

MOHEGAN LAND CLAIMS SETTLEMENT ACT

HEARING
BEFORE THE
SUBCOMMITTEE ON
NATIVE AMERICAN AFFAIRS
OF THE
COMMITTEE ON
NATURAL RESOURCES
HOUSE OF REPRESENTATIVES
ONE HUNDRED THIRD CONGRESS

SECOND SESSION

ON

H.R. 4653

TO SETTLE INDIAN LAND CLAIMS WITHIN THE STATE OF
CONNECTICUT, AND FOR OTHER PURPOSES

HEARING HELD IN WASHINGTON, DC

JUNE 30, 1994

Serial No. 103-103

Printed for the use of the Committee on Natural Resources



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1994

84-376

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-046172-3

COMMITTEE ON NATURAL RESOURCES

GEORGE MILLER, California, *Chairman*

PHILIP R. SHARP, Indiana
EDWARD J. MARKEY, Massachusetts
AUSTIN J. MURPHY, Pennsylvania
NICK JOE RAHALL II, West Virginia
BRUCE F. VENTO, Minnesota
PAT WILLIAMS, Montana
RON DE LUGO, Virgin Islands
SAM GEJDENSON, Connecticut
RICHARD H. LEHMAN, California
BILL RICHARDSON, New Mexico
PETER A. DeFAZIO, Oregon
ENI F.H. FALEOMAVAEGA, American Samoa
TIM JOHNSON, South Dakota
LARRY LAROCCO, Idaho
NEIL ABERCROMBIE, Hawaii
CALVIN M. DOOLEY, California
CARLOS ROMERO-BARCELO, Puerto Rico
KARAN ENGLISH, Arizona
KAREN SHEPHERD, Utah
NATHAN DEAL, Georgia
MAURICE D. HINCHEY, New York
ROBERT A. UNDERWOOD, Guam
SAM FARR, California
LANE EVANS, Illinois
PATSY T. MINK, Hawaii
THOMAS J. BARLOW III, Kentucky
THOMAS M. BARRETT, Wisconsin

DON YOUNG, Alaska,
Ranking Republican Member
JAMES V. HANSEN, Utah
BARBARA F. VUCANOVICH, Nevada
ELTON GALLEGLY, California
ROBERT F. (BOB) SMITH, Oregon
CRAIG THOMAS, Wyoming
JOHN J. DUNCAN, Jr., Tennessee
JOEL HEFLEY, Colorado
JOHN T. DOOLITTLE, California
WAYNE ALLARD, Colorado
RICHARD H. BAKER, Louisiana
KEN CALVERT, California
SCOTT McINNIS, Colorado
RICHARD W. POMBO, California
JAY DICKEY, Arkansas

JOHN LAWRENCE, *Staff Director*

STANLEY SCOVILLE, *General Counsel*

DANIEL VAL KISH, *Republican Staff Director*

SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS

BILL RICHARDSON, New Mexico, *Chairman*

PAT WILLIAMS, Montana
SAM GEJDENSON, Connecticut
ENI F.H. FALEOMAVAEGA, American Samoa
TIM JOHNSON, South Dakota
NEIL ABERCROMBIE, Hawaii
KARAN ENGLISH, Arizona

CRAIG THOMAS, Wyoming,
Ranking Republican Member
DON YOUNG, Alaska
RICHARD H. BAKER, Louisiana
KEN CALVERT, California

TADD JOHNSON, *Staff Director*

MARIE HOWARD, *Professional Staff Member*

STEVEN J.W. HEELEY, *Counsel*

CHRISTOPHER T. STEARNS, *Deputy Counsel*

JULIE REDING, *Staff Assistant*

BARBARA ROBLES, *Clerk*

RICHARD HOUGHTON, *Republican Counsel on Native American Affairs*

CONTENTS

Hearing held: June 30, 1994	Page 1
Text of the bill: H.R. 4653	3
Section-by-section analysis: H.R. 4653	15
Background information	18
Member statements:	
Hon. Bill Richardson	1
Hon. Craig Thomas	21
Hon. Sam Gejdenson	24
Witness statements:	
Panel consisting of:	
Ralph W. Sturges, Chief G'Tine'Mong, Mohegan Tribe of Indians of Connecticut, New London, CT	27
Lawrence J. Halloran, counsel, Office of the Governor, State of Con- necticut	41
Hon. Wayne D. Scott, mayor of town of Montville, CT	45
Additional material submitted by Mayor Scott: Agreement be- tween the Mohegan Tribe of Indians of Connecticut and the town of Montville	60

H.R. 4653, MOHEGAN LAND CLAIMS SETTLEMENT ACT OF 1994

THURSDAY, JUNE 30, 1994.

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS,
COMMITTEE ON NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to call, at 10:30 a.m. in room 1324, Longworth House Office Building, Hon. Bill Richardson (chairman of the subcommittee) presiding.

STATEMENT OF HON. BILL RICHARDSON

Mr. RICHARDSON. The committee will take testimony on H.R. 4653 at the request of the honorable gentleman from Connecticut, Mr. Gejdenson.

H.R. 4653 is the Mohegan Nation of Connecticut Land Claims Settlement Act. I would like to congratulate the parties to this very important settlement on resolving some very difficult issues and reaching an historic agreement between the Mohegan Indian Tribe, the State of Connecticut and the Town of Montville.

I would also like to recognize the hard work of my colleague from Connecticut, Mr. Gejdenson, the tireless fighter, on behalf of positive causes affecting Native Americans, affecting his constituents, affecting people in this country. This legislation is now before the subcommittee, and it is thanks to his efforts.

We did invite the Department of Interior to present testimony on this legislation, but due to time constraints, the Department declined to attend the hearing. We have requested the Department to provide the subcommittee with their views on the legislation by July 11, 1994, as it is a priority of this subcommittee to deal with this bill.

This legislation provides for the settlement of the land claims of the Mohegan Indian Tribe to public and private lands in the State of Connecticut. On March the 7th, the Department of the Interior made a favorable determination of the Mohegan Indian Tribe's petition for Federal recognition.

This legislation ratifies a series of agreements between the State of Connecticut and the Town of Montville and the Mohegan Indian Tribe. These agreements provide for the transfer of certain state lands for the establishment of an Indian reservation for the Mohegan Indian Tribe and for the assumption of criminal jurisdiction by the State of Connecticut over Members of the Mohegan Indian Tribe and their lands.

In addition, the tribe and the state have entered into a compact to regulate Class III gaming on tribal lands of the Mohegan Indian Tribe pursuant to the Indian Gaming Regulatory Act. Again, I congratulate the parties for dealing with these issues, for coming to an agreement, and for showing the Federal Government that it was through their initiative that this problem was resolved.

Before asking all witnesses to summarize their statements, and I would ask that those statements be no more than five minutes, I would like to just mention that your full statements will be made a part of the record, which will remain open until July 11. At this time I would ask that the bill background section-by-section analysis be made a part of the record.

Before recognizing the gentleman from Connecticut, the initiator of this entire process, I would like to see if the Ranking Minority Member would like to make an opening statement.

[Text of the bill, H.R. 4653, section-by-section analysis and background information follow:]

103^D CONGRESS
2^D SESSION

H. R. 4653

To settle Indian land claims within the State of Connecticut, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 1994

Mr. GEJDESON introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To settle Indian land claims within the State of Connecticut, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mohegan Nation of
5 Connecticut Land Claims Settlement Act of 1994”.

6 **SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF**
7 **POLICY.**

8 Congress finds and declares that—

9 (1) the Mohegan Tribe of Indians of Connecti-
10 cut is a successor in interest to the aboriginal entity

1 known as the Mohegan Indian Tribe which has ex-
2 isted in the State of Connecticut from time immemo-
3 rial and for which certain lands were sequestered as
4 tribal lands by the Colony and State of Connecticut;

5 (2) there is pending before the United States
6 District Court for the Southern District of Connecti-
7 cut a lawsuit by the Mohegan Indian Tribe which in-
8 volves certain lands within the State of Connecticut;

9 (3) the pendency of the lawsuit may result in
10 economic hardships for residents of the State of
11 Connecticut by clouding the titles to lands in the
12 State, including lands not now involved in the law-
13 suit;

14 (4) the State of Connecticut and the Mohegan
15 Tribe have executed agreements for the purposes of
16 resolving all disputes between them and settling the
17 lawsuit, which agreements require implementing leg-
18 islation by the Congress of the United States;

19 (5) in the agreements described above, the par-
20 ties provide for the assumption by the State of Con-
21 necticut of criminal jurisdiction over the members of
22 the Mohegan Tribe and on its lands and to the sub-
23 mission of all gaming-related development to the
24 State of Connecticut State Traffic Commission; and

1 (6) Congress shares with the parties to such
2 agreements a desire to settle all Mohegan Indian
3 claims in the State of Connecticut and to remove all
4 clouds on titles resulting from such lawsuits.

5 **SEC. 3. DEFINITIONS.**

6 For purposes of this Act, the term—

7 (1) “Mohegan Tribe” means the Mohegan
8 Tribe of Indians of Connecticut, a tribe of American
9 Indians recognized by the United States pursuant to
10 25 C.F.R. 83 and by the State of Connecticut pur-
11 suant to Connecticut General Statutes sections 47–
12 59 (a) and (b) and further described in section 2(a);

13 (2) “State of Connecticut” means the State of
14 Connecticut, its agencies, political subdivisions, con-
15 stitutional officers, officials of its agencies and sub-
16 divisions;

17 (3) “Secretary” means the Secretary of the
18 Interior;

19 (4) “Lands or natural resources” means any
20 real property or natural resources, or any interest in
21 or right involving any real property or natural re-
22 sources including, but not limited to, minerals and
23 mineral rights, timber and timber rights, water and
24 water rights, and rights to hunt and fish;

1 (5) "Lawsuit" means the action in the United
2 States District Court for the District of Connecticut,
3 entitled "Mohegan Tribe of Indians of Connecticut
4 v. State of Connecticut, et al., Case No. H77-434;

5 (6) "Agreement" means that document entitled
6 "Agreement between the Mohegan Tribe and the
7 State of Connecticut" executed on April 25, 1994,
8 by the Governor of the State of Connecticut and the
9 Chief of the Mohegan Tribe, and filed with the Sec-
10 retary of State of the State of Connecticut; and

11 (7) "Transfer" includes, but is not limited to,
12 any sale, grant, lease, allotment, partition, or con-
13 veyance, any transaction the purpose of which was
14 to effect a sale, grant, lease, allotment, partition, or
15 conveyance, or any event or events that resulted in
16 a change of possession or control of lands or natural
17 resources.

18 **SEC. 4. FINDINGS BY THE SECRETARY.**

19 Section 5 of this Act shall not take effect until the
20 following events have occurred and the Secretary so
21 finds—

22 (1) the Governor of the State of Connecticut
23 has entered into a binding compact with the Mohe-
24 gan Tribe providing for tribal gaming operations, in-
25 cluding class III gaming in accordance with the In-

1 dian Gaming Regulatory Act (25 U.S.C. 2701 et
2 seq.) and the compact has received all the Federal
3 approvals required to be fully effective; and

4 (2) the United States has accepted in trust for
5 the Mohegan Tribe the lands the Tribe has des-
6 ignated for including in their initial Reservation as
7 described in Exhibit B to the Agreement.

8 **SEC. 5. APPROVAL OF PRIOR TRANSFERS AND EXTIN-**
9 **GUISHMENT OF CLAIMS AND ABORIGINAL**
10 **TITLE INVOLVING THE MOHEGAN TRIBE.**

11 (a) If the Secretary finds that the conditions set forth
12 in section 4 of this Act have been satisfied, he shall publish
13 such findings and the Agreement in the Federal Register,
14 and upon such publication:

15 (1) The transfers, waivers, releases,
16 relinquishments, and other commitments made by
17 the Mohegan Tribe in paragraph (1) of its Agree-
18 ment with the State of Connecticut shall be of full
19 force and effect on the terms and conditions therein
20 stated.

21 (2) The transfers, waivers, releases,
22 relinquishments, and other commitments validated
23 by paragraph (1) of the Agreement and of this sec-
24 tion and the transfers and extinguishments approved
25 and validated by subsection (b)(1) and (2) shall be

1 deemed to have been made in accordance with the
2 United States Constitution and all laws of the Unit-
3 ed States that are specifically applicable to transfers
4 of lands or natural resources from, by, or on behalf
5 of any Indian, Indian nation, or tribe of Indians (in-
6 cluding but not limited to the Trade and Intercourse
7 Act of 1790, Act of July 22, 1790, ch. 33, sec. 4,
8 1 Stat. 137, and any amendments thereto and all
9 subsequent versions thereof), and Congress does
10 hereby approve any such transfers effective as of the
11 date of said transfers.

12 (b)(1) All claims to lands within the State of Con-
13 necticut based upon aboriginal title by the Mohegan Tribe,
14 or any predecessor or successor in interest, are hereby ex-
15 tinguished, as are any and all other claims the Mohegan
16 Tribe might have to any public or private lands or natural
17 resources in Connecticut, such as claims or rights based
18 on recognized title, including but not limited to—

19 (A) any claim the Mohegan Tribe might have to
20 the tribal sequestered lands bounded out to the
21 Tribe in 1684, consisting of some 20,480 acres lying
22 between the Thames River, New London bounds,
23 Norwich bounds, and Colchester bounds;

24 (B) any claim the Mohegan Tribe might have
25 based on a survey under the authority of the Con-

1 necticut General Assembly in 1736 of lands reserved
2 and sequestered by the General Assembly for the
3 sole use and improvement of the Mohegan Indian
4 Tribe; and

5 (C) any claim the Mohegan Tribe might have
6 based on any action by the State in 1860, 1861, or
7 otherwise to allot, reallot, and/or confirm any lands
8 of the Mohegan Tribe to individual Indians or other
9 persons. Any transfer of lands or natural resources
10 located anywhere within the State of Connecticut in-
11 cluding, but not limited to, transfers pursuant to the
12 statute or treaty of or with any State or the United
13 States, by, from, or on behalf of the Mohegan Tribe,
14 or any predecessor or successor in interest, shall be
15 deemed to be in full force and effect, as provided in
16 subsection (a)(2): *Provided, however,* That nothing
17 herein shall be construed as extinguishing any ab-
18 original right, title, interest, or claim to lands or
19 natural resources solely to the extent of the rights
20 or interests defined as "excepted interests" in para-
21 graph 1a of the Agreement between the Mohegan
22 Tribe and the State of Connecticut, agreed to April
23 25, 1994.

