

**TESTIMONY OF THE YUOK TRIBE BEFORE THE HOUSE NATURAL
RESOURCES SUBCOMMITTEE ON INDIGENOUS PEOPLE
IN SUPPORT OF THE YUOK LANDS ACT**

September 19, 2019

Good afternoon, Chairman Gallego, Ranking Member Cook and Subcommittee Members. Thank you for the invitation to testify to you today, it is an honor to be here to speak in support of the Yurok Lands Act. My name is Joe James. I am Chairman of the Yurok Tribe. I am a Yurok traditional religious practitioner, fisherman, hunter, and have lived on the Yurok Reservation for my entire life. The Yurok Tribe has been working on this legislation for over 20 years. It will support tribal economic development, the preservation of our culture and natural resources, address historical wrongs, and the intent of the Hoopa-Yurok Settlement Act of 1988. The bill before this Subcommittee reflects years of meetings and negotiations with Representative Huffman, tribal governments, local governments, environmentalists, organizations, and local businesses. These efforts have culminated in a number of refinements, compromises, and improvements to the Yurok Lands Act. The Bill before you is the result of years of hard work and compromise that will provide significant benefits to the Yurok people while ensuring protection of the interests of other tribes and local entities.

The Yurok people have occupied the Pacific coast of Northern California and inland on the Klamath River since time immemorial. Our aboriginal territory included over 1.5 million acres of ocean, lagoons, redwood forest, the lower 45 miles of the Klamath River, and our sacred high country in what is now known as Northern California. Our aboriginal territory is one of the most wild, biodiverse, and ecologically unique places on the planet that includes the tallest trees in the world, some of the most ancient and largest fish on the planet, and the only fresh water lagoons on earth. From the beginning, we have followed all the laws of the Creator, which became the whole fabric of our tribal sovereignty.

In times past and present, the Yurok people have blessed the deep river, the tall redwood trees, the rocks, the mounds, and the trails. We pray for the health of all animals, and prudently harvest and manage the great salmon runs and herds of deer and elk. We never waste and use every bit of the animal or plant. Traditionally, our stewardship of the prairies and forests consists of controlled burns that improve wildlife habitat and enhance the health and growth of tan oak acorns, nuts and berries, grasses and bushes. We use all of these for food and materials for baskets, fabrics, and utensils. These practices led us to become early implementers of California's Carbon Capture and Sequestration program.

For millennia our religion and sovereignty have been pervasive throughout all our traditional villages. Our village way of life requires use of the sweathouse, extensive spiritual training and sacrifice, and firm adherence to tribal law. The Klamath River was and remains our highway, and from the beginning we have utilized the river and the ocean in dugout canoes carved from redwood trees. Our people come together from many villages to perform ceremonial construction of our fish dams, and to participate in our annual ceremonies. Our Yurok Country stayed in balance, kept that way by our good stewardship, hard-work, wise laws, and constant prayers to the Creator.

Our social and ecological balance, thousands and thousands of years old, was shattered by contact with non-Indians in the mid-1800s. In 1851, California's first Governor promised "a war of extermination will continue to be waged between the two races until the Indian race becomes extinct." In finally apologizing on behalf of California, Governor Newsom, in 2019 called this what it was – "genocide." For us, it is not history. We lost more than seventy-five percent of our people through unprovoked massacres and diseases. After goldminers swarmed over our land, we signed a "Treaty of Peace and Friendship" with representatives of the President of the United States in 1851, but then the United States Senate failed to ratify the treaty. Then in 1855, the United States ordered us to be confined to the Klamath River Reserve, created by Executive Order, within own territory. In 1864 and 1891, our reservation was merged with the Hoopa Valley Reservation. But even this small remnant of our ancestral land did not last long.

