

**Testimony of Tom Wooten, Chairman, Samish Indian Nation
Legislative Hearing on
Draft Amendment in the Nature of a Substitute
to H.R. 6181, Samish Indian Nation Land Reaffirmation Act
House Natural Resources Subcommittee on Indigenous Peoples of the United States
April 27, 2022**

Introduction

Good morning, Chairwoman Leger Fernandez, Ranking Member Obernolte, and Members of the Subcommittee. My name is Tom Wooten, Chairman of the Samish Indian Nation (“Tribe” or “Nation”), a federally recognized Indian tribe comprised of approximately 2,000 citizens headquartered in Anacortes, Washington, in the San Juan Islands. Thank you for this opportunity to testify on the draft Amendment in the Nature of a Substitute (ANS) to H.R. 6181, the Samish Indian Nation Land Reaffirmation Act.

On behalf of the Tribe, we raise our hands in thanks to Congressman Ruben Gallego for introducing H.R. 6181 given our long and difficult struggle to secure a permanent land base for our people in the San Juan Islands where we have always lived. Historically, we moved from island to island depending on the season and the available harvest, with permanent winter village longhouses. Honoring our ancestors and their fierce commitment to these lands and our traditional ways of life, we continue to raise our families on these islands that have always been our home.

This bill has strong bi-partisan support, including members of this Subcommittee. The following Members of Congress are co-sponsors of H.R. 6181: Rep. Pete Aguilar (D-CA), Rep. Gregorio Kilili Camacho Sablan (D-MP), Rep. Jimmy Gomez (D-CA), Rep. Darren Soto (D-FL), Rep. Tom Cole (R-OK), Rep. Gwen Moore (D-WI), Rep. Raul Ruiz (D-CA), Rep. Betty McCollum (D-MN), Rep. Norma Torres (D-CA), Rep. Doug LaMalfa (R-CA), Rep. Tony Cardenas (D-CA), Rep. Michael San Nicolas (D-GU), Rep. Michael Levin (D-CA), and Rep. Diane DeGette (D-CO).

In response to questions about H.R. 6181, as introduced, the Tribe, in collaboration with Rep. Gallego, has proposed this straight-forward ANS. The ANS would simply put the Tribe on equal footing with other federally recognized tribes by reaffirming the applicability of the Act of June 18, 1934, commonly called the Indian Reorganization Act (IRA), to the Tribe and eliminate red tape, bureaucracy, and other roadblocks that have significantly hindered the Tribe’s efforts to rebuild our community. The ANS is consistent with previously passed land-into-trust bills. For over 25 years, the Tribe has worked hard to reach out to surrounding communities and tribes in the Puget Sound region to discuss our efforts to secure a modest land base and has tried in good faith to accommodate reasonable concerns.

Background on the IRA

Congress passed the IRA in 1934 to reverse previous misguided federal policies of allotment and assimilation from the late 1800s that resulted in devastating losses of tribally owned land and traditional ways of life. Specifically, in 1887, Congress passed the General Allotment Act to

dispossess tribes of our lands, resulting in the loss of two-thirds of tribal lands according to the Department of the Interior (Department).

In response to public outcry over the large-scale land losses and severe destitution of tribes, Congress repudiated its previous policies and instead advanced policies of tribal self-determination and self-government through passage of the IRA to assist tribes in reacquiring homelands taken or lost to us so that tribes could establish permanent land bases to provide for the health, welfare, and safety of tribal citizens. These policies continue to be the current policies of the United States in its government-to-government relationships with tribal governments.

In 2009, the U.S. Supreme Court issued *Carcieri v. Salazar*, 555 U.S. 379, holding that the IRA authorizes the Interior Secretary to place lands into trust only for those Indian tribes that were “under federal jurisdiction” as of the date of enactment of the IRA, which was June 18, 1934, imposing additional land-into-trust requirements for tribes seeking to have land placed into trust. We are thankful that the U.S. House of Representatives last December passed on suspension H.R. 4352, which would address *Carcieri* by clarifying and reaffirming that the Department can take land into trust for all federally recognized tribes. Republican and Democratic Administrations alike had taken land into trust for all federally recognized tribes from the date of enactment of the IRA in 1934 until the Supreme Court’s issuance of the *Carcieri* opinion in 2009. H.R. 4352 would restore the *status quo ante* consistent with Congress’s intent on enactment of the IRA. Our hope is that the Senate can pass H.R. 4352 before the end of the 117th Congress, so that no tribe has to go through what we have gone through.

Fortunately for Samish, in 2018, after an exhaustive 9-year process, the Department under the Trump Administration issued a detailed decision determining that Samish fulfilled the requirements under *Carcieri*. However, as discussed in more detail below, the Tribe continues to struggle to be treated on par with other federally recognized tribes.