24 (2) By virtue of the approval of a transfer of lands
25 or natural resources effected by this section, or an extin-

1 guishment of aboriginal title effected thereby, all claims
2 against the United States, any State or subdivision there-
3 of, or any other person or entity, by the Mohegan Tribe,
4 arising subsequent to the transfer and based upon any in-
5 terest in or right involving the claims described in para-
6 graph (1) above in lands or natural resources, including,
7 but not limited to, claims for trespass damages or claims
8 for use and occupancy, shall be regarded as extinguished
9 as of the date of the transfer, provided that this limitation
10 shall not apply to any interest in lands or natural re-
11 sources subsequently and lawfully acquired by the Mohe-
12 gan Tribe or its members.

13 (c) No provision of this section shall be construed to
14 offset or eliminate the personal claim of any individual In-
15 dian which is pursued under any law of general applicabil-
16 ity that protects Indians as well as non-Indians.

17 **SEC. 6. TRANSFER OF LANDS TO THE MOHEGAN TRIBE.**

18 (a) The Secretary of the Interior is authorized and
19 directed to accept the transfer to the United States of the
20 lands described in exhibits A and B of the agreement be-
21 tween the State of Connecticut and the Mohegan tribe to
22 be held in trust for the use and benefit of the Mohegan
23 Tribe of Indians of Connecticut as an Indian reservation,
24 notwithstanding the existence of any clouds on title or any
25 liens agreed to by the Tribe.

1 (b) The lands transferred to the United States in
2 trust for the Mohegan Tribe under subsection (a) shall
3 be subject to the laws of the United States relating to In-
4 dian lands, including section 177 of this title.

5 **SEC. 7. STATE JURISDICTION OVER RESERVATION.**

6 (a) Notwithstanding other provisions of Federal law,
7 including but not limited to 25 U.S.C. 1312–1326, the
8 Mohegan Tribe of Indians agrees to and consents to the
9 assumption by the State of Connecticut of criminal juris-
10 diction over the Mohegan tribal members and all Indians
11 on land or other natural resources presently owned by the
12 Tribe, or which are included in any Federal legislation re-
13 lating to Mohegan tribe land claims, or any annexation
14 thereto and any other land that may now or hereafter be
15 owned by or held in trust for said Tribe or its members.
16 Such criminal jurisdiction shall extend to the criminal laws
17 of the State of Connecticut and to the criminal jurisdiction
18 of the courts of the State of Connecticut to the same ex-
19 tent as such criminal law jurisdiction and criminal court
20 jurisdiction which empower the State with respect to any
21 other person or lands or other natural resources within
22 and subject to the jurisdiction of the State of Connecticut.
23 The Congress consents to this assumption of criminal ju-
24 risdiction by the State of Connecticut.

1 (b) Notwithstanding other provisions of Federal law,
2 including but not limited to 25 U.S.C. sections 1321–
3 1326, the Mohegan Tribe of Indians agrees to and con-
4 sents to the assumption of jurisdiction by the State of
5 Connecticut State Traffic Commission over all gaming-re-
6 lated traffic control matters to the same extent as the
7 State Traffic Commission has jurisdiction over traffic con-
8 trol within the State of Connecticut as set out in chapter
9 249 of the Connecticut General Statutes, sections 14–297
10 to 14–314C. The Congress consents to this assumption
11 of traffic control jurisdiction by the State of Connecticut.

12 **SEC. 8. GENERAL DISCHARGE AND RELEASE OF STATE OF**
13 **CONNECTICUT.**

14 Except as expressly provided herein, this Act shall
15 constitute a general discharge and release of all obliga-
16 tions of the State of Connecticut and all of its political
17 subdivisions, agencies, departments, and all of the officers
18 or employees thereof arising from any treaty or agreement
19 with, or on behalf of the Tribe of the United States as
20 trustee therefor.

21 **SEC. 9. REVOCATION OF AGREEMENT.**

22 In the event the Agreement between the Mohegan
23 Tribe and the State of Connecticut is invalidated, or if
24 the gaming compact provided in section 4(a) of this Act,
25 or any implementing agreements between the parties

1 thereto, is invalidated by a court of competent jurisdiction,
2 the transfers, waivers, releases, relinquishments and other
3 commitments made by the Mohegan Tribe in paragraph
4 1a of the Agreement shall no longer be of any force or
5 effect, section 5 of this Act shall be inapplicable to the
6 lands, interests in lands or natural resources of the Mohe-
7 gan Tribe and its members as if never enacted, and the
8 approvals of prior transfers and the extinguishment of
9 claims and aboriginal title of the Mohegan Tribe otherwise
10 effected by section 5 shall be void ab initio. In any such
11 event, the Mohegan Tribe shall have the right to reinstate
12 its land claim within a reasonable time, which period shall
13 be defined as the later of 6 months after the Mohegan
14 Tribe receives written notice of such determination, or if
15 appealed, 6 months after entry of judgment by the court
16 of last resort, and, if the suit is reinstated within that
17 time, no defense, such as laches, statute of limitations, law
18 of the case, res judicata, or prior disposition shall be as-
19 serted based on the withdrawal of the lawsuit and com-
20 mencement of the resumed litigation, nor shall the sub-
21 stance of discussions leading to the Agreement be admissi-
22 ble in any subsequent litigation: *Provided, however,* That
23 if any such suit is reinstated, any defense which would
24 have been available to the State of Connecticut at the time
25 the lawsuit was withdrawn may be asserted, and is not

1 waived by anything in the Agreement or by subsequent
2 events occurring between the withdrawal of the lawsuit
3 and commencement of the resumed litigation.

4 **SEC. 10. JUDICIAL REVIEW.**

5 Notwithstanding any other provision of law, any ac-
6 tion to contest the constitutionality of this Act or the va-
7 lidity of any agreement entered into under the authority
8 of this Act or approved by this Act shall be barred unless
9 the complaint is filed within 180 days after _____. Exclu-
10 sive jurisdiction over any such action is hereby vested in
11 the United States District Court for the District of
12 Connecticut.

13 **SEC. 11. JUNE 16, 1994, AGREEMENT.**

14 Notwithstanding any other provision of law—

15 (1) the Mohegan Tribe is authorized to make
16 payments to the town of Montville according to the
17 terms of the Tribe's June 16, 1994, agreement with
18 the town, subject to modification by mutual agree-
19 ment of the parties; and

20 (2) the Secretary of the Interior is authorized
21 and directed to approve that agreement, thereby giv-
22 ing full force and effect to its provisions, and to ap-
23 prove future modifications mutually agreed to by the
24 parties.

**SECTION-BY-SECTION ANALYSIS OF H.R. 4653,
To settle Indian land claims within
the State of Connecticut, and for other purposes.**

SECTION 1. SHORT TITLE

Section 1 cites the short title of the Act as the Mohegan Nation of Connecticut Land Claims Settlement Act of 1994.

SECTION 2. CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY

Section 2 sets out the findings of the Congress and the declaration of policy of the Federal government.

SECTION 3. DEFINITIONS

Section 3 sets out the definitions used in the Act.

SECTION 4. FINDINGS BY THE SECRETARY

Section 4 provides that Section 5 of this Act shall not take effect until the Secretary finds that the State of Connecticut has entered into a binding compact with the Mohegan Indian tribe governing class III gaming pursuant to the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.) and the compact has all the necessary Federal approvals and the Secretary finds that the United States has accepted into trust for the Mohegan Indian tribe lands which are described in the Agreement with the State of Connecticut.

SECTION 5. APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF CLAIMS AND ABORIGINAL TITLE INVOLVING THE MOHEGAN TRIBE

Section 5 provides that if the conditions set out in section 4 are satisfied, the Secretary shall publish his findings and the Agreement between the Tribe and the State in the Federal register. Upon publication, the transfers, waivers, releases, relinquishments, and other commitments shall be of full force and effect and shall be deemed to have been made in accordance with the United States Constitution and federal law. It also provides that all tribal claims to lands, including any public or private lands or natural resources, within the State of Connecticut are hereby extinguished. It also provides that any claims against the United States, and State, or subdivision thereof by the Mohegan Indian tribe arising from the transfer of any lands or natural resources described in this section, including any claims to trespass damages, shall be extinguished. Finally, it provides that no provision of this section shall be construed to eliminate the personal claim of any individual Indian under any general application of law.

SECTION 6. TRANSFER OF LANDS TO THE MOHEGAN TRIBE

Section 6 authorizes the Secretary to accept lands transferred to the United States to be held in trust for the use and benefit of the Mohegan Indian tribe as an Indian reservation. Lands transferred shall be subject to Federal laws relating to Indian lands including 25 U.S.C. 177, the Trade and Intercourse Acts.

SECTION 7. STATE JURISDICTION OVER RESERVATION

Section 7 provides that the Mohegan Indian tribe agrees and consents to the assumption by the State of Connecticut of criminal jurisdiction over the Mohegan Indian tribe and their reservation. It further provides that the Mohegan Indian tribe consents to the assumption of jurisdiction of the State of Connecticut State Traffic Commission over all gaming related traffic control within the State of Connecticut. It also provides that the Congress consents to this assumption of jurisdiction by the State of Connecticut.

SECTION 8. GENERAL DISCHARGE AND RELEASE OF THE STATE OF CONNECTICUT

Section 8 provides that this Act shall constitute a general discharge and release of all obligations of the State of Connecticut and its political subdivisions arising from any treaty or agreement with or on behalf of the Mohegan Indian tribe.

SECTION 9. REVOCATION OF AGREEMENT

Section 9 provides that in the event that the agreement between the Mohegan Indian tribe and the State of Connecticut, the gaming compact with the Mohegan Indian tribe and the State, or any of the implementing agreements is invalidated by court of competent jurisdiction, then the agreements made pursuant to paragraph 1(a) of the Agreement shall no longer be of force or effect, section 5 of the Act shall be as if it was never enacted, and the approvals of prior land transfers by the Tribe shall be considered void. It also provides that the Mohegan Indian tribe shall have the right to reinstate their land claim and no defense which may be raised because of the withdrawal of the litigation shall apply. If such suit is reinstated the State of Connecticut shall retain all defenses which were available to the State at the time of withdrawal.

SECTION 10. JUDICIAL REVIEW

Section 10 requires any action to contest the constitutionality of this Act or any agreement approved by this Act to be filed within 180 days after enactment. It also provides that the U.S. District Court for the District of Connecticut shall have jurisdiction over any such action.

SECTION 11. JUNE 16, 1994 AGREEMENT

Section 11 provides that notwithstanding any other provision of law the Mohegan Indian tribe is authorized to make payments to the Town of Montville pursuant to the agreement between the Town and the Tribe executed on June 16, 1994. The Secretary is authorized and directed to approve the agreement between the Town of Montville and the Mohegan Indian tribe and any future modifications agreed to by the parties.

**BACKGROUND FOR HEARING ON H.R. 4653,
THE MOHEGAN NATION OF CONNECTICUT
LAND CLAIMS SETTLEMENT ACT OF 1994**

Prior to this year, the Mohegan Indian tribe of Connecticut was not acknowledged by the United States government as a federally recognized Indian tribe. The Mohegan Indian tribe has been recognized by the State of Connecticut for many years pursuant to Connecticut General Statutes Chapter 824, sections 47-59a(b). In 1978, the Mohegan Indian tribe filed a petition for federal recognition with the Branch of Acknowledgement and Research in the BIA. On March 7, 1994, the Mohegan Nation of Connecticut was formally recognized by the United States as a federally recognized Indian tribe pursuant to 25 CFR part 83.

MOHEGAN INDIAN LAND CLAIM

The Mohegan Indian tribe has resided in the area of New London County, Connecticut since time immemorial. The colony of Connecticut and the State of Connecticut recognized the exclusive right of the Mohegan Indian tribe to reside on these lands in a series of official acknowledgements and surveys. The Colony of Connecticut set aside lands to be used by the Mohegan Indian tribe as a reservation. These lands included 2,400 acres in or near the present day town of Montville, Connecticut. The Connecticut General Assembly confirmed the establishment of this reservation in an 1814 report. In each subsequent survey by the State of Connecticut, the lands held by the Mohegan Indian tribe were reduced. By 1861, the State of Connecticut terminated the Mohegan reservation and allotted these tribal lands to private owners. None of these land transactions met the requirements of the Indian Trade and Intercourse Acts (25 U.S.C. 177) which bars the alienation of Indian lands without the consent of the United States Government. This statute provides that "No purchase, grant, lease, or other conveyance of land, or of any title of claim thereto, from any Indian Nation or tribe of Indians, shall be of any validity in law or equity, unless the same be made by the treaty or convention entered into pursuant to the Constitution."

In August of 1977, as the Mohegan Indian tribe was preparing a petition for federal recognition, the tribe filed an action against the State of Connecticut in federal court seeking compensation for tribal lands which were taken from the tribe and the return of tribal lands held by the State of Connecticut from the area that was the Mohegan Indian reservation in violation of the Indian Trade and Intercourse Acts (25 U.S.C. 177). Lands which the Mohegan tribe is seeking in the litigation include the Fort Shantok State Park which was the center of the Mohegan tribal homeland and contains many ceremonial sites and the tribal burial grounds. While the tribal land claim was pending in federal court, the State and the tribe agreed to stay the land claim until there was a final determination on the Mohegan petition for federal recognition. Upon formal

recognition of the Mohegan Indian tribe by the United States on March 7, 1994, the tribe and the State began negotiations to settle the Mohegan land claim and to establish a federal Indian reservation for the Mohegan Indian tribe. In addition, the tribe and the State began negotiations on a tribal/state compact to regulate class III gaming pursuant to the Indian Gaming Regulatory Act.

TRIBAL-STATE AGREEMENTS

In the negotiations with the State, the Mohegan Indian tribe sought the conveyance of approximately 2,100 acres of land and the payment by the State of \$150,000,000 in damages. Ultimately, the Mohegan Indian tribe and the State of Connecticut reached an agreement in which the tribe would recede entirely from its claims for both land and damages. In exchange, the State agreed to support the establishment of a 700 acre Indian reservation for the Mohegans located in Montville, Connecticut, to immediately execute a class III gaming compact with the Mohegan Indian tribe, to waive its right of appeal to the federal recognition of the Mohegan Indian tribe, and to support federal legislation implementing the agreement. In addition, the State of Connecticut agreed to support state legislation that would grant the Fort Shantok State Park to the Mohegan Indian tribe which would be held in trust by the Federal government for the benefit of the Mohegan Indian tribe. Upon the conveyance of the property, the Mohegan Indian tribe would agree to pay \$3,000,000 to the State.