In the late 1890s individual Indians received allotments from the tribal lands on the Klamath River Reserve and almost all of the remainder of the Reserve was declared "surplus" and opened for homesteading by non-Indians. The forests were logged excessively and wildlife was depleted. Even the great salmon runs went into deep decline. In the mid-1930s the State of California attempted to illegally terminate traditional fishing by Yurok people. Our rights were judicially reaffirmed in the 1970s and 1980s after decades of legal and physical battles. Then, in 1988 Congress passed the Hoopa-Yurok Settlement Act to separate the Klamath River Reserve from the Hoopa Reservation and distribute tribal assets. The Klamath River Reserve remained under Yurok control with only slightly over 5,000 acres of trust land while the Hoopa Reserve remained under Hoopa control with over 90,000 acres of trust land.

In a matter of 130 years, the Yurok people lost over 1.49 million acres of land. In the Hoopa-Yurok Settlement Act, Congress recognized that the Act was not favorable to the Yurok people. It included in the Act two provisions to address the inequities. The first, an authorization for the Tribe to acquire more land adjacent to the Yurok Reservation and the second, an authorization for appropriations to purchase more land. Congress also expressed its intent to continue to work with the Tribe to rebuild its land base through appropriating federal funding to purchase land and supporting future land acquisition.

Against all odds, we have resisted, survived and maintained our culture and our people. Today, we are the largest California Tribe with over 6,400 tribal members. In part because we were never relocated and in part because we believe in our cultural and religious traditions. Indeed, many tribal members still live a traditional subsistence based way of life. Every year we hold tribal ceremonies, dancing for the health of babies and to balance the world. Many of us still live in our traditional villages along the Klamath River where our ancestors lived, and subsist based on a fishing, hunting, and gathering life way.

Today, we are lawyers, doctors, soldiers, judges, artists, amongst other occupations and we proudly continue to live our traditional ways. But it is not easy. The annual income on the reservation is \$11,000 and many of our members live well below the poverty line. They attempt to make ends meet through supplementing food sources with subsistence activities, hunting of deer and elk and fishing of salmon, sturgeon, eels, and other fish. But the resources of the reservation continue to be diminished by off reservation development. Specifically, the Klamath

River salmon runs over the last three years have been the lowest on record. The salmon have been killed by various fish diseases caused by poor water quality, high water temperatures, and low flows all of which are caused by dams and agriculture. We have been forced to close our fishery and we have declared a fishing disaster every year for the last three years. Animals on the land are in decline because of lack of habitat due to logging, spraying of pesticides on reservation by logging companies, and massive illegal marijuana grows.

While much has been lost, the spirit of the Creator and our inherent tribal sovereignty still thrive in the hearts and minds of our people as well as in the strong currents, deep canyons, thick forests, and high mountains of our ancestral lands. The Yurok Tribe has emerged, strong and proud from the tragedies and wrongs of the years since the arrival of non-Indians into our land. Our sacred and vibrant traditions have survived and are now growing grander and richer each year.

Our future lies in sustainable economic development based on our rich natural resources, cultural traditions, and preservation of our way of life. There is little economic opportunity in our area, and it is up to us to use our limited resources to advance our people. The Yurok Lands Act includes critical congressional authorizations to further empower the Tribe to exercise our inherent tribal sovereignty to protect the rich natural and cultural bounty of our area for not just Yurok people but for all American citizens and humanity.

To protect and build this future, our Tribe has worked on this Lands Bill for over 20 years. During the last five years, we have been extremely grateful for Representative Huffman's commitment to addressing these issues through this bill, while being respectful of and balancing other tribal and local interests. During this time, Congressman Huffman and both his local and D.C. staff have held countless meetings with us, other tribes and local entities to thoroughly vet this Bill, all of its provisions and to negotiate compromises that are reflected in it. As a result of meeting with other entities including tribes and Rancherias, these specific changes were made to the original legislation to address concerns:

- 1) confirmation of Yurok's governing documents was limited to the Reservation to ensure that Yurok's jurisdiction is limited to the Yurok Reservation;
- 2) lands transferred to the Tribe were removed from the bill to ensure other tribes/rancherias are not negatively impacted;
- 3) the expanded Yurok Reservation boundary was moved to exclude joint tribal use areas;
- 4) an express savings clause explicitly stating that no other tribal right would be negatively impacted by the bill was added; and
- 5) after significant research, it was shared with the Rancherias that they would be able to participate in NEPA under existing authority if they so choose. The bill does not limit their ability to do so.

