attesting that he has known Delbert Jr. Price (son of Delbert S. Price Sr.) for 45 years (including working together) and that “Delbert Jr. Price has always identified himself as Cherokee Indian, and he has always been considered Indian by me, by our mutual friends and acquaintances.”

- **Ruby Pearl Steele** - attesting that she has known Delbert Price's family for 51 years (family friend since childhood) and that "Delbert Price has always identified himself as Cherokee Indian, and he has always been considered Indian by me, by our mutual friends and acquaintances."
- Older tribal members were often born at home, rather than in a hospital, and often do not have formally issued birth certificates. Other older tribal members were born at a time when claims of "Indian" ethnicity might result in being marked down as "colored" or otherwise subjected to racial discrimination.
- Even so, birth and death certificates of tribal members showing they are "Indian" include the following:
  - Chief Terry Wayne Price;
  - Chief Gary Wane Price;
  - Delbert Junior Price;
  - Linda Gay Price (now Swinson);
  - Drema Darlene Price; and
  - Lena Pansy Price (born Dec. 28, 1930, died Dec. 23, 2007) death Certificate states "Race of Decedent: Native American".

**See Exhibit BB.**

### **CRITERION 3**

#### **Trace the group's existence within Virginia from first contact to the present.**

The history of the Tribe's existence in Virginia is explained above in the response to Criterion 1. In addition, the Tribal Recognition Criteria published by the Secretary of the Commonwealth state that support for this criterion also can be found in "[a] documented genealogy of the current members, highlighting of any lines descending to current members from ancestors appearing in public records as 'Indian' or 'group name.'" Such a documented genealogy of the Tribe is provided in response to Criterion 4. *See also Exhibits CC, DD, EE.*

#### CRITERION 4

**Provide a complete genealogy of current group members traced as far back as possible.**

The genealogy of current tribal members shows that they all have Cherokee lineage.

- **Membership Roll:** The first step in showing tribal genealogy is **Exhibit CC**. This is a copy of the current membership rolls of the Tribe, showing each member's descent from one or more "key ancestors," including (a) Delbert S. Price, Sr., and Lena Harvey Price, (b) the parents of Delbert S. Price, Sr., and/or (c) the parents of Lena Harvey Price.
- **Genealogical Charts:** The second step is the set of genealogical charts for these key ancestors. The family tree of Delbert S. Price, Sr. and his parents is shown on **Exhibit DD**, while the family tree of Lena Harvey Price and her parents is shown on **Exhibit EE**.
- **Cherokee Documentation:** The third step is to show the Cherokee lineage of the key ancestors who appear in the genealogical charts.
  - First, there is the chart of Delbert S. Price, Sr., **Exhibit DD**, which shows Ephraim Roark as an ancestor. He appears twice, four generations back on Delbert's father's side and five generations back on Delbert's mother's side. (Note that the multiple appearances by the same ancestor also shows tribal intermarriage, a product of the Tribe's social cohesiveness.).
  - Then there is the independent documentation as to Cherokee identity of Ephraim Roark. This documentation comes from the genealogical information provided in a 1907 application for federal benefits then being provided to members of the

Eastern Band of Cherokee. **Exhibit FF**. In a hand-written statement made under oath, the applicant, Levi F. Lewis traced his own lineage:

Levi F. Louis is son of James and Hiley Louis who was the son of Nathan Louis and Nelly who was the daughter of Ephriam Roark who was a full blooded Cherokee Indian. The Roarks and Vanover and Arkeelooke are Cherokee Indians.

**Exhibit FF** at p.7 (emphasis added).<sup>20</sup> Delbert's chart shows 12 other ancestors with the Roark surname, some appearing more than once.<sup>21</sup>

As a collateral descendant of a common ancestor, Levi F. Louis does not appear in Delbert's chart; however, the "full-blooded Cherokee," Ephriam Roark, is shown in the charts and is one of the common ancestors of all living members of the Wolf Creek Cherokee Tribe who trace their lineage to both parents of Delbert S. Price.

- Then, on Lena Harvey Price's side, there are two items of note:
  - There is Louisa Graham Milam, born in 1857 in Tazewell County, Virginia. She is Lena's great grandmother, and she appears on the right side of a photograph taken with her son and grandchildren. *See Exhibit GG*. Her visage and dress are unmistakably Native American.
  - There is also the long chain of Milam ancestors, an uncommon name associated with Milam Ridge in what was once Virginia Cherokee territory. *See infra* at 12. The chain reaches back to John Milam who was born in 1725 in Virginia. *See Exhibit*

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<sup>20</sup> The record shows that Levi F. Louis was not approved for federal benefits. This was not because he was not Cherokee, but because his lineage was not traceable to the particular tribe—the Eastern Band of Cherokee—where he sought to apply. *See Exhibit FF* at p.3.