The gaming compact between the Mohegan Indian tribe and the State of Connecticut provides that the tribe will limit all gaming to a single site on the reservation which shall not exceed 700 acres. The Compact outlines procedures governing class III gaming similar to those which have been developed for the Mashantucket Pequot Indian tribe which were approved by the Secretary. The Compact provides that the State has criminal jurisdiction and state traffic control jurisdiction over all related gaming development. The gaming compact includes provisions by which the Mohegan Indian tribe agrees to pay the State of Connecticut a minimum of \$80,000,000 per year as a share of the tribal gaming revenues.

THE MOHEGAN NATION LAND CLAIMS SETTLEMENT ACT

On June 27, 1994, Representative Gejdenson introduced H.R. 4653, the Mohegan Nation of Connecticut Land Claims Settlement Act of 1994 which was subsequently referred to the Subcommittee on Native American Affairs. This legislation ratifies the agreements between the Mohegan Indian tribe and the State of Connecticut and the Town of Montville. The bill extinguishes the claims of the Mohegan Indian tribes to any private or public land pursuant to aboriginal title of the tribe and validates any transfers or conveyances of tribal lands whether or not the said transactions were made in accordance with the Indian

Trade and Intercourse Acts. The legislation authorizes the Secretary to accept lands in trust for the use and benefit of the Mohegan Indian tribe. The legislation also extends criminal jurisdiction over the Mohegan Indian tribe and its members to the State of Connecticut and provides that the State Traffic Commission shall have jurisdiction over all gaming related traffic control matters. The bill discharges the State of Connecticut from all obligations and duties arising from any treaty or agreement with the Mohegan Indian tribe. Finally, it provides that if any of the agreements between the State and the Tribe are invalidated by a court of competent jurisdiction, then the transfers, waivers and releases made by the Tribe shall no longer be of any force of effect, the extinguishment of the land claims of the tribe shall be void and the Tribe shall have the right to reinstate its land claim.

STATEMENT OF HON. CRAIG THOMAS

Mr. THOMAS. Very briefly, Mr. Chairman. I fully support the concept behind H.R. 4653. I have always felt that agreements such as this are imminently preferable to protracted and costly lawsuits.

I do, however, have one concern. I have noted the increasing frequency with which the tribes and the States come to us with similar settlements that involve a significant waiver of sovereignty on the part of the tribes as part of the agreement. The most recent example was the Catawba Settlement Act which we passed last session. In the case of the Mohegans, they propose to waive both criminal and gaming jurisdiction on their reservation.

Although I am concerned about this waiver, I believe the role of Congress as a paternalistic guardian of the tribes is both outdated and unproductive. The tribe reached this agreement after protracted negotiations with the State of Connecticut. It is clear that both sides came away with what they felt to be the best deal they could reach and, therefore, I won't let that concern stand in my way.

So I look forward to the testimony.

Mr. RICHARDSON. I thank the gentleman.

[Prepared statement of Mr. Thomas follows:]

**OPENING STATEMENT OF
REP. CRAIG THOMAS ON H.R. 4653:
THE MOHEGAN SETTLEMENT ACT**

Thank you Mr. Chairman. I will keep my comments brief so that we may hear from our witnesses this morning.

I fully support the concept behind H.R. 4653. I have always felt that amicable agreements such as this are imminently preferable to protracted and costly lawsuits.

I do, though, have one concern. I have noted the increasing frequency with which tribes and states come to us with similar settlements that involve a significant waiver of sovereignty on the part of the tribe as part of the agreement. The most recent example is the Catawba Settlement Act which we passed last Session. In the case of the Mohegans, they propose to waive both criminal and gaming jurisdiction on their reservation.

Although I am concerned by this waiver, I believe the role of Congress as

a paternalistic guardian of the tribes is both outdated and unproductive. The tribe reached this agreement after protracted negotiations with the State of Connecticut; it is clear that both sides came away with what they feel to be the best deal they could reach. I, therefore, will not let my concerns stand in their way.

I look forward to the testimony this morning. Thank you.

Mr. RICHARDSON. The gentleman from Connecticut.

STATEMENT OF HON. SAM GEJDENSON

Mr. GEJDENSON. Thank you. I want to thank the Chairman for holding this hearing in such an expedited manner, and my colleagues. And I would just follow on the gentleman's comments, that this community—and that is what it is, a community—The Mohegans have been part of the Town of Montville and have been good citizens of that town, and the political leadership of this town deserve great credit because, oftentimes, as all of us in the political process know, it is sometimes easier for your own constituents to take a hard stand rather than sit down and negotiate, that there is some political benefit from simply pounding the table and refusing to take the kind of cooperation that has led to this agreement today.

I think the town, the tribe and the entire community will benefit from this agreement. I think the Mayor and the Chief deserve great credit, as does the Governor's Office, for the role that they played in working out this agreement that is to everybody's benefit, and I would just ask unanimous consent to place my entire statement in the record.

Mr. RICHARDSON. Without objection.

[Prepared statement of Mr. Gejdenson follows:]

WASHINGTON OFFICE:
2416 RAYBURN BUILDING
WASHINGTON, DC 20515
(202) 225-2078

DISTRICT OFFICES:
74 WEST MAIN STREET
NORWICH, CT 06250
(203) 886-0139

94 COURT STREET
MIDDLETOWN, CT 06457
(203) 346-1123



Congress of the United States
House of Representatives
Washington, DC 20515

Statement of Representative
Sam Gejdenson
on HR 4653
Legislation to Extinguish the Land Claim
of the Mohegan Tribe of Connecticut

SAM GEJDENSON
2D DISTRICT
CONNECTICUT

COMMITTEE ON
FOREIGN AFFAIRS
CHAIRMAN
SUBCOMMITTEE ON ECONOMIC POLICY,
TRADE AND ENVIRONMENT

COMMITTEE ON
NATURAL RESOURCES

COMMITTEE ON HOUSE
ADMINISTRATION

DEMOCRATIC STEERING AND
POLICY COMMITTEE

CO-CHAIR, DEFENSE
CONVERSION COMMITTEE

MAJORITY WHIP AT-LARGE

Mr. Chairman, I would like to thank you for holding this hearing so quickly. As you know, it is very important for all the parties involved to pass this legislation this Congress. I would like to take this opportunity to welcome Ralph Sturges, Chief of the Mohegan Tribe, Wayne Scott, Mayor of Montville, and Larry Holloran, representing Governor Lowell Weicker. I am glad that each could be here today to present their views to the Subcommittee. I look forward to their testimony.

We are here today to discuss HR 4653, which is backed by the State of Connecticut, Mohegan Tribe and Town of Montville, to extinguish the land claim of the Mohegan Tribe of Indians of Connecticut.

The Mohegans were one of the most powerful Native American tribes in New England at the time when settlers first arrived in this country. The Tribe was centered in what is now the town of Montville in southeastern Connecticut. Over successive years, the State of Connecticut, through numerous acts, disposed of certain portions of the Mohegan's ancestral land. In 1861, the State of Connecticut terminated the Mohegan reservation and dispersed its land to private owners. The State did this without the consent of the federal government.

Since 1977, the Tribe has had a land claim suit pending in District Court in Connecticut. The claim extends to more than 2,000 acres in southeastern Connecticut. The Tribe has argued that the State violated the Indian Non-Intercourse Act of 1790 by taking its land without the authorization of the federal government, thereby, making the transfer invalid. From my review of the facts, it is obvious that the Non-Intercourse Act was violated. If the District Court rules in the Tribe's favor, titles to property across my state will be clouded and the real estate market will come to a halt. This would be detrimental to the residents of Montville and surrounding towns, the Tribe and the entire State.

However, this will not be the case. In what I believe is a model of cooperation at all levels, the Tribe, the Town, the

State and residents have worked together to develop several agreements which resolve outstanding issues and provide multiple benefits to each. The State and the Tribe have reached an agreement on issues relating to land claims, gaming and several other issues. The Tribe and the Town recently signed an agreement which will provide the Town with some important infrastructure financing and ensure that it will work with the Tribe in securing a reservation and on other matters.

This legislation is necessary to resolve outstanding land claims issues in accordance with the Non-Intercourse Act. Under the bill, existing and any future tribal claims to any lands and natural resources in the State of Connecticut, based on aboriginal or recognized Indian title, are extinguished. The bill authorizes the Secretary of Interior to take nearly 850 acres of state and other lands into trust for an initial reservation for the Mohegans. I want to make it clear that the Mohegans will purchase the vast majority of this land from willing sellers. In fact, the Tribe already has options to purchase nearly 300 acres and the Governor has made a commitment to sell the Tribe approximately 170 acres of State land, including the Tribe's ancestral burial ground. The legislation provides for state criminal jurisdiction over Tribal members on lands taken into trust for the Mohegans. Moreover, the bill terminates any obligations to the Tribe arising from any previous agreement or treaty incurred by the State of Connecticut and its political subdivisions.

I want to make some points about what the bill would not do. It would not provide federal recognition to the Mohegan Tribe. The Tribe received federal recognition through the administrative process on March 15, 1994. The legislation does not involve any federal funds or transfer of federal lands. To put it simply, this bill poses few burdens on the federal government.

This bill is necessary under the Indian Non-Intercourse Act. Furthermore, it is the result of negotiations between all the parties involved. The State of Connecticut, Town of Montville and the Mohegan Tribe support this legislation and have requested that I introduce it in Congress. Passing this legislation is essential to tribal economic development which will allow it to provide for its nearly 1,000 members. Moreover, Tribal development will provide jobs to hundreds, perhaps thousands, of residents from across southeastern Connecticut. Passing this bill will protect private property owners and provide certainty for the future. Finally, to reiterate, all the parties involved support of this bill.

Mr. Chairman, I want to express my thanks for all your assistance in scheduling this hearing on such short notice. I look forward to working with you to move this important bill through the Committee and the House.

Mr. RICHARDSON. The Chair recognizes the gentleman from Hawaii who is flush with victories over his programs in the appropriations process.

Mr. ABERCROMBIE. Thank you for that recognition, Mr. Chairman.

PANEL CONSISTING OF RALPH W. STURGES, CHIEF G'TINE'MONG, MOHEGAN TRIBE OF INDIANS OF CONNECTICUT, NEW LONDON, CT; LAWRENCE J. HALLORAN, COUNSEL, OFFICE OF THE GOVERNOR, STATE OF CONNECTICUT; AND HON. WAYNE D. SCOTT, MAYOR, TOWN OF MONTVILLE

Mr. RICHARDSON. We would like to have Hon. Ralph W. Sturges, the Chief of the Mohegan Tribe of Indians of Connecticut, New London, Connecticut, please step up to the podium; Mr. Larry Halloran, counsel of the Office of the Governor; and the Hon. Wayne Scott, Mayor of the town of Montville.

Gentlemen, welcome once again to this subcommittee. We appreciate your taking the time to come up to brief us on your agreement, but also to congratulate you on what appears to be a very, very successful effort. We will start with the chief.

STATEMENT OF RALPH W. STURGES

Mr. STURGES. Good morning, Chairman, and Members of the subcommittee. We are here today to explain to you the reason that we gave up some of our sovereignty and also some of our rights, the reason the Mohegan Indian Tribe has always been a friend of the white man, and we have always been very helpful from the day that our tribe was founded, and we have tried very hard to keep the peace. We have never raised any havoc against the colonists or anybody.

When we came into this agreement with the town and with the State of Connecticut, we came into it with the sole idea that we wanted to have peace and harmony that we have always tried to stress. We hope that you will pass this bill, H.R. 4653 on behalf of us.

There has been quite a bit of controversy in our particular area, as you know, with some other tribes, and we come from a highly industrial area where, if we tried to take the land claim into our claim, it would have displaced a lot of people, and it would have caused a lot of havoc, and we did not want to do that. We wanted to keep the peace and we wanted to try to help this community.

And another thing. If we could get the tribe going into the compact that we signed with the State to take up a gaming position, then I think that we can stabilize the economy and not only in our area, but throughout the State of Connecticut. And that is one thing that we are trying to do is help everybody in that community, not just our tribe.

We would love to try to have everybody get along and make money and live happily ever after, and that is exactly what the Mohegan Indian has tried to do throughout our history, and we would appreciate very much if you would vote for this bill and do it as rapidly as possible so that we could move along and get the community back into stabilization.

Thank you.

[Prepared statement of Mr. Sturges follows:]

MOHEGAN



TRIBE

**Statement of Ralph W. Sturges,
Chief of the Mohegan Nation of Connecticut,
to the House Native American Affairs Subcommittee
Regarding
H.R. 4653, the Mohegan Nation of Connecticut Land Claims Settlement Act of 1994**

June 30, 1994

Good morning, Mr. Chairman and members of the Subcommittee. My name is Ralph W. Sturges, and I am the Lifetime Chief of the Mohegan Tribe of Indians of Connecticut. On behalf of the Mohegan Nation, I express my deep thanks to our Congressman, Sam Gejdenson, for all the support he has given the Tribe over the years, and to this Subcommittee, for so expeditiously considering H.R. 4653. I am here today to express the Tribe's support for the Mohegan Nation of Connecticut Land Claims Settlement Act of 1994, and to urge its speedy enactment into law.

The Mohegan Tribe of Indians of Connecticut is an Indian tribe which governs itself in accordance with a Constitution and Bylaws and tribal customary law. Our tribal status and inherent sovereignty have been expressly recognized by the Crown Colony of Connecticut and its successor State since 1638 (Connecticut General Statutes Chapter 824, § 47-59a(b)). We never entered into a treaty with the United States because we had peaceful relations with the English settlers in Connecticut almost from the first European contact, and there was no need for a treaty with the federal government.

Background to Mohegan Land Claim

In August, 1977, the Mohegan Tribe filed a lawsuit against the State of Connecticut in the United States District Court for the District of Connecticut, seeking compensation for and/or return of certain lands held by the State within the area in which the Tribe has resided from time immemorial. This area, known as

27 Church Lane, Uncasville, CT 06382
(203) 848-9252

the "Reservation Tract," includes 2,400 acres in or near the present town of Montville, Connecticut. This tract is a portion of the lands set apart as a reservation for the Mohegan Tribe by the colonial predecessor of the State of Connecticut. The boundaries, somewhat reduced from the original reservation, are as confirmed by an 1814 Report commissioned by the Connecticut General Assembly.