Indeed, the Bill has won wide support that includes: Elk Valley Rancheria, Karuk Tribe, the Agua Caliente Band of Cahuilla Indians, San Manuel Band of Mission Indians, Pomo Band of Mission Indians, Ione Band of Miwok Indians, Yoche Dehe Wintun Nation, Redding Rancheria, Kashia Band of Pomo Indians, Sycuan Band of Kumeyaay Nation, Jamul Indian Village, Morongo Band of Mission Indians, Green Diamond Resource Company, Western Rivers

Conservancy, Save the Redwoods League, the Opportunity Fund, and the Environmental Defense Fund and others.

The provisions of the Bill have been carefully tailored to include the necessary Congressional authorizations to allow the Yurok Tribe to develop its economy in a way that is culturally appropriate, protects our rich natural resources, deals with long standing issues on the Yurok Reservation, and preserves the rights of our neighbors. Further, Congress should support the Yurok Lands Act as a good faith effort to further its intent in the Hoopa-Yurok Settlement Act to support Yurok's land tenure, as the Lands Act includes several provisions that are intended to address the original inequities in the Hoopa-Yurok Settlement Act.

Land into Trust

The bill authorizes 1,229 acres of the Yurok experimental forest to be transferred into trust for the Tribe. Currently, this old growth redwood forest is under the management of the U.S. Forest Service Research Branch. Upon transfer, the Tribe would take over the basic forest management necessary to improve the health of the forest, including fire prevention mitigation and maintenance of the one dilapidated road. The Tribe owns an adjacent parcel of about 20 acres of land that is part old growth and part cleared for tribal offices for our forestry and environmental departments. The Tribe wants to manage the adjacent and Yurok experiment forest parcels as one forest to better protect it. The bill prohibits any logging or gaming on the old growth forest and requires the Tribe to allow the U.S. Forest Service to allow research in the forest in perpetuity. Supporting this provision is consistent with Congressional intent in the Hoopa-Yurok Settlement Act to support Yurok acquiring more land adjacent to the Yurok Reservation.

Savings Clause

Importantly, to make sure there are no unintended consequence the bill includes a provision that makes it expressly clear that no provision of the bill would in any way impact the rights of any other Tribes and that there is no delegation of federal authority over any land, tribes, or tribal members, or other people to the Yurok Tribe.

Reservation Boundary Adjustment

The bill extends the eastern boundary of the Yurok Reservation to include the critically important Blue Creek Watershed and 60,000 acres the Tribe has purchased, in part with federal funds authorized in the Hoopa-Yurok Settlement Act, over the last ten years in an effort to reclaim its aboriginal territory. The Blue Creek Watershed, the first tributary to the Klamath River, is a natural cold water refuge for salmon migrating upstream on the Klamath main-stem. Its restoration and preservation is absolutely necessary to restoring Klamath salmon runs. Already, the Tribe manages the watershed to enhance its benefits for salmon and allows only land use that improves salmon habitat, this Bill would confirm these protections and ensure they continue in perpetuity

Blue Creek is a Yurok sacred site known as the Tribe's stairway to heaven, which is the path to the Tribe's "high country" our sacred lands in which the *woge*, ancient spirits, live and

with whom we commune during prayer and ceremony. It is also the site from where we collect the medicinal plants that we use for healing and prayer.

Also, other recently reacquired forested lands in the revised reservation are included in the Tribe's carbon sequestration project. The Tribe received a United Nations Equator prize for the carbon project which is awarded to indigenous community-led sustainable development solutions. The carbon project allows us to protect our forests and environment for future generations by foregoing short term profits by allowing forests to grow and selling collected carbon. Including these lands within the Reservation boundary will allow the Tribe to better manage and protect these lands and promote long term sustainable economic development.