<sup>21</sup> In addition to Ephriam Roark who is included twice, Delbert's chart includes many other descendants more than once, specifically Timothy O. Roark (twice), Dennis O. Rourke (twice), Charles O. Roark (six times), Timothy Roark (twice), Keziah Sosandra Roark (twice), Charles B. Roark (twice), Abigail Roark (twice), Maryanne Roark (twice), Enoch Roark (twice), Rebecca Roark (twice), Joseph Lincoln Roark (twice), and Viola G. Roark (twice).

**HH** at p.20. The same John Milam is also an ancestor of Jesse B. Milam, who was born in 1884. *See Exhibit HH* at p.1. Jesse B. Milam, served as Principal Chief of the Cherokee Nation in Oklahoma.<sup>22</sup> Thus, the Wolf Creek Cherokee and the Cherokee Nation in Oklahoma are descended from the same Milam ancestor. The two tribes are “cousins.”

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<sup>22</sup> Mary Ellen Meredith, "Milam, Jesse Bartley," The Encyclopedia of Oklahoma History and Culture, available at <https://www.okhistory.org/publications/enc/entry.php?entry=MI016> (last visited Jan. 23, 2020).

## CRITERION 5

**Show that the group has been a socially and culturally cohesive Indian community, at least for the twentieth century and farther back if possible, by organizing separate churches, schools, political organizations, businesses, cultural groups or the like.**

For many years, the organization of separate formal institutions, such as those listed by this criterion, would have marked tribal members as “colored” in the eyes of Virginia law, and brought down upon them all the hardships of racial discrimination. Thus, the Tribe maintained itself by informal means. Even so, the longstanding cohesiveness of the group is shown by the tribal migration from Southwest Virginia to the Richmond area in the 20th Century, as discussed in response to Criterion 1. Tribal cohesiveness is also shown by the network of intermarriages found in the two large genealogical charts (**Exhibits DD** and **EE**). In the family tree of Delbert Squire Price, Sr. (**Exhibit DD**), 22 individuals appear more than once.<sup>23</sup> Similarly, in the family tree of Lena Pansey Harvey (**Exhibit EE**), 41 individuals appear more than once.<sup>24</sup>

As for businesses, Chief Terry Price owns and operates Tomahawk Heating and Air, Inc., which was recognized by Virginia in 2009 as a minority-owned business, based on the ethnicity of “Native American.” *See Exhibit II*, at p. 2. Likewise, the business owned and operated by Vice Chief Gary Price, Environmental Supply Company, Inc., has also been recognized by the

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<sup>23</sup> William Leftridge Price; Delilah Dixon; Charles Roark (six times); Abigail Cnu (six times); Ephraim Osborne (son); Mary Polly Brock; Thomas Dixon; Nancy McMillon; Ephraim Osborne (father); Elizabeth Wells Howard; Aaron Brock; Susannah Caroline Davis; Timothy O. Roark; and Sarah Parker.

<sup>24</sup> Mary Catharine Comer; Jacob White Harvey; Joshua Calvin Harvey; Sarah Ann Swope; Frederick Comer; Mary Polly Mitchell; Michael Swope; Mary Eleanor Ellison; John Burke; Lettice Love Dannelly; Allen Milam; Martha Ann Lester; John Turner Milam; Barbara Anne Shrader; Abner Hulen Lester; Rebecca Whitt; Lewis Milam; Mary Holt; William Calvin Lester; Rachel Rebecca Bishop; Abijah Whitt; Elizabeth Rebecca Elswick; James Milam; Holt (no known first name); Turner (no known first name); Abner Alexander Lester; Martha Arthur; John Bishop; Ruth Elkins; Richard Whitt; Susannah Skaggs; John Milam; Judith Bartlett Cole; Bryant Lester; Sarah Winbush; Gabriel Arthur; Nikitie/Hanna Rebecca; Richard Whitt; Mary Kimborough; James Skaggs; and Rachel Moredock.

Commonwealth as minority-owned. **Exhibit JJ.** (Gary Price is the brother of Chief Terry Price and serves as Vice Chief.)

The Tribe maintains its long-established, separate spiritual practices, including sweat lodge pipe ceremony, and stomp dance. In keeping with the traditions that surround these practices, their details are not to be publicly discussed.

More recently, the Tribe has established a tribal center and museum, which is open to the public on Saturdays.<sup>25</sup> Located in Henrico County, the tribal center serves as an informal gathering place for tribal members and is used for formal meetings of the tribal council as well as weekly tribal drum circles, a traditional cultural practice preserved over many years and that ensures the Tribe passes these traditions to young Cherokees. *See Exhibit KK.* In its role as a museum, the venue preserves artifacts as well as artwork, and provides research in genealogy as well as educational classes. As noted previously, the Tribe has been recognized for its museum by the Historic Preservation Advisory Committee of Henrico County and the Virginia Military Institute. *See Exhibits I and F,* respectively.