From time immemorial, the Mohegan Tribe has resided in the vicinity of present town of Montville. The Tribe's exclusive right to reside there was recognized by the Connecticut Colony and by the State of Connecticut in a series of official acknowledgments and surveys. With each survey, the Tribe's land was diminished. By 1861, much of the sequestered lands had been improperly taken from the Tribe by the State of Connecticut in a series of actions, and almost all of the remainder was lost to the Tribe in 1861 when the Mohegan reservation was terminated by the State, and the land allotted to private owners.

Among those lands which the Tribe sought to recover in filing our land claim against the State of Connecticut was Fort Shantok State Park, the traditional center of the Mohegan homeland, and the site, to this day, of the Tribal burial grounds. The Tribe did not sue for privately owned lands within the old reservation, but our suit had the effect of clouding titles nevertheless.

As this Subcommittee knows, under the Indian Non-Intercourse Act of 1790 (25 U.S.C. § 177) the termination of tribal rights to land without the consent of the United States government is void. The Act provides in part that

No purchase, grant, lease or other conveyance of land, or of any title of claim thereto, from any Indian Nation or tribe of Indians, shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the Constitution.

In the lawsuit, the State argued that the Non-Intercourse Act applies only to land in "Indian country," not to other Indian lands in the United States. In 1980 the District Court rejected the State's argument. Affirming that decision, the Court of Appeals noted that the Eastern tribes had been successful in court regarding land claims, but added that, as in the Mashpee case, some states have been able to defeat Indian claims by demonstrating that the plaintiff was not an existing tribe and a successor of the original landholding tribe.

Rather than litigate the identity of the Mohegan Tribe, the parties agreed to stay the land claim pending the final determination of a petition submitted to the Secretary of the Interior by the Tribe for federal recognition which could conclusively determine the issue of tribal status. Meanwhile, the pending litigation

in Federal District Court has clouded present titles to the lands within the old reservation.

Final Determination of Tribal Status

The Mohegan Tribe submitted its recognition petition in 1978. On March 7, 1994, after careful study, Assistant Secretary for Indian Affairs Ada Deer issued a positive determination that the extensive documentation we had submitted to the Branch of Acknowledgment and Research was sufficient to prove that the Tribe met all seven criteria for acknowledgment established under 25 CFR § 83, and so concluded that the Mohegan Tribe of Indians of Connecticut is an Indian tribe recognized by the United States. This positive determination of our tribal status became effective on May 15, after publication in the Federal Register on March 15.

Agreement with the State of Connecticut

After the Assistant Secretary's decision, the Tribe approached Governor Weicker's office to commence discussions to resolve all outstanding issues with the State, including the land claim. We succeeded in reaching an agreement which provides for the establishment of a federal Indian reservation and the negotiation of a tribal/state compact providing for gaming on tribal lands pursuant to the Indian Gaming Regulatory Act. A global agreement resolving all of the issues between the State of Connecticut and the Mohegan Tribe was executed on May 17, 1994, and requires the approval of the Congress to take effect.

The Tribe and the State have agreed to the immediate execution of a gaming compact identical to the secretarial procedures governing Class III gaming by the Mashantucket Pequot Tribe in the State of Connecticut; to the establishment of a 700-acre initial Indian Reservation in Montville; that the State will waive its right to appeal the positive determination of federal recognition of the Tribe; and to support the federal legislation needed to implement the Agreement. In addition, the State agreed to support state legislation that would grant Fort Shantok State Park to the United States, to be held in trust for the Tribe. The Tribe anticipates that it would continue the present use of the land as a public park, but with the ability to preserve areas necessary for sacred purposes. The Tribe agreed to pay the State \$3 million upon the successful conveyance of the Fort Shantok State Park property.

With respect to gaming, the Agreement is specifically circumscribed. The Compact is substantially identical to the Procedures imposed by the Secretary of the Interior under which the Mashantucket Pequot govern their existing class III gaming. The Mohegan Tribe has agreed to limit all gaming to a single site, not to exceed the 700 acres. In the Agreement, the parties have agreed to the assumption of

criminal jurisdiction by the State of Connecticut over members of the Tribe, and to the submission of all gaming-related development to the State Traffic Commission.

Because the Tribe-State Agreement would extinguish claims based on aboriginal title of the Mohegan Tribe, which are subject to the protections of 25 U.S.C. § 177, it requires implementing federal legislation. Without the enactment of legislation, the tribal claims cannot be extinguished and the title to thousands of acres will remain unclear. A copy of the resolution of the Mohegan Tribe in support of the Agreement is attached as Attachment A.

Agreement with Town of Montville

While the negotiations were underway with the State, the Town of Montville raised a number of issues of concern about the Agreement. The Town of Montville wanted to make certain that its own interests are completely protected in the settlement.

On June 16, as Chief of the Mohegan Tribe, I signed an Agreement between the Mohegan Tribe of Indians of Connecticut and the Town of Montville which resolves the Town's concerns. Among the benefits the Town of Montville will receive are \$500,000 a year from any gaming revenues to offset the impact of tribal development, a one-time payment of \$3 million towards improving the Town's water system, and payment in lieu of taxes on certain property the Tribe may acquire outside the initial reservation. The Town, in turn, agreed to support the enabling legislation, H.R. 4653. Finally, the Tribe and the Town agreed to cooperate and consult on plans for future development. The Tribal Council voted to ratify the agreement, a copy of which is attached to this statement as Attachment B.

Support of the Town of Montville is not required for the enactment of federal legislation implementing the Tribe's Agreement with the State of Connecticut. However, since many Mohegans live in or near Montville, we want what we plan for our Tribe to also benefit our neighbors in the Town. We have never sought to attack private land titles in our lawsuit and we are eager to work cooperatively with the Town. We appreciate the Town's support for H.R. 4653.

Views on H.R. 4653

The Mohegan Tribe supports the Mohegan Nation of Connecticut Land Claims Settlement Act of 1994, and urges its speedy enactment. The bill would provide for the extinguishment of claims to lands, including those based on aboriginal title, and reserved and sequestered lands, other than those lands to be made a part of the initial reservation and Fort Shantok, after the Secretary of Interior has determined that 1) the Governor has entered into a binding compact

with the Mohegan Tribe for the conduct of Class III gaming in accordance with the Indian Gaming Regulatory Act and the compact has received federal approval, and 2) the United States has accepted in trust the lands the Tribe has designated to be its initial Reservation, as described in the Agreement. The bill would also provide that in the event the Agreement between the Mohegan Tribe and the State of Connecticut is invalidated, or if the gaming compact provided for under the Act, or any of the implementing agreements, is invalidated, the commitments made by the Mohegan Tribe in the Agreement would no longer be in effect, and the extinguishment of claims and aboriginal title of the Mohegan Tribe would be void. In any such event, the Mohegan Tribe could reinstate its land claim. Unless this provision (which is similar to clauses included in other Indian land claims settlements) is included in the bill, the Tribe could run the risk of giving up all its tribal claims and losing the benefits for which it agreed to settle.

Legal counsel for the Tribe, the State of Connecticut and the Town of Montville have agreed to several changes to the bill which were not able to be incorporated before the bill was introduced. These changes essentially would simplify the bill, without substantive changes, in order to make it more acceptable to the Administration, and to correct previous drafting errors. We hope the Subcommittee will accept these revisions.

Thank you.

Resolution No. 94-4/221

of the

MOHEGAN TRIBE OF INDIANS OF CONNECTICUT

WHEREAS, the Mohegan Tribe of Indians of Connecticut is an American Indian tribe recognized by the government of the United States pursuant to the provisions of 25 Code of Federal Regulations Part 83; and

WHEREAS, the Mohegan Tribe of Indians of Connecticut is the plaintiff in a suit entitled Mohegan Tribe of Indians of Connecticut v. State of Connecticut, Civil Action No. 77-434, in the United States District Court for the District of Connecticut (the "Suit"); and

WHEREAS, Ralph W. Sturges, Chief of the Mohegan Tribe, has, pursuant to authority heretofore granted by this Council, negotiated agreements under which the State of Connecticut will enter into a compact for the operation of Class III games pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., and provide certain other benefits to the Mohegan Tribe, and the Mohegan Tribe will withdraw the Suit and waive any land claims included therein and any other land claims in the State of Connecticut; and

WHEREAS, the Council has reviewed the agreements and other documents identified below and determined that such agreements are in the best interests of the Mohegan Tribe and its members;

NOW, THEREFORE, BE IT RESOLVED, that the agreements and other documents attached hereto and identified below are hereby approved and the Chief and Secretary of the Tribe are hereby authorized to execute and deliver such agreements to the Governor of the State of Connecticut in the form attached hereto, with such minor changes thereto which do not change the legal effect thereof as may be necessary in the opinion of the Chief to consummate the agreements, except that the Memorandum of Understanding may be revised to reflect provisions which are substantially similar to those contained in document #4 below, and to eliminate provisions for direct payments to the town of Montville.

(1) Agreement between the Mohegan Tribe and the State of Connecticut (including proposed federal legislation) attached hereto and incorporated by reference herein as Exhibit A;

(2) Compact between the Mohegan Tribe and the Governor of the State of Connecticut, providing for the operation of Class III gaming by the Mohegan Tribe pursuant to the Indian Gaming Regulatory Act, attached hereto and incorporated by reference herein as Exhibit B;

(3) Memorandum of Understanding between the Mohegan Tribe and the State of Connecticut relating to the Compact and certain other matters relating to the resolution of the Suit attached hereto incorporated by reference herein as Exhibit C.

(4) Proposed revisions to Memorandum of Understanding to provide a formula guaranteeing minimum annual contribution of \$80,000,000 (eighty million dollars), commencing July 1, 1995, or after the Mohegan gaming operation is open for business.

FURTHER RESOLVED, that the Chief and Secretary of the Mohegan Tribe are hereby authorized to execute and deliver such other instruments, and to take any and all other action, as may be necessary to carry out the terms of the aforesaid agreements, obtain the enactment of the proposed federal legislation and secure to the Mohegan Tribe all of the benefits contemplated by such agreements and legislation.

FURTHER RESOLVED, that the Secretary of the Interior and the Chairman of the National Indian Gaming Commission are hereby requested to grant any approval to any of the aforesaid documents legally required to assure their binding force and effect and the Chief is hereby authorized and directed to take all action necessary to seek and obtain any such approval.

Dated this 2nd day of April, 1994, at Middletown, Connecticut.

MOHEGAN TRIBE OF INDIANS OF CONNECTICUT

Ralph W. Sturges

Ralph Sturges, Chief

ATTEST:

Loretta Roberge
Tribal Secretary

MOU REVISION TO REFLECT 80 MILLION GUARANTEE

7. Solely for each fiscal year of the State commencing on or after July 1, 1995 or in the year that the Mohegan Gaming Operation is open for business, the Minimum Contribution with respect to the operation of video facsimiles during said fiscal year shall be the lesser of: (i) thirty percent (30%) of gross operating revenues from video facsimiles during such fiscal year, or (ii) the greater of twenty five percent (25%) of gross operating revenues with respect to the operation of video facsimiles during such fiscal year or Eighty Million Dollars (\$80,000,000.00). The Minimum Contribution shall be payable as follows: the cumulative Contribution of the Tribe to the State hereunder with respect to the operation of video facsimiles during each such fiscal year of the State shall be Eight Million Dollars (\$8,000,000.00) as of September 15th of each such fiscal year, but not more than 30% (thirty percent) of gross operating revenues from video facsimiles from July 1st of such fiscal year through August 31 of such fiscal year; Sixteen Million Dollars (\$16,000,000.00) as of October 15th of each such fiscal year, but not more than 30% (thirty percent) of gross operating revenues from video facsimiles from July 1st of such fiscal year through September 30th of such fiscal year; Twenty Four Million Dollars (\$24,000,000.00) as of November 15th of such fiscal year but not more than 30% (thirty percent) of gross operating revenues from video facsimiles from July 1st of such fiscal year through October 31st of such fiscal year; Thirty Two Million Dollars (\$32,000,000.00) as of December 15th of such fiscal year but not more than 30% (thirty percent) of gross operating revenues from video facsimiles from July 1st of such fiscal year through November 30th of such fiscal year; Forty Million Dollars (\$40,000,000.00) as of January 15th of such fiscal year but not more than 30% (thirty percent) of gross operating revenues from video facsimiles from July 1st of such fiscal year through December 31st of such fiscal year; Forty Eight Million Dollars (\$48,000,000.00) as of February 15th of such fiscal year, but not

more than 30% (thirty percent) of gross operating revenues from video facsimiles from July 1st of such fiscal year through January 31st of such fiscal year; Fifty Six Million Dollars (\$56,000,000.00) as of March 15th of such fiscal year, but not more than 30% (thirty percent) of gross operating revenues from video facsimiles from July 1st of such fiscal year through February 28th of such fiscal year; Sixty Four Million Dollars (\$64,000,000.00) as of April 15th of such fiscal year, but not more than 30% (thirty percent) of gross operating revenues from video facsimiles from July 1st of such fiscal year through March 31st of such fiscal year; Seventy Two Million Dollars (\$72,000,000.00) as of May 15th of such fiscal year, but not more than 30% (thirty percent) of gross operating revenues from video facsimiles from July 1st of such fiscal year through April 30th of such fiscal year; and at least Eighty Million Dollars (\$80,000,000.00) as of July 15th following the close of each such fiscal year, but not more than 30% (thirty percent) of gross operating revenues from video facsimiles from July 1st of such fiscal year through June 30th of such fiscal year; provided that, if any year commencing after July 1, 1995, the Mohegan Gaming Operation opens for business for less than a full year, the Minimum Contribution shall be prorated to reflect that portion of the year.

CERTIFICATION

I hereby certify that the foregoing Resolution was duly passed at a Regular Council meeting held on April 22 1994, at which a quorum was present, by a vote of 8 For and 0 Opposed, the Chief being authorized to sign the Resolution.

