



# UPPER SKAGIT INDIAN TRIBE

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May 11, 2022

The Honorable Teresa Leger Fernandez, Chair  
Subcommittee for Indigenous Peoples of the United States  
Committee on Natural Resources  
U.S. House of Representatives  
1324 Longworth House Office Building  
Washington, DC 20515

The Honorable Jay Obernolte, Acting Ranking Member  
Subcommittee for Indigenous Peoples of the United States  
Committee on Natural Resources  
U.S. House of Representatives  
1329 Longworth House Office Building  
Washington, D.C. 20515

Dear Chair Fernandez and Acting Ranking Member Obernolte:

The Upper Skagit Indian Tribe respectfully associates itself with the testimony submitted and delivered by the Honorable Misty Napeahi, Vice-Chair of the Board of Directors of the Tulalip Tribes, at the Subcommittee's April 27, 2022, hearing on H.R. 6181, the "Samish Indian Nation Land Reaffirmation Act."

As the Upper Skagit Tribe has explained in prior correspondence with the Subcommittee and the full Committee, the bill as introduced would legislate what federal courts have rejected, specifically that the present-day Samish Indian Nation is the legal successor in interest to the Nuwaha band that signed the 1855 Treaty of Point Elliott. The courts have consistently held the Upper Skagit Tribe is the legal successor in interest to the Nuwaha band that signed that Treaty.

In order to fully understand the basis for Upper Skagit's concern and the potential unintended consequences of basing a fee to trust determination on the slender thread of Samish's relationship to the Nuwaha Band / Tribe, one must first understand Upper Skagit's treaty claim to Nuwaha and the facts surrounding the Samish recognition case and its uncontested assertions concerning Nuwaha.

The Upper Skagit Indian Tribe is a party to *US v. Washington*, the Treaty fishing case. Upper Skagit was originally determined by Judge Boldt to have Treaty fishing rights on the Skagit River. In 1989 and 1993, however, Upper Skagit sought saltwater Treaty fishing rights in the Shellfish subproceeding, 89-3, in *US v. Washington* and also for anadromous (salmon and steelhead) salt water treaty fishing rights in its own separate litigation, subproceeding 93-1. Upper Skagit's claim to those rights through Nuwaha successorship were supported by Dr. Barbara Lane, one of the leading anthropologists in the case, by Dr. Wayne Suttles and Dr. Bruce Miller, all highly experienced anthropologists accorded expert status by the Court.

The hearings for Upper Skagit's claim of successorship to Nuwhaha were contested litigations. The State of Washington opposed Upper Skagit's claim to Nuwhaha and saltwater Treaty fishing rights, but Upper Skagit prevailed and was declared to be the Treaty successor in interest to the aboriginal Nuwhaha, signatories to the Treaty of Point Elliott. The testimony on behalf of Upper Skagit led to the Court in US v. Washington ruling that Upper Skagit was the legitimate successor in interest of the Nuwhaha not the modern day Samish.

Rep. Gallego's amendment in the nature of a substitute could be construed as effectuating legislatively what the modern day Samish have failed to do judicially in terms of their false claim of successors in interest to the Nuwhaha. For these reasons, and those provided by Vice-Chair Napeahi in her written testimony, the Upper Skagit Tribe opposes H.R. 6181 as introduced and Rep. Gallego's amendment in the nature of a substitute.

Sincerely,

A handwritten signature in black ink that reads "Jennifer Washington". The signature is written in a cursive, flowing style.

Jennifer Washington  
Chairwoman