In setting the revised reservation boundaries, Yurok was very careful to avoid infringing on local tribal territories. The aboriginal territories of the historic tribes of the area is well settled, and has been documented by anthropologists beginning in the 1800s. There are joint use areas by Yurok, Karuk, and the Tolowa close to the eastern revised reservation boundary. Yurok met with these Tribes to ensure they approved of the boundary and made the necessary adjustments. For example, a draft of the bill included within the expanded Yurok Reservation a sacred site called Doctor Rock. Yurok met with Tolowa which expressed opposition for Doctor Rock being included in the Yurok Reservation. Yurok discussed the issue with Karuk and as a result, the revised Yurok Reservation boundary was adjusted to not include Doctor Rock.

Congressional support for expanding the Yurok Reservation to include lands the tribe owns in fee adjacent to the existing reservation that were purchased in part by federal funds is consistent with Congressional intent in the Hoopa-Yurok Settlement Act, and begins to address the historical inequities Congress recognized in the Hoopa-Yurok Settlement Act.

Partnerships for Land and Resource Management

The bill authorizes cooperative agreements between the Tribe and U.S. Forest Service and the Redwood National Park to better coordinate land management projects and pool financial and human resources. This will result in more efficient and productive land management that remains consistent and survives the tenure of local supervisors.

The Yurok Reservation is the only Indian reservation in the country with National Park land in its boundaries. The RNP land in the Yurok Reservation includes a village site, ceremonial site, and access to traditional fishing holes. Over the years, there have been several issues with access and maintenance of the area, that have led to personal injury (elders getting hurt during ceremony) and the public using ceremonial huts as public bathrooms. A cooperative agreement is justified here to address these unique issues between Yurok and RNP.

In addition, our Reservation is surrounded by Redwood State and National Parks to the West and U.S. Forest Service land to the East. Notably, this land, currently under federal management, is the Tribe's aboriginal territory which includes several Yurok village sites, burial grounds, sacred sites, and other cultural natural resources. Much of the Tribe's aboriginal territory is critical habitat to several species on the Endangered Species Act list, such as the Humboldt Martin, the California Condor, Coho Salmon and Green Sturgeon. The Tribe has

worked very hard over the years with our federal partners to manage this land and the cooperative agreements will result in better long term land management in this pristine wild and remote part of the Country.

A cooperative agreement of this nature does not provide disparate treatment to similarly situated tribes in the area as they are welcome to pursue a cooperative agreement with RNP. The substance of the Yurok-RNP cooperative agreement does not harm or otherwise impact other tribal rights. To the contrary, it will help resolve long term public safety issues unique to the Yurok Reservation.

The bill also confirms the Tribe's cooperative agreement with the Department of Interior that was reached as a result of settling the "fish kill lawsuit." In 2002 the largest fish kill in American history occurred on the lower 12 miles of the Klamath River on the Yurok Reservation. The Tribe sued the federal government for breach of trust for managing the Klamath River in a way that caused the fish kill. The lawsuit was settled. The Hoopa Tribe, which was a party, settled the case for \$1million. Yurok refused the money, and requested a cooperative management agreement to be more involved in federal management of the Klamath River to prevent a fish kill from happening again. Again, this cooperative agreement addresses an environmental disaster that occurred on the Yurok Reservation. The Lands Legislation confirms the cooperative agreement and directs DOI to better implement it to prevent another catastrophic fish kill.

Joint Lead Agency for NEPA

The Bill would further authorize and confirm the Tribe's joint lead agency for federal action role on the revised Yurok Reservation and as a cooperating agency for a federal action that may affect the revised Yurok Reservation for purposes of the National Environmental Policy Act. This provision will help the Tribe assist our federal land management partners in coordinating land and resource management. Expert Tribal scientists and law and policy staff in the Tribe's wildlife, natural resources, fisheries, legal, and executive office will assist in preparing environmental review documents, holding public hearings and meetings, and other actions required by NEPA. The Tribe is already serving as a co-joint lead for NEPA purposes with the Redwood National Park on reintroduction of the California Condor. The project has demonstrated this is an ideal model for tribal-federal resource management which we'd like to replicate in other areas.

