

**STATEMENT FOR THE RECORD
FROM
THE OFFICE OF THE
ASSISTANT SECRETARY – INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE HOUSE NATURAL RESOURCES
SUBCOMMITTEE ON INDIGENOUS PEOPLES OF THE UNITED STATES
ON
H.R. 437, A BILL TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT
TO EXCLUDE CERTAIN PAYMENTS TO ALASKA NATIVE ELDERS FOR
DETERMINING ELIGIBILITY FOR CERTAIN PROGRAMS
H.R. 6063, A BILL TO PROVIDE FOR THE EQUITABLE SETTLEMENT OF
CERTAIN INDIAN LAND DISPUTES REGARDING LAND IN ILLINOIS
H.R. 6181, SAMISH INDIAN NATION LAND REAFFIRMATION ACT
S.314, KLAMATH TRIBE JUDGMENT FUND REPEAL ACT
S. 559, A BILL TO AMEND THE GRAND RONDE RESERVATION ACT
AND
S. 789, REPEALING EXISTING SUBSTANDARD PROVISIONS ENCOURAGING
CONCILIATION WITH TRIBES ACT**

April 27, 2022

Thank you for the opportunity to provide the Department of the Interior’s (Department) views on H.R. 437, a bill to amend the Alaska Native Claims Settlement Act to exclude certain payments to Alaska Native elders for determining eligibility for certain programs, H.R. 6063, a bill to provide for the equitable settlement of certain Indian land disputes regarding land in Illinois, H.R. 6181, the Samish Indian Nation Land Reaffirmation Act, S.314, the Klamath Tribe Judgment Fund Repeal Act, S. 559, a bill to amend the Grand Ronde Reservation Act, and S. 789, the Repealing Existing Substandard Provisions Encouraging Conciliation With Tribes Act.

H.R. 437, a bill to amend the Alaska Native Claims Settlement Act to exclude certain payments to Alaska Native elders for determining eligibility for certain programs, and for other purposes

H.R. 437 amends Section 29(c) of the Alaska Native Claims Settlement Act, 43 U.S.C. 1626(c), to exclude Settlement Trust funds or benefits for Alaska Natives or their descendants who are 65 or older in determining eligibility for the supplemental nutrition assistance program; Social Security Act aid, assistance, or benefits; or to receive any other Federal program or federally-assisted program based on need. This legislation does not have any known impacts to Bureau of Indian Affairs programs. The Department supports the intent of the bill in ensuring that the Alaska Native Claims Settlement Act does not replace or diminish any right, privilege, or obligation of the United States to protect and promote the rights or welfare of Alaska Natives as citizens of the United States.

H.R. 6063, a bill to provide for the equitable settlement of certain Indian land disputes regarding land in Illinois, and for other purposes

H.R. 6063 would confer jurisdiction to the United States Court of Federal Claims to hear, determine, and render judgment regarding the Miami Tribe of Oklahoma's land claims under the Treaty of Grouseland (7 Stat. 91), signed August 21, 1805, and would remove legal or equitable defenses based on the passage of time, including statute of limitations, laches, estoppel or acquiescence. The United States would incur all liabilities regarding Miami Tribe of Oklahoma's land claim with monetary damages as the only available remedy. The jurisdiction conferred to the United States Court of Federal Claims expires unless a claim is filed by the Miami Tribe of Oklahoma within one year of enactment of this legislation. The bill extinguishes all other claims to title of the Miami Tribe of Oklahoma, or any member, descendant, or predecessor in interest to the Miami Tribe of Oklahoma including claims arising under the Treaty of Grouseland, the Northwestern Ordinance, the 5th amendment to the Constitution, the laws commonly known as the "Trade and Intercourse Act of 1790", and any other federal law, treaty, or agreement.

In general, the Department would not be supportive of measures that would incur additional liability from any potential Court of Federal Claims award. The Department needs to better understand the impacts of this legislation and the claims by the Miami Tribe, and therefore takes no position on the legislation.

H.R. 6181, Samish Indian Nation Land Reaffirmation Act

H.R. 6181 reaffirms the applicability of (48 3 Stat. 984, chapter 576, 25 USC 5101 et seq.) known as the Indian Reorganization Act (IRA) to the Samish Indian Nation.

The Department supports H.R. 6181.

S.314, Klamath Tribe Judgment Fund Repeal Act

The Klamath Tribe Judgement Fund Act, enacted on October 1, 1965, authorizes the Secretary of the Interior to establish and apply appropriated dollars to a judgement fund for the Klamath and Modoc Tribes and Yahooskin Band of Snake Indians, better known as the Klamath Tribe.

Background

The Klamath Indian Reservation, located in southern Oregon, was established by the Treaty of October 14, 1864. The reservation was managed under the supervision of the Federal Government and headquartered at the Klamath Agency. In 1954, the federal trust responsibility for the reservation was terminated by the passage of the Western Oregon Indian Termination Act. Upon formal termination, the Klamaths were provided an opportunity to remain tribal members or withdraw from their tribal membership. Those opting to withdraw their memberships forfeited their share of some tribal assets, and those who remained retained ownership of tribal assets. Both groups were able to keep any interests in future awards claims.