Loretta Roberge, Secretary

Resolution No. 94-6/131

of the

MOHEGAN TRIBE OF INDIANS OF CONNECTICUT

WHEREAS, the Mohegan Tribe of Indians of Connecticut is an American Indian tribe recognized by the government of the United States pursuant to the provisions of 25 Code of Federal Regulations Part 83; and

WHEREAS, the Mohegan Tribe of Indians of Connecticut is the plaintiff in a suit entitled Mohegan Tribe of Indians of Connecticut v. State of Connecticut, Civil Action No. 77-431, in the United States District Court for the District of Connecticut (the "Suit"); and

WHEREAS, the Mohegan Tribe has entered into agreements under which the State of Connecticut will enter into a compact for the operation of Class III games pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., and provide certain other benefits to the Mohegan Tribe, and the Mohegan Tribe will withdraw the Suit and waive any land claims included therein and any other land claims in the State of Connecticut; and

WHEREAS, Ralph W. Sturges, Chief of the Mohegan Tribe, has, pursuant to authority heretofore granted by this Council, negotiated an agreement with the Town of Montville under which the Town will support federal legislation necessary to implement the agreements with the State of Connecticut, and, at the same time, for the Town to support administrative action by the Bureau of Indian Affairs to take land into trust on behalf of the Tribe necessary for the Tribe to undertake its planned economic development, in return for which the Tribe will make payments to the Town and undertake certain other obligations as described in the agreement attached hereto and incorporated by reference herein; and

WHEREAS, the Council has reviewed the agreement and determined that such agreement is in the best interests of the Mohegan Tribe and its members;

NOW, THEREFORE, BE IT RESOLVED, that the agreement attached hereto and identified below is hereby approved and the Chief and Secretary of the Tribe are hereby authorized to execute and deliver such agreement to the Mayor and Council of the Town of Montville in the form attached hereto, with such minor changes thereto which do not change the legal effect thereof as may be necessary in the opinion of the Chief to consummate the agreement:

Agreement between the Mohegan Tribe and the Town of Montville (including proposed federal legislation) attached hereto and incorporated by reference herein as Exhibit A;

FURTHER RESOLVED, that the Chief and Secretary of the Mohegan Tribe are hereby authorized to execute and deliver such other instruments, and to take any and all other action, as may be necessary to carry out the terms of the aforesaid agreement, obtain the enactment of the proposed federal legislation and secure to the Mohegan Tribe all of the benefits contemplated by such agreement and legislation.

FURTHER RESOLVED, that the Secretary of the Interior is hereby requested to grant any approval of the aforesaid document legally required to assure its binding force and effect and the Chief is hereby authorized and directed to take all action necessary to seek and obtain any such approval.

Dated this 13th day of June, 1994, at Shamfield, Connecticut.

MOHEGAN TRIBE OF INDIANS OF CONNECTICUT

Ralph Sturges
Ralph Sturges, Chief

ATTEST:

James Sawatt
Tribal Secretary

Mr. RICHARDSON. Thank you very much. That was a very good and sincere statement.

I would like to recognize Mr. Larry Halloran, Counsel, Office of the Governor.

I would ask the gentleman from Connecticut to temporarily Chair while I meet with the Assistant Secretary of Indian Affairs who has apparently an emergency issue she needs to discuss with me. I will be right back.

STATEMENT OF LAWRENCE J. HALLORAN

Mr. HALLORAN. Thank you, and good morning. On behalf of Governor Lowell Weicker, I want to thank the Chairman and particularly the representative from Connecticut for having this hearing and advancing this legislation.

The bill before you today implements the central element of a comprehensive resolution of potentially divisive issues between the State and the tribe.

The recognition determination by the Bureau of Indian Affairs presented us with a unique opportunity to pursue a global settlement of all of the issues that have come to define the government-to-government relationship between Indian tribes and states, primarily in the areas of land claims and economic development, particularly gaming.

We chose to do that, unlike other states, Connecticut among them, which tried to address these issues seriatim through either litigation or other less cooperative forms of engagement, and we sat down with the whole global picture in front of us and tried to reach a solution that was to the mutual benefit of the state, to all of its citizens, and the tribe. And we think we have accomplished that with an agreement that establishes Indian lands for the Mohegans that calls for the adoption of a gaming compact and extinguishes other land claims in that eastern part of the state.

And that is the key element to the state is, of course, the quiet of title and the extinguishment of land claims, but it is also in the establishment of Indian gaming under terms that protect all the citizens of the state, both in terms of criminal and civil jurisdiction, regulation and development in that part of the state, so that it can be done to the mutual benefit of all of the parties involved.

Finally, building on the foundation of cooperation, the tribe has arrived at additional understandings with the Town of Montville. We believe these agreements serve as a model for the establishment of constructive and harmonious intergovernmental relationships, and the governor encourages and urges the committee to adopt this legislation, both favorably and promptly.

Mr. GEJDENSON [presiding]. Thank you.

[Prepared statement of Mr. Halloran follows:]

LOWELL P. WEICKER, JR.
GOVERNOR



JAN KAPLAN, DIRECTOR
WASHINGTON OFFICE
STATE OF CONNECTICUT
444 NORTH CAPITOL STREET, SUITE 317
WASHINGTON, D.C. 20001
TELEPHONE: (202) 347-4535

Witness: Lawrence J. Halloran

Capacity: Counsel
Office of the Governor
State of Connecticut
444 North Capitol Street
Washington, D. C. 20001
(202) 347-4535

Representing: The Honorable Lowell P. Weicker, Jr.
Governor
State of Connecticut
Executive Chambers
State Capitol
Hartford, Connecticut 06106
(202) 566-4840

Testimony Summary:

Statement in support of H.R. 4653, the Mohegan
Nation of Connecticut Land Claims Settlement Act
of 1994.

LOWELL P. WEICKER, JR.
GOVERNOR



JAN KAPLAN, DIRECTOR
WASHINGTON OFFICE
STATE OF CONNECTICUT
444 NORTH CAPITOL STREET, SUITE 317
WASHINGTON, D.C. 20001
TELEPHONE: (202) 347-4535

June 30, 1994

The Honorable Bill Richardson
Chairman
Subcommittee on Native American Affairs
U. S. House of Representatives
Washington, D. C. 20515

Re: The Mohegan Nation of Connecticut Land Claims
Settlement Act of 1994

Mr. Chairman, Members of the Subcommittee:

I am grateful to the Subcommittee Chairman, Rep. Richardson, and Rep. Sam Gejdenson for their thoughtful and expeditious consideration of this important bill. The legislation before you today implements a central element of a comprehensive resolution of potentially divisive issues between the State of Connecticut and the newly recognized Mohegan Indian Nation. I urge the Subcommittee to act both promptly and favorably on this bill.

The recognition determination regarding the Mohegan Nation by the U. S. Department of Interior, Bureau of Indian Affairs, presented the rare opportunity to seek a global settlement of the key questions that have come to define the government-to-government relationship between states and Indian tribes: land rights and economic development, particularly gaming. In the past some states, Connecticut among them, confronted these issues singly, and begrudgedly, hindered by historical animosities and mired in protracted litigation. This year in Connecticut we chose a different path.

The agreement between the State of Connecticut and the Mohegan Tribe of Indians of Connecticut sets the terms for harmonious and productive relations between our two sovereign peoples. Long pending land claims are resolved to the mutual benefit of tribal members and Connecticut title holders. Intergovernmental jurisdictional boundaries are clearly delineated. And, the Tribe's economic well-being is assured by the concurrent submission of a gaming compact pursuant to the Indian Gaming Regulatory Act.

The Honorable Bill Richardson
June 30, 1994
Page 2

This legislation approves and implements essential terms of that agreement, providing the required Congressional action to extinguish Mohegan Indian land claims and resolve other jurisdictional issues. This integrated approach to the resolution of numerous, complex and potentially contentious issues requires trust and cooperation between the State, the Tribe, the Bureau of Indian Affairs and the Congress as the success of each component depends upon the timely implementation of all the others.

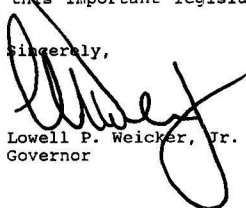
Central to the resolution of these issues, and the creation of a constructive government-to-government relationship, is the designation of Mohegan Indian lands in the Town of Montville, Connecticut. The pendency of Indian land claims in federal court to thousands of acres was of grave concern to the State and to thousands of property owners in eastern Connecticut. Throughout our negotiations with the Tribe, the State sought to minimize the disruption of local community life and to the local economy that might result from the advent of the Mohegan reservatoin and any gaming enterprise. The Tribe shared our concerns. The Mohegans cherish their history as citizens of our State and the Town of Montville, along with their Indian heritage, and sought to preserve the political and ecological balance in their community. In this regard, I want to point specifically to the vision and leadership of Ralph Sturges, Chief of the Mohegans.

As a result, the agreement and this legislation call for the acquisition by the Tribe of up to seven-hundred acres in Montville. The State has agreed to pursue necessary State legislative authorization to convey an additional one-hundred and forty-four acres of State park land of historical significance to the Mohegan Tribe. By this act, the Secretary of Interior is directed to take those lands into trust for the use and benefit of the Mohegan Nation.

Building on the foundation of cooperation in the State agreement, the tribe has arrived at additional understandings with the Town of Montville government. Together, these agreements serve as a model for the establishment of constructive, harmonious intergovernmental relationships between native Americans and their sovereign neighbors.

Again, thank you for your timely consideration of this bill. I look forward to working with your membership in whatever way my good offices might be of service in moving this important legislation to enactment.

Sincerely,



Lowell P. Weicker, Jr.
Governor

Mr. GEJDENSON. Mayor.

STATEMENT OF HON. WAYNE D. SCOTT

Mr. SCOTT. Thank you. Mr. Chairman, members of the subcommittee, I want to thank you for the opportunity to testify before you today on H.R. 4653. I am Wayne D. Scott, the Mayor of the town of Montville here to express the town's support for this historic bill.

This legislation will settle the tribe's land claim litigation, authorizing designation of the tribe's reservation, and establish a foundation upon which the tribe and the town can work together in the future through cooperative government to government relationship. Why this has occurred and why Montville and the Mohegan Tribe have avoided a conflict which has been present in other areas is a function of history, tribal and town leadership, the tribe and the town's willingness to seek a mutual solution.

Throughout the history of the Mohegan Indians, lands now included in the town have served as home for the tribe. This is reflected in the tribe's land claim litigation which usurps ownership of approximately 2,400 acres in the town of Montville. No other town has been the focal point of the tribe's land claims.

In the late 1970s, when the tribe's land claim was first asserted by the self-proclaimed Grand Sachem, considerable turmoil resulted as Montville residents saw the ownership of their homes and property fall into question and real estate transactions frustrated. Non-Indian and Indian residents of our community who were once good neighbors began to distrust each other.

With the filing of the land claim lawsuit, the true and ultimately recognized elders of the Mohegan Tribe asserted their leadership and helped bring an end to the public turmoil over real property ownership. For years thereafter, even as the tribal recognition and the land claims were pursued, real estate transactions took place in the affected area. This resulted in a positive relationship between the tribe and the residents of Montville.

Now, even after the tribe has achieved recognition, proposed land claims settlements and planned a major casino development in our area, the relationship between the tribe and the town is still a strong and positive one.

Chief Ralph Sturges has continued to reassure the residents of Montville that private property is not in jeopardy. The tribe is willing to provide for the legitimate interests of the town. The tribe is willing to compensate for the impact of tribal development, and to maintain a mutually supportive relationship in the future.

There is little question that the town will be significantly impacted by the settlement of the tribal land claims and the development of a major casino and resort on lands located in Montville. The majority of the lands used for the casino and resort will come out of the Montville tax base and the lands will cease to be subject to local planning, zoning, and environmental control.

Once developed, the tribe's casino and resort will literally transform the character of Montville with both positive and negative impacts. While there will be jobs for Montville residents and economic growth for our community, we are mindful of the potential of traffic congestion, increased crime, and other social problems related to

gaming, added pressure on the town's services and environmental impacts.

For the same reasons that we are concerned about the impacts of a major casino and resort, we also are concerned about additional development on tribal lands beyond the town's regulatory jurisdiction. The tribe has pledged to work with the town to address these problems and we are confident that they will. The fact remains, however, that Montville will bear the brunt of the tribe's development impacts and must have the means to respond.

After the announcement of the Mohegan Federal Recognition in March, the State of Connecticut, through the Governor's Office, entered into negotiations with the tribe over the land claim and the gaming compact, payments to the state and related issues. With the support of the tribe, the town actively sought a seat at the table in the negotiations to take up the portion of host community. This did not happen, and the Town of Montville was not provided for in the state agreement.

With the authorization of the Montville Town Council, I entered into negotiations with Chief Sturges. The result was an agreement that defined the rights and obligations of each party. It was approved by the Tribal Council and strongly approved by the Montville Town Council, and I want to express my thanks and respect to the tribe for their participation and our gratitude to Senator Dodd, Senator Lieberman and Congressman Gejdenson for their help.

Thank you.

[Prepared statement of Mr. Scott and agreement follow:]

**WRITTEN STATEMENT OF WAYNE D. SCOTT
MAYOR OF THE TOWN OF MONTVILLE, CONNECTICUT
ON THE MOHEGAN NATION OF CONNECTICUT LAND CLAIMS
SETTLEMENT ACT OF 1994
BEFORE THE COMMITTEE ON NATURAL RESOURCES
SUBCOMMITTEE ON NATIVE AMERICAN AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES**

June 30, 1994

INTRODUCTION

Thank you, Mr. Chairman, for the opportunity to testify on H.R. 4653 -- the Mohegan Nation of Connecticut Land Claims Settlement Act of 1994. I am Wayne D. Scott, the Mayor of the Town of Montville, Connecticut, and I am here to express the Town's support for this historic bill. When enacted, this legislation will settle the Tribe's controversial land claims litigation, authorize the designation of the Tribe's reservation, and establish a foundation upon which the Tribe and the Town can work together in the future through a cooperative government-to-government relationship.

HISTORY OF TRIBAL/TOWN RELATIONS

Let me begin by giving a brief history of the relationship between the Mohegan Tribe and the people of southeastern Connecticut. From the days of the first settlers in the area, the Mohegan have been known as friends of their

non-Indian neighbors. They lived together in peaceful coexistence.

In 1743, the King's Commissioners and Governor Dudley rendered a judgment, surrendering a tract of land between 4,000 and 5,000 acres on the then called Mohegan River between the Towns of New London and Norwich, for the use of the Mohegan Indians. This area was part of the area later incorporated as the Town of Montville.

This tract of land served as the "Mohegan Reservation" until the 1860s when these lands were distributed among members of the Tribe by an Act of the Connecticut General Assembly.

The members of the Mohegan Tribe continued to live on this land as private owners from that day on. Although much of this property has been sold by members of the Tribe and their descendants over the years, many Mohegan Indians still live on the land of their ancestors.

In an Act of the Connecticut General Assembly in 1872, the Mohegan were granted privileges of citizenship. It is ironic that the Mohegan -- the first inhabitants of this area -- were granted citizenship by an act of the State. Since that time, the Mohegan have lived among the general population of Montville as friends and neighbors.