The authorizations in the bill are consistent with existing law, meaning tribes already have this authority.¹ The authorization for Yurok in this bill is, however, still important to Yurok because the Yurok Reservation is surrounded by federal land. Most of the 1.5 million acres in Yurok's aboriginal territory is managed by federal land managers, and such land includes village sites, sacred sites, burial grounds, and important cultural natural resources. Yurok has tried for decades to adequately protect these resources, and there is need for Congressional direction to the agencies to facilitate better work with the Tribe. Importantly, this does not impact the rights

¹ Yurok supports other tribes, including those in our area to take advantage of this meaningful opportunity in federal law.

of other tribes to participate in NEPA as a co-lead or cooperating agency, and a provision in the bill expressly confirms this.

This provision along with the authorization for cooperative agreements with federal agencies is a strong model for tribal-federal partnerships that result in authentic meaningful tribal participation in public land management.

Confirmation of Yurok's Governing Documents

The bill confirms the Yurok Tribe's Constitution and Tribal Laws as to the Reservation. The Hoopa-Yurok Settlement Act confirmed the Hoopa Tribe's governing documents which has helped Hoopa protect its reservation resources. However, at the time of the Hoopa-Yurok Settlement Act, Yurok did not have a constitution or tribal law to be confirmed so the Bill brings parity through this confirmation.

Confirmation is critical to helping Yurok address pressing public safety issues on the Reservation. Specifically, over the last 40 years' various drug cartels and unauthorized users have grown industrial sized illegal marijuana operations on our lands. This has posed significant public safety concerns. There have been frequent incidents of traditional practitioners gathering traditional foods and medicines or hunting encountering armed mercenaries guarding illegal grows. Confirmation of our governing documents will also us to better work and coordinate with law enforcement to protect our community from these unwelcome and unauthorized users. To further ensure no unintended consequences for our neighbors, the Bill is clear that the Tribe's governing documents would be confirmed only as to the Reservation to ensure there was no infringement on another Tribe's aboriginal territory.

Scenic Byways Designation

Finally, the bill authorizes designation of the Bald Hills Road from its junction with U.S. Highway 101 to its terminus on the Klamath River as the Yurok Scenic Byway. Historically, this road was used as a path by our ancestors traveling from Yurok ocean villages – the largest being Orrick and T'surai – to the southern Klamath River villages of Pecwan and Witchpec. Today, it is the only road that connects the north and south parts of the Yurok Reservation. Several of our tribal members take the one-and-a-half-hour drive one-way from the south part of the reservation to the north part to the Klamath Tribal Office, where the majority of reservation residents are employed. While the road is not owned or managed by the Tribe, we have put millions of dollars toward its maintenance and improvement. The scenic byway designation will allow the Tribe to access grants in the Federal Scenic Byway Act for maintenance and improvement of the road.

The road is worthy of the scenic designation. It begins in the Yurok village of Orrick, which is now a sleepy coastal historic logging town with under 100 residents. From there, it goes east through the redwood belt, and specifically, through redwood trees the Yurok regarded as sky poles capable of transporting people from this world to the next. Currently, the land is honored as the Lady Bird Johnson Redwood Grove in the Redwood National Park, home to old growth redwood trees most of which are over 2000 years old. At its cusp, the redwood groves

open up to rolling hills of grasses and oak trees for which the road earns its name as the Bald Hills. Historically, Yurok land management practices required regular low-level burning to terminate the tree sprouts and brush and allowed for grasses and oak trees to grow welding the land in this way. The result is breathtaking rolling hills overlooking the redwood canopy to the ocean on the west and to the east the Klamath River.

Again, we thank the Subcommittee for holding this important Hearing on our Lands Bill and we ask for your support to swiftly pass the bill in Subcommittee, in the full Committee and subsequently in the full House of Representatives. We commit to you that the Yurok Tribe will never stop working to secure passage of this critically important Legislation because nothing less than the future of the Yurok Tribe depends on it. Seven generations from now our descendants will either be living under its provisions or we will be continuing the fight for its passage.