

**TESTIMONY OF
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ACTING ASSISTANT SECRETARY – INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
HOUSE SUBCOMMITTEE ON INDIAN, INSULAR AND ALASKA NATIVE AFFAIRS
ON
H.R. 2320, THE SAMISH INDIAN NATION
LAND CONVEYANCE ACT OF 2017**

NOVEMBER 15, 2017

Chairman LaMalfa, Ranking Member Torres, and Members of the Subcommittee, my name is John Tashuda and I am the Acting Assistant Secretary - Indian Affairs. Thank you for the opportunity to present the Department of the Interior's (Department) views on H.R. 2320, the Samish Indian Nation Land Conveyance Act, which directs the Secretary of the Interior to place certain lands in Skagit and San Juan Counties, Washington, into trust for the Samish Indian Nation (Tribe).

Administering trust lands is an important responsibility that the United States undertakes on behalf of Indian tribes. The Congress, through its plenary authority over Indian Affairs, can direct the Department to acquire and administer trust lands as it does in H.R. 2320. The Department thus does not take issue with Congress's decision to pursue legislative proposals, such as H.R.2320, for this purpose.

H.R. 2320 directs the Secretary for the Department to place approximately 97 acres of land into trust for the Samish Indian Nation, only upon certain conditions being met. Under H.R. 2320, the Secretary's land into trust action shall be in accordance with the regulations of the Department of the Interior for implementing the National Environmental Policy Act of 1969 (42 U.S.C. 18 4321 et seq.) that are applicable to trust land acquisitions for Indian tribes that are mandated by Federal legislation. H.R. 2320 also includes a restriction that the Tribe may not conduct any gaming activities on any land taken into trust pursuant to H.R. 2320.

Moreover, H.R. 2320 dictates that not later than 90 days after the date of enactment the Tribe shall conduct a survey and submit it to the Bureau of Indian Affairs (BIA). Not later than 90 days after the survey is submitted to BIA, the Director of BIA shall review the survey and provide the Tribe with a notice of concurrence.. Then, no later than 120 days after BIA concurrence is provided to the Tribe, H.R. 2320 directs the Secretary to submit a copy of the survey to the appropriate committees of jurisdiction in Congress and make the survey publicly available. After the survey and land descriptions are determined and the timeframes have been met, the Secretary shall take the lands identified in H.R. 2320 into trust for the Tribe.

The Department notes that H.R. 2320, which faces opposition from the Swinomish Indian Tribal Community, the Lummi Nation, the Tulalip Tribes, and the Upper Skagit Indian Tribe, would circumvent ongoing investigations regarding whether or not the Samish Indian Nation is entitled to have land taken into trust under *Carciere v. Salazar* [555 U.S. 379]. The Nation has applications currently under consideration by the Bureau of Indian Affairs. Moreover, the

Department has historically indicated the Samish Indian Nation is not a successor and does not have treaty rights under the 1855 Treaty of Point Elliot. H.R. 2320 would significantly alter the extensive legal position of the United States on this matter.

Thank you for the opportunity to present the Department's views on this legislation. I am happy to answer any questions you may have.