Over the years, members of the Mohegan Tribe have been part of our community just like other citizens. The Mohegan people attend area churches and schools, belong to community groups, and work and live in Montville. They have asked for nothing special and were treated no differently. They were, and still are, members of our community.

Throughout the 1900s, the members of the Mohegan Tribe served their civic duty proudly. Members of the Tribe have a strong history of service to the United States Armed Forces. Members of the Tribe served in all of the military conflicts of the 1900s, including World War I and World War II. Members of the Tribe also serve the community in numerous other ways, ranging from the local volunteer fire companies, to the Little Leagues, to teaching in our schools. They are a valued, and valuable, part of the Town.

In the late 1960s, John Hamilton declared himself the Grand Sachem of the Mohegan-Pequot Indian Nation. He and his followers filed a land claim in the federal court. This lawsuit placed a cloud over many privately owned properties in Montville.

In 1970, the true elders of the Mohegan Tribe met to dispute Mr. Hamilton's claim of being the Grand Sachem, and they elected Courtland Fowler as the true Grand Sachem of the Mohegan Tribe.

The Hamilton land claim created a panic within our small town. It tied up land rights and created a boom of title insurance against Indian land claims.

Chief Fowler and the true members of the Mohegan Tribe worked hand in hand with the Connecticut Congressional delegation, the State of Connecticut, and the Town of Montville to dispute the claims of Mr. Hamilton and end the panic of the landowners of Montville.

Their help was a key in achieving a stay of court action and making it possible to once again buy and sell property in the claim area. The people of Montville owe a great debt to them.

The true Mohegan Tribe initiated a petition for federal tribal recognition in 1978. This petition was preliminarily denied in 1989. The Tribe continued to press its claim for federal recognition.

In January, 1993, the Mohegan Tribe announced its plan to purchase property in Montville and open a theme park and casino upon achieving federal recognition.

The Town of Montville and the State of Connecticut, fearing a new panic over the land claims should the Mohegan Tribe become federally acknowledged, took an active part in the recognition process.

As could be expected, at that point the relationship between the Town and the Tribe became strained. The Town, not fully understanding the intentions of the Tribe, and the Tribe, not fully understanding the position of the Town, ended up in a situation where there was an unfortunate breakdown in communications.

Upon the announcement of the Mohegan federal recognition in March of this year, the Tribe again assured the people of Montville that no private homes were in jeopardy due to the land claim. At every available opportunity, Chief Sturges repeated that statement.

The Town of Montville, believing that the petition was a federal matter, congratulated the Mohegan Tribe. The Town and the Tribe once again began an open and honest dialogue.

The Tribe began negotiations with the State of Connecticut on the issues of establishing a reservation, extinguishing the land claims, and entering into a gaming compact. The Town met with State officials and made them aware of what we believed the impact of the Tribe's plans would be on our small community. We had hoped, as did the Mohegan Tribe, that Montville's concerns would be met in the State-Tribe agreements.

Due to the apparent question of the lack of authority of the Governor to pledge State funds to a Town without

legislative approval, Montville's interests were not taken into account in the agreements between the Tribe and the State.

Chief Sturges remained true to his word that the Tribe would not allow the Town of Montville to be hurt in any way by the plans of the Tribe. After consulting with the members of the Montville Town Council, I took our concerns to Chief Sturges and the Tribal Council. In the course of the following six weeks, the Tribe and the Town negotiated an agreement that provides benefits to both parties. The two parties took the same approach as they have in the past -- we sat down and agreed to work together so both the Town and the Tribe could grow and prosper.

INTEREST OF THE TOWN OF MONTVILLE

As the foregoing discussion demonstrates, the Town of Montville is uniquely impacted by this legislation. Throughout the history of the Mohegan Indians, lands now included in the Town have served as the home for the Tribe. This is reflected in the Tribe's land claim litigation, which asserts ownership to land in Montville. No other town has been the focal point of the Tribe's land claims.

This is a pattern, Mr. Chairman, with which I know the Subcommittee is familiar. The point is, with the recent recognition of the Mohegan Nation as an Indian Tribe under

federal law, the panic and bad feelings engendered by the land claim litigation threatened to surface once again. Failure to resolve the land claim would have embroiled the Town and the Tribe in an extended, emotional, and high stakes legal contest. Such a result must be avoided.

The Town of Montville is uniquely impacted in another way. The Tribe intends to open what is expected to be a major casino and resort on lands located in Montville. The vast majority of the lands used for the casino and resort will come out of the Montville tax base, and they will cease to be subject to local planning, zoning, and environmental controls. Once developed, the Tribe's casino and resort will literally transform the character of Montville. There will be both positive and negative impacts. We hope there will be jobs for Montville residents and economic growth for our community. But we also are mindful of the potential for traffic congestion, increased crime and other social problems related to gambling, added strain to the Town's services, environmental impacts, and real estate development on Tribal trust lands that is beyond the Town's regulatory jurisdiction. The Tribe has pledged to work with the Town to address these problems, and we are confident that it will. But the fact remains that Montville will bear the brunt of the Tribe's development and, unlike any other town in the State, will undergo massive change and dislocation.

THE MOHEGAN/MONTVILLE AGREEMENT

The Town has approached this new relationship with the Mohegan Tribe in the spirit of cooperation. The Tribe has responded in like fashion. As a result, we have enjoyed excellent communications with the Tribe. Over the last two months, the Town and the Tribe have come to understand and respect each other's rights and objectives, hopes and apprehensions.

As described above, after the announcement of the Mohegan's federal recognition in March, the State of Connecticut -- through the Governor's Office -- entered into negotiations with the Tribe over the land claim, a gaming compact, payments to the State, and related issues. The Town and the Tribe had to pursue separate negotiations. This resulted in an agreement between the Tribe and the Town that defines the rights and obligations of each party. This agreement, which took nearly two months to negotiate, is strongly supported by the residents of Montville. It was approved by the Tribal Council on June 13. The Montville Town Council approved it by a 6 to 1 vote on June 16, after which the Chief and I signed the Agreement. I am submitting a copy of the Agreement for the record of this hearing.

Under the Agreement, the Tribe has committed to:

- make an initial payment of \$3 million and annual payments of \$500,000 to assist in the operation of specified Town operations;

- make payments in lieu of taxes on real property, personal property, and motor vehicles on lands taken into trust above the initial reservation lands;

- use the Town's waste disposal site and wastewater collection and treatment systems, subject to appropriate users' arrangements;

- employ a lobbyist to secure "host community" payments to the Town out of the payments made by the Tribe to the State;

- waive its sovereign immunity in certain respects;

- enter into cooperative planning relationships with the Town; and

- guarantee rights of access to public thoroughfares and non-Indian lands.

The Town has agreed to:

- support the designation of certain parcels as Tribal trust lands;

- support the legislation needed to implement the agreement between the State and the Tribe;
- support direct access to the Tribe's initial reservation lands; and
- enter into a cooperative planning relationship with the Tribe and to support related Tribal activities.

Although the agreement has received strong support in Montville, criticisms have been raised. Some are concerned that the Town is not receiving enough compensation to offset the impacts. In response, Chief Sturges has made a commitment that if the Tribe does well and the Town's interests have not been adequately addressed, the Tribe will do more to help.

Also, there is no limit imposed on the Tribe's ability to petition to take additional land into trust and remove its development from local regulatory controls. Because the Tribe's gaming must be limited to a single 700 acre site, it is unclear whether this problem will ever emerge. If it does, the Tribe and the Town will need to seek an appropriate resolution. We do not want to become embroiled in the kind of controversy over the expansion of trust lands beyond the Tribe's initial reservation that has engulfed the Mashantucket Pequot Tribe and its three host communities. I am confident that the Montville/Mohegan agreement, the commitments made by Chief Sturges, and the goodwill that exists between the

residents of Montville and the members of the Tribe will allow us to deal with new problems if they emerge and to set a precedent for positive, effective local government/Tribal relations.

To avoid any question over the binding nature of this agreement, including the Tribe's authority to make the agreed upon payments and the Secretary of the Interior's authority to approve the agreement, the Tribe and the Town have proposed legislation for this purpose. Indeed, the agreement itself obligates both parties to seek this legislative language. The requested provision is set forth in section 11 of H.R. 4653, and, along with some conforming amendments that we have presented to Committee staff, the Town urges enactment. We have also agreed to a provision that protects the right of the Town to participate in future trust acquisitions not provided for by the Tribe's agreement with the State, according to applicable law. Favorable Congressional action on this language is the final step necessary to confirm the Montville/Mohegan agreement.

The Mohegan and the people of Montville have always been friends and neighbors. We want this to continue. Our Agreement, along with the State agreements, and this legislation will guarantee a bright future for all of the parties.

With the enactment of this legislation, never again will the people of Montville worry about the title to their homes. Never again will the heritage and reality of the Mohegan Tribe be questioned.

The Mohegan and the people of Montville have a future of working together as the friends and neighbors we have always been.

This spirit of cooperation between a Native American Tribe and a local government in Southeastern Connecticut is a concept whose time has come. It is good to see headlines in the local press that read "Tribe and Town Working Together," rather than the headlines of conflict and dispute we in Southeastern Connecticut are so used to seeing. The Town of Montville and the Mohegan Tribe seek to be a shining example of cooperation in our region.

The Town of Montville believes in our Mohegan friends. We trust them and want to assist them in any way we can. I also believe that the Mohegan trust the Town of Montville. I believe they are, and will continue to be, true to their word in the future when they say they will assist the Town and will not allow us to be hurt by their endeavors.

We can and will work together in the future. Why should that change? We have been doing so for centuries. The Town of Montville fully supports the proposed legislation, and

respectfully requests your support and expeditious action. On behalf of the Town of Montville, I strongly encourage you to act favorably on this legislation as quickly as possible. Thank you.

AGREEMENT

IT IS HEREBY AGREED between the parties that the various outstanding unresolved issues extant between them shall be finally settled in accordance with the terms of this Agreement (hereafter referred to as the "Agreement"). For purposes of this Agreement, the parties shall be named and defined, as follows:

The Mohegan Tribe of Indians of Connecticut (hereafter referred to as the "Mohegan Tribe" and "the Tribe") is recognized by the United States, pursuant to 25 C.F.R. § 83, and by the State of Connecticut, pursuant to Conn. Gen. Stat. § 47-59a(b), and is an American Indian tribe with a written Constitution and Bylaws and has existed as an Indian tribe in Connecticut from time immemorial.

The Town of Montville (hereafter referred to as "the Town"), is a legally chartered municipality under the laws of the State of Connecticut.

WHEREAS, the Mohegan Tribe and the State of Connecticut have entered into an Agreement that would settle the Tribe's land claim against the State, which claim includes lands in Montville (hereafter referred to as "Land Claim Agreement");

WHEREAS, under the Land Claim Agreement the Mohegan Tribe would: extinguish all of its claims against the State, including claims to lands and natural resources; limit the location of Tribal gaming operations to a single site not to

exceed 700 acres; submit all gaming-related development of the Tribe to the regulation of the State Traffic Commission; put into effect Health and Safety, and Fire and Building Codes identical to or more stringent than those of the State; withdraw its land claims litigation; make payments in lieu of taxes on real property acquired by it and held in trust on its behalf by the United States, except Fort Shantok State Park and the lands described in Exhibit B of the Land Claim Agreement; accept the State's criminal jurisdiction; and consent to the assumption of the jurisdiction of the State over all gaming-related traffic matters;

WHEREAS, under the Land Claim Agreement the State of Connecticut would: support the acquisition in trust of Fort Shantok State Park and the Exhibit B lands by the United States on behalf of the Tribe; enter into a gaming compact with the Tribe and support its approval by the Secretary of the Interior; resolve the dispute between the State and the Tribe over video facsimile gaming under section 15(a) of the Compact; pay the Tribe consideration; waive the State's right to appeal the Mohegan Tribal recognition decision; and waive any and all claims for offsets;

WHEREAS, Acts of the United States Congress and the Connecticut General Assembly are required to give effect to certain aspects of the Land Claim Agreement;

WHEREAS, the Town of Montville will be the host community for the Tribe's gaming activities and may experience economic,

environmental, social and other impacts as a result of such activities;

WHEREAS, the Town will lose tax revenues from, and planning, zoning and regulatory control over, lands taken into trust by the United States on behalf of the Mohegan Tribe or its members;

WHEREAS, a decision by the Secretary of the Interior to take land into trust on behalf of the Mohegan Tribe or its members must consider the impact on the Town resulting from the removal of the land from the tax rolls and jurisdictional and land use conflicts;

WHEREAS, the Tribe, as a sovereign Indian nation, and the Town, as a chartered municipality of the State of Connecticut, desire to establish a long-term, cooperative relationship between them that will serve the best interests of the Tribe and its members and the Town and its residents.

NOW, THEREFORE, THE MOHEGAN TRIBE AND THE TOWN OF MONTVILLE AGREE, AS FOLLOWS:

1. Definitions. For the purpose of this Agreement, the following definitions shall be used:

a. "Land Claim Reservation Lands" means Fort Shantok State Park and the lands described in and subject to Exhibit B to the Land Claim Agreement entered into between the Mohegan Tribe and the State of Connecticut on April 25, 1994; and

b. "Tribal Lands" means all lands owned in fee by the Tribe, all lands held in trust by the United States on behalf of the Tribe including the Land Claim Reservation Lands, and all lands owned by the Tribe that are subject to restrictions on alienation.