Docket 100

The Aboriginal Title Claim case was settled when the Indian Claims Commission issued an order on January 31, 1964, which granted a judgement fund award of \$2,500,000. This settled amount was to serve as fair payment for lands in Oregon ceded under the Treaty of October 14, 1864. Legislation authorizing distribution was not enacted by Congress until October 1, 1965. Payment began in 1966 and each of the 2,133 members on the membership roll received \$1,124.00 resulting in a total of \$2,351,250.14 paid out, and the remaining balance supported attorney fees and expenses.

Docket 100A

In September of 1969, the Klamath Tribe successfully claimed additional compensation for lands ceded by the Treaty of October 14, 1864. The claim, better known known as “the boundary claim” involved 621,824 acres excluded from inclusion in the reservation boundaries. Docket 100A was completed on September 2, 1969, with the sum of \$4,162,992.82 granted in favor of the Klamaths. Payment began in 1970 with each member receiving \$1,841.45. Historically, the Bureau of Indian Affairs consulted with the Klamath Tribe to prepare proposed distribution of judgment funds remaining in the various Klamath accounts, pursuant to Klamath Tribal Resolution 96-15, dated March 6, 1996.

It is important to make clear that the Klamath Tribe Judgement Fund Act is the appropriate vehicle for distributing this funding. The Department has concluded that the Judgement Fund Distribution Act, which was signed into law in 1973, does not apply to the Klamath Tribe Judgement Fund, as its ability to apply dollars that were appropriated and authorized for use and distribution precedes 1973.

In 1983 and 1996, funds were disbursed for each tribal member on the 1954 Klamath roll. The Klamath Tribe currently has 188 Individual Indian Money (IIM) accounts for tribal members. An estate account was set up for deceased tribal members. These accounts are still open due to lack of information, lack of birth and death certificates, and Whereabouts Unknown. These funds will remain as trust fund accounts with the Bureau of Trust Funds Administration.

Conclusion

At this time, the Department needs to better understand the impact the repeal of this fund will have on our actions moving forward and the trust responsibility we have to the Tribe, and therefore takes no position on the legislation.

S. 559, a bill to amend the Grand Ronde Reservation Act, and for other purposes.

In 1954, the Confederated Tribes of the Grand Ronde Community (Tribe) was congressionally terminated, P.L. 83-588. Twenty-nine years later, Congress restored the Tribe’s federal recognition, rights, and privileges with the Grand Ronde Restoration Act, P.L. 98-165. In 1988, Congress established a 9,811-acre reservation for the Tribe, P.L. 100-425, and through

subsequent amendments, the Tribe's reservation grew to 9,879 acres. In 1994, the reservation acreage total grew to 10,120 acres, P.L. 103-435 (1994 Act).

After Congress re-established a reservation for the Tribe, the Tribe learned that an 1871 survey used to define the Tribe's original reservation boundaries contained an error, and that an 84-acre parcel known as the "Thompson Strip" was excluded from its reservation. To resolve this exclusion, the Department's Bureau of Land Management (BLM) and the Tribe entered into a land claim settlement wherein the BLM exchanged a 240-acre parcel for the Tribe's Thompson Strip. The 1994 Act made that 240-acre parcel part of the Tribe's reservation and extinguished all of the Tribe's land claims in the State of Oregon.

S. 559 redefines the claims extinguished in the 1994 Act, turning the statewide extinguishment of the Tribe's land claims into a limited extinguishment for the Thompson Strip. S. 559 also makes land obtained by the Tribe as part of a land claim settlement approved by the United States ineligible for class II and class III gaming under the Indian Gaming Regulatory Act (25 U.S.C. § 2701 *et seq.*).

In general, the Department would not be supportive of measures that might result in additional federal liability for previously extinguished land claims. While the legislative history does not directly address the statewide claims extinguishment section of the 1994 Act, the Tribe had the opportunity to oppose that provision on the record. The Department encourages the Committee to pursue further investigation of the land claim settlement which resulted in P.L. 103-435 to determine if S. 559 would be appropriate.

S. 789, Repealing Existing Substandard Provisions Encouraging Conciliation with Tribes Act (RESPECT Act)

S. 789 would repeal various laws that were passed by Congress during periods in United States' history that were directly related to the Federal Government's policy with Indian tribes. The laws to be repealed by S. 789 range in dates of enactment from 1862 through 1913 and were passed in the eras of Federal Indian policy identified as "removal and reservations (1829-86), and allotment and assimilation (1887-1932)". The language in many of these laws uses historical and antiquated terms and contexts such as "Indian tribe is in actual hostility to the United States," or "while at war with the United States," or "[m]oneys or annuities of hostile Indians" and "withholding of moneys or goods on account of intoxicating liquors." These various laws were passed with the sole purpose of prescribing the appropriation of moneys or annuities on the condition of "non-hostility" with the United States, or not to be "under the influence [] of intoxicating liquors," or withholding such appropriations to Indian tribes for Indian children not attending schools.

The Department agrees that these laws should be repealed and strongly supports S.789.

Conclusion

Thank you for the opportunity to provide the Department's views. This concludes our statement.