



Cher-Ae Heights Indian Community of the Trinidad Rancheria



**OCTOBER 2, 2019**

**SUPPLEMENTAL STATEMENT OF**

**GARTH SUNDBERG, SR., TRIBAL CHAIRMAN OF THE**

**CHER-AE HEIGHTS INDIAN COMMUNITY OF THE TRINIDAD RANCHERIA**

**FOR THE RECORD OF THE SEPTEMBER 19, 2019, HEARING OF THE**

**HOUSE NATURAL RESOURCES SUBCOMMITTEE FOR INDIGENOUS PEOPLES OF THE UNITED  
STATES ON**

**H.R. 1312, THE "YUOK LANDS ACT"**

On behalf of the Cher-Ae Heights Indian Community of the Trinidad Rancheria (“Trinidad Rancheria”), I submit this supplemental statement to elaborate on responses to questions posed by Members of the House Natural Resources Subcommittee for Indigenous Peoples of the United States during the Subcommittee’s September 19, 2019 legislative hearing on H.R. 1312, the “Yurok Lands Act.” Specifically, this supplemental statement addresses questions and discusses why the purported “savings clauses” in the bill do not address our serious concerns about certain aspects of H.R. 1312 that would threaten our rights and interests related to the management of lands, natural resources, and cultural resources located outside of the Yurok Reservation and within the shared ancestral lands of many tribes. At least one tribe, which previously expressed support for H.R. 1312, has withdrawn its support for the bill based on their concern that the bill, in its current form, places the interests of one federally recognized tribe against the interests of other neighboring federally recognized tribes (a copy of the letter is attached as Exhibit A to this supplemental statement).

The Trinidad Rancheria’s written testimony submitted for this Subcommittee hearing sets forth our substantial concerns about Sections 5 and 7 of the bill, which would both affect such lands. Because it was the subject of some discussion during the hearing, we first turn to our concerns about Section 7 of the bill, which would provide for congressional ratification and confirmation of the Yurok Tribe’s governing documents.<sup>1</sup> In particular, the Trinidad Rancheria is concerned about the proposed congressional ratification and confirmation of the definition of the “Ancestral Lands” and “territory” in the Yurok Tribe’s Constitution. These definitions claim a vast area extending all the way down to the Trinidad Rancheria as the Yurok Tribe’s sole “Ancestral Lands” and “territory.” We think our concerns about Section 7 are well-founded, because the Yurok Tribe has argued that these very definitions deny other Tribes, like Trinidad Rancheria, any rights and interests anywhere in their claimed “Ancestral Lands,” which overlap with the ancestral territory of the Trinidad Rancheria and many other tribes. The Trinidad Rancheria’s interests and rights pertaining to its cultural heritage - the cultural resources and sites located within our ancestral territory - have been challenged by the Yurok Tribe, and the Trinidad Rancheria is extremely concerned that H.R. 1312 could be used as a tool to threaten the ability of our Tribe to maintain our culture and traditions, and to deprive us of our cultural heritage and legacy.

We are extremely concerned about the effect that congressional ratification and confirmation of these definitions could have on the Trinidad Rancheria and our ability, within our shared ancestral territory, to: (i) work with federal, state, and local government agencies managing lands and resources in our shared ancestral territory, (ii) exercise our rights under federal and state law to protect our Tribe’s interest in cultural and historic resources located in our shared ancestral territory, and (iii) maintain our Tribe’s connection to significant cultural and historic sites (even those in close proximity to our reservation lands).

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<sup>1</sup> We have reviewed the Yurok Tribe’s Constitution, but do not know if “governing documents” would be interpreted to cover other documents which neither Congress nor neighboring tribes have reviewed.

Although Section 7 of H.R. 1312 states that the ratified and confirmed governing documents shall only have effect within the revised Yurok Reservation, that clause does not directly address the implications that congressional ratification and confirmation of these constitutional definitions would have on the rights and interests of the Trinidad Rancheria and other tribes sharing the same ancestral territory. If Congress ratifies and confirms the Yurok Tribe's Constitution, does it ratify the Yurok Tribe's interpretation of these definitions?<sup>2</sup> The bill is ambiguous, and that ambiguity invites abuse and litigation. This is a risk we cannot accept.