Purpose of ANS to H.R. 6181

Like other tribes, Samish has struggled to overcome decades of BIA mistakes, misdeeds, inaction, and delay. But, unique to Samish, it further endured over 30 years of extreme hardship to achieve re-recognition when the BIA, due to a clerical error, accidentally omitted the Tribe from the Department’s list of federally recognized tribes in 1969. Even though no formal determination had been made by Congress or the Executive Branch, the Department began denying services to the Tribe and its citizens in the early 1970s, forcing the Tribe to litigate its recognition status.

After 27 years of administrative processes and contentious litigation, the Tribe’s federal recognition was reinstated in 1996, qualifying the Tribe again for federal services and benefits for tribes, including acquiring trust land to re-establish a tribal homeland. Federal court decisions found the BIA conduct in dropping Samish from the list of federally recognized tribes to be “arbitrary” and “wrongful”, concluding that the Tribe “should have been federally recognized between 1969 and 1996.” The Tulalip Tribes, the Swinomish Indian Tribal Community, the Lummi Tribe, and the Upper Skagit Tribe litigated against our re-recognition.

Upon re-recognition, the Indian Health Service designated the following 10 Washington counties as Samish's service delivery area upon re-recognition: Skagit, San Juan, Whatcom, Island, Snohomish, King, Pierce, Kitsap, Jefferson, and Clallam.

The BIA, after an 8-year struggle upon re-recognition, finally designated the following 5 Washington counties as Samish's service delivery area in 2004: Skagit, San Juan, Whatcom, Snohomish, and Island. These counties are located in the Tribe's historical and aboriginal territory.

Due to the extensive record and documents created from our protracted recognition legal battle, a 9-year effort ensued where the Department undertook a painstaking process to prepare a *Carcieri* analysis -- criteria required to qualify for the IRA's land-into-trust process under *Carcieri*. This analysis, when finally completed, was applied as part of the Department's review of the Tribe's application to take a 6.7-acre parcel of land, called Campbell Lake South that is adjacent to 79 acres of existing Tribal trust land, into trust. The Tribe plans to use this 6.7 acres as a buffer and another point of ingress and egress to our existing trust land. Our original 79-acre trust parcel was taken into trust in 2009 after an almost 10-year process to provide housing for tribal members. Unfortunately, it has been cost prohibitive for the Tribe to utilize these 79 acres for tribal housing. The Tribe has been engaged in planning efforts to look at using this trust land for governmental offices, a cultural center, and non-gaming economic development.

In 2018, the Trump Administration issued a decision approving the Tribe's trust application for Campbell Lake South. However, the BIA has not taken this land into trust due to litigation delay tactics filed by the Swinomish Indian Tribal Community in the Interior Board of Indian Appeals challenging BIA's 2018 decision based upon the *Carcieri* decision. This litigation could last over a decade. Meanwhile, our lengthy efforts over 20 years to take into trust our Tribal Administration Complex and our Longhouse -- which houses our Head Start program and our elder services program -- have been at a stand-still.

Skagit County, in which this property is located, has no objections to this legislation, and the Tribe and Skagit County have a collaborative and productive relationship. Samish has a Memorandum of Understanding with Skagit County for mutual cooperation. We also have a positive relationship with the City of Anacortes where our Tribal Administration Complex is located and other tribal facilities for essential governmental programs, like early childhood learning, elder services, health care, natural resources protection, and emergency preparedness.

The following is the text of the ANS:

SEC. 1. REAFFIRMATION OF LAW.

The applicability of the Act of June 18, 1934 (48 Stat. 984, chapter 576, 25 U.S.C. 5101 et seq.) (commonly known as the "Indian Reorganization Act") is reaffirmed for the Samish Indian Nation.

If enacted, the ANS would help strengthen our capacity to better provide essential governmental services by allowing the land-into-trust process to move forward for our parcels containing our

Tribal Administration Complex and our Longhouse where we provide elder services and Head Start services for the surrounding community. The ANS would help right past wrongs by the Department and enable the Tribe to move forward in reestablishing our homeland and rebuilding our community. The ANS is anchored in bedrock principles of the United States that all federally recognized tribes should be treated fairly and treated the same under federal laws. It is well past time for the Samish people to have a permanent land base like other federally recognized tribes so that we can provide for future generations.

Conclusion

Samish has endured tremendous adversity over the past two centuries. H.R. 6181 would enable us to take a significant step forward in achieving greater self-determination and self-governance and in meeting the needs of our tribal members. We appreciate the Subcommittee's efforts to hold this hearing. I am prepared to answer any questions.