The Tribe's educational endeavors illustrate both its descent from earlier Cherokee people and its current cohesiveness. Subjects passed down from generation to generation include:

- The Cherokee creation story, which recounts that the Cherokee people came from the constellation Pleiades.
- Songs in the Cherokee language.

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<sup>25</sup> Photographs and other information about the Tribe and the museum are available on the Tribe's website: *See* <http://www.wolfcreekcherokee.com/index.html> (last visited Jan. 23, 2020).

- How to build a longhouse. (As noted above, the Wolf Creek Cherokee built the longhouse at Henricus Historical Park when others not trained in Indian building techniques failed. **Exhibit Y**.)
- Indian woodland skills, including:
  - Making a rope from the inner bark of a tree (for example, paw paw or milk weed);
  - How to identify and harvest woodland plants to eat, including ramps, dandelions, plantains, spring onion, mulberry, blackberry, elderberry, wild strawberry, persimmon, paw paw, skunk cabbage and branch lettuce (from swamps);
  - traditional hunting techniques, including how to locate and use deer paths so the deer become accustomed to their scent, making it easier to hunt them. (Chief Terry recounts how he has successfully hunted deer using only a knife.)
  - How to prepare meat for eating and storing. (Delbert S. Price, Sr., reports that bear meat is sweet.);
  - How to watch tracks of animals to see what direction they are moving, morning to night;
  - How to use plants as medicine, including mint leaves and ginseng root, boiled grape leaves (for washing hair) cascara bark, mayapple root;
  - How to find sources of protein, including squirrels, groundhogs, fish of all types, frogs, birds (and their eggs) crayfish, chestnuts, hazelnuts, black and

white walnuts, and grub worms (insides can be cleaned out and outside fried);

- How to get honey from natural beehives;
- How to mark the area around the house and trails with natural things so they can tell if anyone has been in the house or area;
- How to make woodland teas, including catnip and sassafras teas.

## CRITERION 6

**Provide evidence of contemporary formal organization,  
with full membership restricted to people genealogically  
descended from the historic tribe(s).**

Although the Tribe has always organized itself according to its own traditional principles, it has also adopted a “contemporary formal organization” as shown by the following:

- Corporate Charter issued by the State Corporation Commission of the Commonwealth of Virginia to the “Wolf Creek Cherokee Tribe” on March 3, 2006. **(Exhibit LL)**;
- Articles of Incorporation. **(Exhibit MM)**;
- Corporate By-laws **(Exhibit NN)**;
- Current membership rolls of the Tribe **(Exhibit CC)**; and
- Sample of tribal membership card **(Exhibit OO)**.

Full membership is restricted to people genealogically descended from the historic tribe as shown by the following provisions:

- The Articles of Incorporation declares that “the corporation is to have the following class of members: CHEROKEE AMERICAN INDIANS.” **(Exhibit MM, Article 2)**.
- The By-Laws further limit membership, by the following provision:

Article 3. CITIZENSHIP

“Citizens — Any descendant of the Cherokee people who are related to our base roll of Cherokee born in the Commonwealth of Virginia may become an active citizen of this Tribe upon proof and documentation of his/her continual bloodline and approval by the Wolf Creek Cherokee Council.

a. The approval will be through the Wolf Creek Cherokee Council at which time a tribal card will be presented with their picture and card number, once this has been approved and issued then the person becomes a Citizen of the Wolf Creek Cherokee Tribe, Inc.”

By-Laws, Art. 3, Section 1 (**Exhibit NN** at p. 2).

- The By-Laws also provide: “Only registered tribal members (18) eighteen and older may be allowed to vote.” By-Laws, Art. 3, Section 3 (**Exhibit NN** at p. 2).

## CONCLUSION

The Wolf Creek Cherokee Tribe is an authentic tribe of Native Americans with roots deep in the history and soil of Virginia. They endured the English invasion, the debilitating effects to the Treaties of Hard Labor and Lochaber, the economic isolation of Southwest Virginia, and the attempts by white supremacy to erase them from memory. They have survived, and they are now a vibrant part of the economic and cultural life of Virginia.

In the Resolution adopted by the Tribal Council is this request:

**“[F]or our ancestors, ourselves and our descendants, we respectfully ask that the Commonwealth of Virginia acknowledge us, recognize who we are, and grant us, the Wolf Creek Cherokee Tribe, formal recognition.”**

The Tribe’s Petition should be granted.

Respectfully Submitted,

THE WOLF CREEK CHEROKEE TRIBE OF VIRGINIA, INC.

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