These are not remote concerns. Based on these definitions, the Yurok Tribe has gone so far as to demand that, the City of Trinidad and the California Coastal Conservancy refrain from including the Trinidad Rancheria in discussions about the management and future ownership of the historic Village of Tsurai site, which is located on city-owned land next to our reservation lands. Although the Trinidad City Council has adopted motions to include the Trinidad Rancheria in such discussions, the City has declined to implement those motions and has instead filed a lawsuit seeking a declaratory judgment on the City's obligations. Further, in an April 14, 2016, letter to the Regional Director of the BIA's Pacific Regional Office, the Yurok Tribe expressly relied on the definitions in their Constitution as grounds for their asserted right to participate in the Department of the Interior's decision on the Trinidad Rancheria's application to have lands, located within a mile of our reservation lands, taken into trust pursuant to federal law:

The Yurok Tribe requests participation in this and any land into trust decision by the Bureau of Indian Affairs ("BIA") and the U.S. Department of the Interior ("Interior") for lands located within the Yurok Ancestral Territory, as defined in Article I, Section 1 of the Constitution of the Yurok Tribe.

The Yurok Tribe maintains a standing objection to the BIA and Interior taking into trust any land for the Trinidad Rancheria, or any other Tribe, within Yurok Ancestral Territory.<sup>3</sup>

In addition to the grave risk presented by Section 7, congressional ratification and confirmation of an Indian tribe's governing documents is extraordinarily rare, and there is no reason for Congress to take such an uncustomary step in H.R. 1312. The Yurok Tribe has referenced their attempts to crack down on illegal marijuana grows, but congressional

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<sup>2</sup> As discussed below, Section 5 of the bill would grant special rights to only the Yurok Tribe over federal management of the off-reservation lands and resources located within the shared ancestral territory, exacerbating these concerns.

<sup>3</sup> A copy of this letter, and the Yurok Tribe's 2017 letter to the BIA with almost identical language, are included in Exhibit I to my written testimony submitted for the September 19, 2019 hearing record.

confirmation of their governing documents would not affect law enforcement authority against non-Indians. Because of the risk to neighboring tribes and the absence of any extraordinary need, we request that Section 7 be removed from the bill.

In addition to our concerns about Section 7, Section 5(e) of H.R. 1312 would also significantly affect the management of ill-defined federal lands located outside the “revised Yurok Reservation” but within the shared ancestral territory of many neighboring tribes, including the Trinidad Rancheria, in a biased manner that runs contrary to the principles of the Indian Reorganization Act and the United States Constitution. As detailed in my written testimony submitted for the hearing record, Section 5(e) would grant the Yurok Tribe, alone, special rights related to the federal management of these lands, and the natural resources located on those lands, which the bill does not extend to similarly situated tribes.

The concerns about the off-reservation implications raised by Sections 5 and 7 of H.R. 1312 are not resolved by the “savings clauses” in Sections 8 and 9 of the bill. The “no federal delegation” clause in Section 8 only states that there is no delegation of federal authority over land or people outside of the Yurok Reservation; it does not address the implications arising from congressional ratification of the Yurok Tribe’s definitions of “Ancestral Lands” and “territory.” As we have seen, the Yurok Tribe asserts that federal, state, and local governments must recognize the Yurok Tribe’s claim of authority over “Ancestral Lands” set out in the Tribe’s Constitution. Section 9 (No Additional Authority or Rights) does not address our concerns because, notwithstanding this section, Section 5 of the bill does, in fact, grant special rights regarding the shared ancestral territory to only the Yurok Tribe, which privileges their relationship with the United States over other similarly situated tribes.

In a bill that affects the shared ancestral territory of many tribes, it is critical that the bill treat similarly situated tribes equally under the law. In our written testimony, we propose revisions to the bill to: (i) include neighboring tribes in Section 5 of the bill, and (ii) remove Section 7, and (iii) affirmatively state that the bill shall not be construed to affect or diminish the rights and interests that other tribes of historic Yurok origin (defined to include the Trinidad Rancheria, Resighini Rancheria, and the Big Lagoon Rancheria).

For the reasons set forth in this testimony, H.R. 1312, in its current form, pits the interests of one tribe against those of many neighboring tribes relative to the management of lands, natural resources, the associated cultural resources located in shared ancestral territory located outside of the Yurok Reservation. The Trinidad Rancheria, therefore, respectfully requests that the Subcommittee and the full Committee on Natural Resources refrain taking any action on H.R. 1312 until these concerns are resolved.