2. Commitments of the Mohegan Tribe. The Mohegan Tribe agrees:

a. To make payments of \$500,000 from the Tribe's gaming revenues to the Town's Capital Budget on each annual anniversary date of the commencement date of slot machine (i.e., video facsimile) gaming activities on Land Claim Reservation Lands, if such gaming activities are conducted on 183 or more days of said year. If slot machine gaming activities on Land Claim Reservation Lands are conducted for less than 183 days between the commencement date and the first anniversary date or any two consecutive anniversary dates thereafter, the Tribal payment shall be \$41,667 for each calendar month of that period in which slot machine gaming activities were conducted on at least one day, with such payment to be made in a single lump sum on the anniversary date.

b. To pay to the Town, in a single lump sum payment, \$3 million toward the development of a water supply and/or water distribution system for the Town, with such payment due on the date of commencement of slot machine (i.e.,

video facsimile) gaming activities and payable on the first anniversary date of the commencement of such activities;

c. To dispose at the Preston incinerator, or any other site designated as the Town's disposal site, all refuse deemed acceptable for disposal at that site, as defined by applicable federal and State of Connecticut laws, and generated from activities occurring on Tribal Lands; to pay tipping fees for such refuse to the Town according to the rates in effect at the time of disposal; and to consent to have the Tribe's refuse credited toward the Town's tonnage;

d. Subject to the approval of the Town of Montville Water and Water Pollution Control Authority (hereafter referred to as the "WWPCA"), to use the Town's wastewater collection and treatment system for all Tribal Lands determined by the WWPCA to be accessible to the system up to a maximum usage of 300,000 gallons/day, and to enter into a commercial users' agreement with the WWPCA prior to the commencement of any discharge from Tribal Lands into the system;

e. To employ and pay for the lobbying services of the firm Rome, Frankel & Kennelly, P.C. to appear before the Connecticut General Assembly, the State's constitutional officers and agencies, and other appropriate persons or entities for the purposes of obtaining for the Town: (i) host community payments of at least one percent of the amount paid to the State under the Memorandum of Understanding entered

into between the State and the Tribe on April 25, 1994, regarding implementation of the Mohegan Gaming Compact; and (ii) a payment of \$3 million as impact aid in compensation for the loss of Land Claim Reservation Lands from the Montville tax base. The Tribe will support and use its best and good faith efforts to secure such necessary and appropriate actions to achieve such payments. The Tribe shall undertake this obligation for the 1995 Session of the Connecticut General Assembly.

f. To cooperate and work with Town planning staff to ensure coordination of Tribal and Town actions regarding traffic patterns and planning and zoning issues arising as a result of gaming activities and other developments on all Tribal Lands. Such coordination includes, but is not limited to: providing the Town Planner with all submissions to the State Traffic Commission on the same date they are filed with the State and designating a representative of the Tribe to be responsible for such coordination.

g. To provide adequate and feasible access for economic and other purposes to any landowner whose land is, or at any time becomes, landlocked by Tribal Lands;

h. To participate in the Town Capital Improvement Plan by taking steps that include, but are not limited to, providing, at the Tribe's discretion, assistance for the planning and funding of capital improvements that benefit both the Tribe and the Town;

i. To make to the Town annual payments in lieu of taxes, on all land outside the Land Claim Reservation Lands held in trust by the United States on behalf of the Mohegan Tribe as follows:

The Tribe shall make payments in lieu of taxes on real property it acquires in an amount equal to the tax that would be paid on such property were the same not exempt from taxation under federal or state law, unless agreement is reached with the Town for a lesser amount. In the event the Tribe acquires any real property, the Tribe may succeed to the interests of a predecessor in title in any agreement concerning the abatement of tax on the property. Such assessments and payments shall be calculated under the Town's assessment procedures in effect for the year in which such assessment is determined and shall be paid under the Town's collection procedure in effect for the year in which the payment is due. The Tribe shall have the same right of appeal from any assessment made on such real property as any person, solely as to valuation.

j. Except for personal property located on Land Claim Reservation Lands and motor vehicles garaged thereon, the Tribe agrees to make to the Town annual payments in lieu of taxes on all tribally owned motor vehicles and personal property located on land held in trust by the United States on behalf of the Mohegan Tribe with the exclusion of:

1) All computers and data processing equipment used more than 50 percent of the time for gaming-related purposes, as certified on an annual basis by a duly authorized representative of the Tribe, including all terminals and peripheral equipment used in connection therewith whether colocated or located elsewhere; and

2) All telecommunications equipment consisting of:

- a) telecommunications equipment;
- b) customer premises equipment; and
- c) transmission facilities

as each of the above items is defined in the AT&T Consent Decree referenced in United States v. AT&T, 552 F. Supp. 131.

The Tribe shall make such payments in lieu of taxes in an amount equal to the tax that would have been paid on such personal property were the same not relieved from taxation pursuant to applicable exemptions accorded to the Mohegan Tribe under federal law. Such assessments and payments shall be calculated under the Town's assessment procedures in effect for the year in which such assessment is determined and shall be paid under the Town's collection procedure in effect for the year in which the payment is due. The Tribe shall have the same right of appeal from any assessment made on such personal property or motor vehicles as any person.

k. To not apply for, or consent to, trust status for, or otherwise exercise control over or limit access to, any public roads, public highways, public rights-of-way, or public easements other than those located within Fort Shantok State Park, without the written consent of the Town of Montville.

l. To request and support the approval by the Secretary of the Interior, the Bureau of Indian Affairs, or any other person or entity of any and all terms of this Agreement requiring such approval.

3. Commitments of the Town of Montville. The Town of Montville agrees:

a. To support the acquisition in trust of Fort Shantok State Park, and Parcels 1-3 of Exhibit B to the Land Claim Agreement;

b. To support the legislation necessary to implement the Land Claim Agreement, to the extent such legislation is not inconsistent with this Agreement;

c. To support efforts by the Tribe to obtain direct access to Land Claim Reservation Lands from Connecticut Route 2A;

d. To cooperate and work with Tribal planning staff to ensure coordination of Tribal and Town actions regarding traffic patterns and planning and zoning issues arising as a result of gaming activities and other

developments on all Tribal Lands. Such coordination includes, but is not limited to: providing the Tribal Planner with all submissions to the State Traffic Commission on the same date they are filed with the State and designating a representative of the Town to be responsible for such coordination;

e. To participate in the Tribal Capital Improvement Plan by, in the Town's discretion, assisting the Tribe in the planning of capital improvements that benefit both the Tribe and the Town; and

f. To use its best efforts to support efforts by the Tribe to obtain approval of the Town of Montville KWPCA to use the Town's wastewater collection and treatment system as set forth in paragraph 2.d.

4. Commitments of Both Parties. Both parties agree to cooperate fully in requesting and supporting enactment of federal and State of Connecticut legislation and/or execution of other legally binding actions to implement the terms of this Agreement. The parties specifically agree to seek federal legislation implementing provisions of this Agreement as set forth in Exhibit A to this Agreement.

5. Effective Date. Notwithstanding the status of the Land Claim Agreement, any legislation implementing the Land Claim Agreement, the Mohegan Gaming Compact, the MOU, or any other agreement, contract, or commitment entered into between the Tribe and any other party, the terms of this Agreement shall be effective upon the execution hereof and shall remain

in effect unless otherwise terminated by the mutual written consent of the Tribe and the Town, provided however, that this Agreement shall terminate if federal legislation necessary to implement the Land Claim Agreement is not enacted prior to the end of the second session of the 103d Congress of the United States. Should Congress fail to act before the end of the second session of the 103d Congress, the Agreement shall remain in effect if the lands identified in Section 3.a. are taken into trust by administrative action of the Secretary of the Interior on or before December 31, 1994, or within a reasonable period of time thereafter, but no later than February 1, 1995, and the Secretary has approved this Agreement prior to taking such action.

6. Claims and Disputes.

a. Any claim or dispute arising out of or related to this Agreement or any implementing legislation including any claim of misrepresentation, shall be resolved, whenever possible, by meeting and conferring. A party may request such a meeting by giving written notice to the other, and the parties shall meet within 15 days of the notice. If a claim or dispute for monetary damages cannot be resolved to the mutual satisfaction of the parties within 30 days after the meeting, then the parties shall undertake arbitration in accordance with the then current rules and supervision of the American Arbitration Association ("AAA"). The arbitration shall be conducted before a single arbitrator. The arbitrator's decision and award shall be final and binding and

may be entered in any court with jurisdiction. The arbitrator shall not have authority to award punitive or other non-compensatory damages to either party. The arbitration will be held in the Town of Montville. The Tribe and the Town will each bear their own attorneys' fees associated with the arbitration. All other costs and expenses of the arbitration will be paid as provided in the then current rules of the AAA.

b. The parties shall not arbitrate claims or disputes involving injunctive or declaratory relief and may, at the discretion of either party, litigate such matters in a court of competent jurisdiction.

7. Jurisdiction; Waiver of Sovereign Immunity; Limitation of Remedies. The Town recognizes that the Tribe is a sovereign Indian nation exempt from suit except to the extent the Tribe or Congress waives such immunity. Subject to the terms of section 6, the Tribe and the Town hereby covenant and agree that they each may sue or be sued to enforce or interpret the terms, covenants and conditions of this Agreement or implementing legislation or to enforce the obligations or rights of the parties hereto in accordance with the terms and conditions set forth in this Agreement. The Tribe and the Town hereby expressly waive any right to proceed before, or require the other to proceed before, any Tribal court or authority, and agree that any action with regard to a claim or dispute between the Tribe and the Town arising under this Agreement shall be brought before (i) the United States District Court for the Southern District of Connecticut with

the right of appeal to appropriate federal appellate courts, or (ii) in the appropriate State court, with the right of appeal to appropriate State and federal appellate courts, in the event that the federal court determines that it is without jurisdiction in the matter or chooses not to exercise its jurisdiction for any reason. The Tribe further expressly waives any right which the Tribe may possess to require the Town to exhaust tribal remedies prior to invoking federal or state jurisdiction hereunder.

The Tribe hereby expressly waives the sovereign immunity of the Tribe, and its officers and agents, from suit to enforce or interpret this Agreement or any implementing legislation and agrees that it shall not raise sovereign immunity as a defense with regard to such actions including without limitation the right to obtain injunctive or declaratory relief in a court of competent jurisdiction. With respect to claims or disputes involving monetary damages, the Tribe's waiver of sovereign immunity shall apply only to the enforcement of an arbitrator's award or other resolution reached under section 6 of this Agreement. Any monetary damages awarded to the Town shall be recoverable only from the gross revenues of the Tribe's gaming operations. As provided in section 9, the provisions of this section shall survive any termination of this Agreement.

8. Governing Law. This Agreement shall be governed by the laws of the United States of America, and where such laws

are nonexistent or inapplicable, the laws of the State of Connecticut.

9. Survival. The terms and conditions contained in sections 6 through 17 shall survive any termination of this Agreement.

10. Authorization. The Tribe and the Town represent and warrant that each has the full power and authority to execute this Agreement and perform its obligations in accordance with the terms and condition hereof, and that the representative executing this Agreement on behalf of such party is duly and fully authorized to so execute and deliver this Agreement.

a. The Tribe has authorized its officers to execute this Agreement by the adoption of Resolution No. 9 adopted June 13, 1994, a copy of which is attached hereto as Exhibit B.

b. The Montville Town Council has authorized its officers to execute this Agreement by the adoption of Resolution No. 94-70 adopted June 16, 1994, a copy of which is attached hereto as Exhibit C.

11. Agreement to Run with the Land. The Tribe agrees and covenants that it will ensure that title to any lands, when accepted into trust by the Secretary of the Interior, for and on behalf of the United States, shall be subject to this Agreement, and this Agreement shall run with the land and be recorded with the Montville Town Clerk's Office, such that any

entity or individual holding legal or beneficial title to those lands shall enjoy and be subject to all rights, privileges and obligations of this Agreement until terminated as herein provided. Prior to the transfer of title of or an interest in trust lands, the Tribe shall submit the deed or other form of conveyance to the Mayor of Montville in order that the Town may review and approve the document to insure compliance with this Section.

12. Best Efforts. The parties agree that they shall devote their best efforts to the fulfillment of their respective duties and obligations hereunder in accordance with the provisions of this Agreement.

13. Successors and Assigns; Assignment; Parties in Interest. The benefits and obligations of this Agreement shall inure to and be binding upon the parties hereto, their respective successors and assigns; provided, however, that no party may assign their interest or obligations hereunder, nor delegate its duties or obligations hereunder, without the prior written approval of the other party, and without such other approvals as may be required by law. Nothing in this Agreement, express or implied, is intended or shall be construed to give to any person other than the parties hereto any right, remedy or claim under or by reason of this Agreement.

14. Severability. In the event that any portion of this Agreement is determined to be null, void or unenforceable by

any court of competent jurisdiction, then the remaining provisions of this Agreement shall remain in full force and effect unless such result would defeat the general purposes and goals of this Agreement to do so.

15. Entire Agreement. This Agreement embodies the entire understanding and agreement between the parties hereto and specifically supersedes all prior agreements and understandings relating hereto. The parties hereto acknowledge that they are not relying upon any representations, warranties, conditions, agreements or understandings, except as specified herein.

16. Amendments. This Agreement shall be amended solely by written agreement of the parties hereto and with the approval, if required, of the Secretary of the Interior.

17. Attorneys' Fees. In the event that any party hereto resorts to litigation, arbitration, or any alternative dispute resolution process to enforce its rights pursuant to this Agreement, the successful party shall be entitled to recover its reasonable attorneys' fees and costs incurred in connection therewith as determined by the court, the arbitration panel, or any other alternative dispute resolution authority. This provision shall not be construed as consent by any party to arbitration or any alternative dispute resolution process.

DONE AND EXECUTED as of the last written date below.

TOWN OF MONTVILLE

MOHEGAN TRIBE OF INDIANS
OF CONNECTICUT

Wayne D. Scott
WAYNE D. SCOTT
MAYOR

Ralph W. Sturges
RALPH W. STURGES
CHIEF G'TINE'HONG

6/16/94
Date

6/16/84
Date

APPROVAL

The foregoing Agreement by and between the Mohegan Tribe of Indians of Connecticut and the Town of Montville, Connecticut, executing above, consisting of pages 1 through 18, is hereby accepted and approved on behalf of the Secretary of the Interior pursuant to 25 U.S.C. § 81.

Dated: _____, ___, 1994

By: _____
United States
Department of the Interior,
Bureau of Indian Affairs

EXHIBIT A

Section __. Notwithstanding any other provision of law,
(a) the Mohegan Tribe is authorized to make payments to the
Town of Montville according to the terms of the Tribe's
June __, 1994 agreement with the town, subject to modification
by mutual agreement of the parties; (b) the Secretary of the
Interior is authorized and directed to approve that agreement,
thereby giving full force and effect to its provisions, and to
approve future modifications mutually agreed to by the
parties.