September 24, 2019

**Via U.S. Mail**

The Honorable Jared Huffman  
1630 Longworth House Office Building  
Washington, DC 20515  
Fax: (202) 225-5163

**RE: Withdrawal of Support for H.R. 1312 – Yurok Lands Act of 2019**

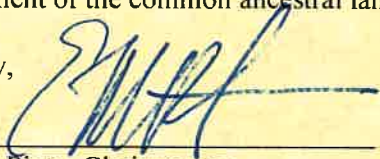
Dear Congressman Huffman,

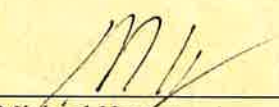
The Jamul Indian Village of California (the "Tribe") previously submitted a letter in support of H.R. 1312, the Yurok Lands Act of 2019. For the reasons stated below, the Tribe has concerns regarding H.R. 1312 as it is currently drafted, and regrettably the Tribe must therefore withdraw its letter of support.


The Tribe generally supports the rights of all federally recognized tribes to take land into trust. The Tribe further supports cooperation among federally recognized tribes in placing land into trust and in using and managing common ancestral land and resources. However, as a policy matter, the Tribe does not support legislation that places federally recognized tribes at odds with one another. The Tribe encourages federally recognized tribes to work together regarding the taking of land into trust, and the Tribe supports cooperative land use and management practices and agreements among federally recognized tribes, particularly regarding common ancestral land and resources.

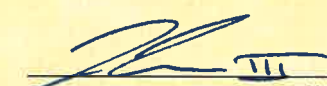
Because of the foregoing reasons, the Tribe must withdraw its letter of support for H.R. 1312. The Tribe encourages legislation that finds common ground regarding taking the land at issue into trust and regarding the use and management of the common ancestral lands and resources at issue.

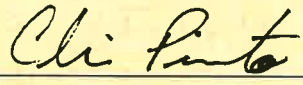
Sincerely,

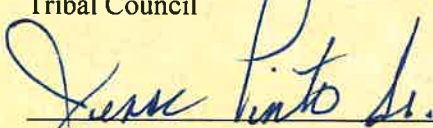
  
Erica M. Pinto, Chairwoman  
Tribal Council


  
Michael Hunter, Vice Chairman  
Tribal Council

  
Teresa Cousins, Council Member  
Tribal Council

  
James Cuero III, Council Member  
Tribal Council

  
Christopher Pinto, Council Member  
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Jesse Pinto, Sr., Council Member  
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# YUROK TRIBE

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April 14, 2016

Amy Dutschke, Regional Director  
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Pacific Regional Office  
2800 Cottage Way  
Sacramento, CA 95825  
Amy.Dutschke@bia.gov

Trinidad Rancheria  
RECEIVED ON:

APR 27 2016

Received By:  
Administration/Reception

RE: Petitions for land into trust within Yurok Ancestral Territory

Aiy-ye-kwee' Ms. Dutschke,

The Cher-Ae Heights Indian Community of the Trinidad Rancheria ("Trinidad Rancheria") owns six or more parcels of fee land in and around Trinidad Harbor, including Assessor's Parcel Numbers 042-071-001; 042-071-008; 042-071-002; 042-091-008; 042-071-012; and 042-071-013. Recently, the Yurok Tribe became aware that Trinidad Rancheria is preparing a request seeking the conveyance of some or all of these parcels of land into Federal trust status. All of these parcels are located outside of Trinidad Rancheria and within the exterior boundaries of Yurok Ancestral Territory. The Yurok Tribe requests participation in this and any land into trust decision by the Bureau of Indian Affairs ("BIA") and the U.S. Department of the Interior ("Interior") for lands located within the Yurok Ancestral Territory, as defined by Article I, Section 1 of the Constitution of the Yurok Tribe.

The Yurok Tribe maintains a standing objection to the BIA and Interior taking into trust any land for Trinidad Rancheria, or any other Tribe, within Yurok Ancestral Territory. The Yurok Tribe also requests that the BIA and Interior provide prior notification, and allow Yurok Tribal participation, in any future land-to-trust decisions located within the Yurok Ancestral Territory.

Should you have any questions, please contact Interim General Counsel Rebecca McMahon at 707-482-1350 ext. 1426 or email [rmcmahon@yuroktribe.nsn.us](mailto:rmcmahon@yuroktribe.nsn.us).

Sincerely,

Thomas P. O'Rourke, Sr.  
Chairman

cc:  
Cher-Ae Heights Indian Community of the Trinidad Rancheria  
Congressman Jared Huffman

Chairman Garth Sundberg  
Trinidad Rancheria  
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Trinidad, CA 95570

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1630 Longworth House Office Building  
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