Exhibit BResolution No. 94-6/131

of the

MOHEGAN TRIBE OF INDIANS OF CONNECTICUT

WHEREAS, the Mohegan Tribe of Indians of Connecticut is an American Indian tribe recognized by the government of the United States pursuant to the provisions of 25 Code of Federal Regulations Part 83; and

WHEREAS, the Mohegan Tribe of Indians of Connecticut is the plaintiff in a suit entitled Mohegan Tribe of Indians of Connecticut v. State of Connecticut, Civil Action No. 77-431, in the United States District Court for the District of Connecticut (the "suit"); and

WHEREAS, the Mohegan Tribe has entered into agreements under which the State of Connecticut will enter into a compact for the operation of Class III games pursuant to the Indian Gaming Regulatory Act, 25 U.S.C. § 2701 et seq., and provide certain other benefits to the Mohegan Tribe, and the Mohegan Tribe will withdraw the suit and waive any land claims included therein and any other land claims in the State of Connecticut; and

WHEREAS, Ralph W. Sturges, Chief of the Mohegan Tribe, has, pursuant to authority heretofore granted by this Council, negotiated an agreement with the Town of Montville under which the Town will support federal legislation necessary to implement the agreements with the State of Connecticut, and, at the same time, for the Town to support administrative action by the Bureau of Indian Affairs to take land into trust on behalf of the Tribe necessary for the Tribe to undertake its planned economic development, in return for which the Tribe will make payments to the Town and undertake certain other obligations as described in the ~~agreement~~ attached hereto and incorporated by reference herein; and

WHEREAS, the Council has reviewed the agreement and determined that such agreement is in the best interests of the Mohegan Tribe and its members;

NOW, THEREFORE, BE IT RESOLVED, that the agreement attached hereto and identified below is hereby approved and the Chief and Secretary of the Tribe are hereby authorized to execute and deliver such agreement to the Mayor and Council of the Town of Montville in the form attached hereto, with such minor changes thereto which do not change the legal effect thereof as may be necessary in the opinion of the Chief to consummate the agreement:

Agreement between the Mohegan Tribe and the Town of Montville (including proposed federal legislation) attached hereto and incorporated by reference herein as Exhibit A:

FURTHER RESOLVED, that the Chief and Secretary of the Mohegan Tribe are hereby authorized to execute and deliver such other instruments, and to take any and all other action, as may be necessary to carry out the terms of the aforesaid agreement, obtain the enactment of the proposed federal legislation and secure to the Mohegan Tribe all of the benefits contemplated by such agreement and legislation.

FURTHER RESOLVED, that the Secretary of the Interior is hereby requested to grant any approval of the aforesaid document legally required to assure its binding force and effect and the Chief is hereby authorized and directed to take all action necessary to seek and obtain any such approval.

Dated this 13th day of June, 1994, at Sharon, Conn., Connecticut.

MOHEGAN TRIBE OF INDIANS OF CONNECTICUT

Ralph Sturges
Ralph Sturges, Chief

ATTEST:

Jane Sawatt
Tribal Secretary

Exhibit C

TOWN OF MONTVILLE
Town Clerk's Office

310 Norwich-New London Turnpike
Uncasville, Connecticut 06382

Margaret E. Skinner, CM
203-848-1349

RESOLUTION NO. 94-70

THE TOWN OF MONTVILLE HEREBY RESOLVES that the Mayor be and is hereby authorized to execute an agreement between the Town of Montville and the Mohegan Indian Tribe.

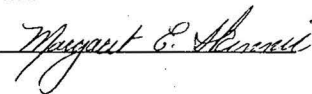
STATE OF CONNECTICUT

Montville June 17, 1994

COUNTY OF NEW LONDON

I, Margaret E. Skinner, Town Clerk of Montville, duly appointed and qualified according to law and having custody of the Seal of said Town, do hereby certify that above and foregoing to be a true and accurate copy of Resolution No. 94-70 adopted by the Town Council of the Town of Montville at their Special Meeting held June 16, 1994.

ATTEST:



Mr. GEJDENSON. Thank you. And I thank all the witnesses, not just for their testimony today, but again for working together in what has, as you indicated in other communities, been a very difficult set of circumstances. I think the community and the tribe and the Governor's Office again are to be commended.

I have just a few questions. One, let's start with the Chief. The subcommittee has received some correspondence expressing concern that, under the terms of the settlement, the tribe may reinstate its land claim at any time if any of the agreements in the settlement are invalidated. How can we provide certainty to landowners in the area that would have their land titles clouded should the tribe reinstate its land claim?

I think the staff is looking for the possibility of a time limit where we could get to a permanent extinction of those claims. Is that a problem? I don't know if you want to refer to counsel. If counsel wants to come up and answer that, just identify yourself, that is perfectly all right.

Ms. SHAPIRO. My name is Judith Shapiro, counsel for the Mohegan Tribe.

We have just gotten a copy of the letter from the title company representing the homeowners' concerns for this. We are planning to meet with their representatives to try and work something out. The tribe's concern is not to keep it in limbo forever, but to make sure that having given up what is now its only substantial asset, which is the land claim, it has some certainty at the end. The tribe doesn't want to stand in the way of anyone else's certainty, but doesn't want to have a time limit.

Mr. GEJDENSON. How soon are you going to sit down with the title people?

Ms. SHAPIRO. Tomorrow.

Mr. GEJDENSON. Great. So as soon as you get an agreement, I think it would be very helpful to get a copy to the committee.

Ms. SHAPIRO. That is really our goal. We wanted to move on that as fast as we can.

Mr. GEJDENSON. Great.

If you would submit for the record, a description of the land that the tribe is planning to receive in the settlement; what land will be placed into trust and be part of the tribe's reservation; the time line for placing these lands into trust and establishing the reservation, and when you believe you will be starting the gaming operation. If you would get those answers to us in writing, it would be most helpful.

Ms. SHAPIRO. Well, the answer is that we are going to do it as quickly as we can. We have started the trust application process with the BIA already for the land that is already identified, some of it is not. But to the extent that it is identified and is appended to the agreement, we are already talking with the BIA with the intention of getting into trust as soon as the BIA feels that it can take it.

We are hoping to get this legislation enacted fast enough to provide authorization to expedite that, and we will start gaming as soon as we can. It requires that the land be in trust first because we can't submit the compact first and we can't get the management

agreement approved. But basically we have started and hope to do it as soon as possible.

Mr. GEJDENSON. Thank you.

Larry, are you confident that you will be able to get the transfer of Fort Shantok to the tribe through the legislature?

Mr. HALLORAN. Yes, we are. We believe that not only is the land significant to the tribe, but the Department of Environmental Protection which now has management responsibility over the park doesn't want it anymore, very frankly, they would just as soon have it under the jurisdiction of the tribe which has given us every assurance that they will maintain it as open space.

And in addition, in terms of moving state legislation through, there is an adjustment that is accommodated in the agreement between the tribe and the state with regard to an offset to payments made by the tribe in the event that the land is not conveyed. So we think we have made it worth their while.

Mr. GEJDENSON. There is some concern raised that the payments to the state could violate provisions of the Indian Gaming Regulatory Act. Were you involved with the state's compact and agreement with the Mashantucket Pequots in this regard?

Mr. HALLORAN. Yes, sir. We were involved in the Memorandum of Understanding executed between them.

Mr. GEJDENSON. Was that approved by the Federal regulatory agency?

Mr. HALLORAN. No, sir, it was not. It was not submitted and not required to be. It was an agreement provided for in the Federal procedures adopted for gaming by the Pequots—not a compact, but a procedures adopted by the Department of Interior in lieu of a compact.

Section 15, I believe it was, of that procedures provided for three methods to resolve an open question as to the applicability of certain kinds of Class III gaming. One was an agreement between the parties or a court resolution. The parties chose to agree pursuant to that element of the Memorandum of Understanding—or the procedures, and in that effect it was self-executing. It flowed from Federal procedures.

Mr. GEJDENSON. Thank you.

Mr. HALLORAN. Let me add just briefly, that in that regard, that the payments called for under the memorandum, specifically therefore we feel very strongly and have a strong foundation for the belief that they do not constitute prohibitive payments from net gambling revenues under IGRA.

Mr. GEJDENSON. Thank you.

Do any of my colleagues have questions?

The gentleman from Hawaii.

Mr. ABERCROMBIE. Yes, thank you, Mr. Chairman.

Chief, you originally started with the seeking of approximately 2,100 acres and \$150 million in damages. You receded from that, or the tribe receded from that position. I just want to make sure I understand what has been done. Are you to receive 700 acres for the establishment of a reservation in addition to the Fort Shantok State Park, or are they one in the same?

Mr. HALLORAN. In addition to.

Mr. STURGES. Yes.

Mr. ABERCROMBIE. And that will become the site of the gaming operation; is that correct?

Mr. STURGES. Not the fort. The fort would not be.

Mr. ABERCROMBIE. That is what I am saying. The 700 acres becomes the site?

Mr. STURGES. Part of the 700 acres would be, and the fort would not be.

Mr. ABERCROMBIE. And the fort, the state park area is—

Mr. STURGES. The state work would remain.

Mr. ABERCROMBIE. Remains with the tribe for such use as you put it to; is that correct?

Mr. STURGES. That would be so that the public and the tribe could maintain it, yes.

Mr. ABERCROMBIE. So that park already exists; that is an established area?

Mr. STURGES. Right, right. That is a state park. Also, on that park I might mention to you on the national part of the land is a national monument right now that was proclaimed by the Federal Government, the original fort.

Mr. ABERCROMBIE. So will you have the responsibility for maintaining that area operating whatever is necessary to keep it up and to take care of it?

Mr. STURGES. Absolutely. That is our sacred ground and we certainly would make every effort to maintain that and keep it. Our burial grounds are there.

Mr. ABERCROMBIE. So the state and the town—is it a town or a city or a village, Mr. Mayor?

Mr. SCOTT. It is a town.

Mr. ABERCROMBIE. You will not have—neither the town nor the state then, will have any responsibility financially for maintenance of the area?

Mr. SCOTT. No, we won't. I would like to say that the town supports the tribe taking over ownership of Fort Shantok.

Mr. ABERCROMBIE. Okay.

Mr. SCOTT. At the present time, Fort Shantok is—

Mr. ABERCROMBIE. That is okay. I am just—

Mr. SCOTT. Not very well maintained and at night the undesirable kind of takes over the area. And the town believes that with the park under the control of the tribe, that the situation in the park will be a lot better.

Mr. ABERCROMBIE. The reason I am asking these questions is we have situations in Hawaii where we are attempting to accomplish some similar things with respect to sovereignty and possible exchanges of lands and this might offer us a model that we could make reference to.

Just a couple more things very quickly. Is all of that contingent upon the conveyance of the \$3 million? I understand that the tribe is to pay \$3 million to the state at the time of this transfer, or am I misunderstanding the legislation?

Mr. HALLORAN. I think you misconstrue the direction in which it flows. In the event that Fort Shantok is conveyed by the General Assembly, then the tribe's payment to the state under a separate agreement is increased, or it maintains—it stays at \$10 million if it is not conveyed, the payment goes down to 7? I am sorry. Judy?

Mr. ABERCROMBIE. That is all right. Take your time. I mean, is the transfer of the land contingent upon the payment of a sum of money?

Mr. HALLORAN. No, it is not.

Mr. ABERCROMBIE. My understanding is it is \$3 million.

Mr. HALLORAN. It is contingent upon—the transfer determines whether or not—it is the other way around. The transfer, whether or not the legislature conveys the land determines the final amount of an offset to the tribe's payment; is that correct?

Ms. SHAPIRO. Yes.

Mr. HALLORAN. Okay.

Mr. ABERCROMBIE. So there is a payment being made by the tribe to the state.

Mr. HALLORAN. That is correct.

Mr. ABERCROMBIE. In some amount.

Mr. HALLORAN. Correct.

Mr. ABERCROMBIE. And if the state transfers this property, is that payment reduced by \$3 million?

Mr. HALLORAN. It is increased.

Mr. ABERCROMBIE. It is increased by \$3 million.

Mr. HALLORAN. Right.

Mr. ABERCROMBIE. The tribe increases its payment to the state.

Mr. HALLORAN. Correct.

Mr. ABERCROMBIE. So there is a payment from the tribe going to the state in any event?

Mr. HALLORAN. In any event, that is correct.

Mr. ABERCROMBIE. Is that in connection with the 700 acres then?

Mr. HALLORAN. No. It is in connection with an agreement made—

Mr. ABERCROMBIE. About the gaming.

Mr. HALLORAN. Correct.

Mr. ABERCROMBIE. So that is all of that. Okay. I think I understand that part. I am not sure of the negotiations, how that figure was arrived at, but that was—in other words, the payment is all involved with the agreement to allow gaming to take place?

Mr. HALLORAN. Correct.

Mr. ABERCROMBIE. And then the land question, whether it is the state park and other elements, is all associated with that agreement.

Mr. HALLORAN. Correct. As I said, it is a global settlement that integrates all of those elements.

Mr. ABERCROMBIE. Okay. So you have a combination here of the state park and 700 acres. How big is the state park? How many acres is that?

Mr. HALLORAN. One hundred and forty-four.

Mr. ABERCROMBIE. Okay. I shouldn't say the state park. It is obviously Mohegan land that you feel is being returned.

Mr. HALLORAN. Excuse me. The park seems to be getting bigger. It is 177.

Mr. ABERCROMBIE. But in any event, that land which is now designated as state park from the tribe's point of view has been sacred ground from time immemorial, that is now being returned to the tribe; is that correct?

Mr. HALLORAN. Yes.

Mr. STURGES. Right.

Mr. ABERCROMBIE. That is the tribe's contention and the state agrees?

Mr. HALLORAN. Correct.

Mr. ABERCROMBIE. Okay. Then the only other factor that I want to understand is, is it true that in my reading of it, that there is a minimum of \$80 million a year to be paid to the state as part of the agreement on the gaming?

Mr. HALLORAN. That is correct.

Mr. STURGES. Right.

Mr. ABERCROMBIE. Where does Montville come into this then? Because you presumably—is it that you retain your property tax base, et cetera, or does Montville not enter into the gaming side of the question with respect to taxation or property taxes or revenues?

Mr. SCOTT. We weren't part of the state compact. The town and the tribe negotiated a separate agreement following the announcement of the state gaming compact. The tribe has agreed to pay the town \$500,000 per year to our capital improvement budget.

Mr. ABERCROMBIE. I see. Okay. And that is satisfactory to you?

Mr. SCOTT. Yes.

Mr. ABERCROMBIE. Okay. The last point I have, then, is the \$80 million a fixed sum? I am wondering because supposing you don't make \$80 million, suppose it is \$79 million or something substantially less. Does the state then have the tribe in a situation where it is in debt?

Mr. HALLORAN. No. The agreement is identical to the agreement with the Pequots. It calls for a 25 percent contribution to the state of gross gaming or gross electronic facsimile, slot machine or revenues, until \$80 million is reached. If \$80 million is not reached, then the percentage escalates to 30 percent and the maximum they pay is 30 percent, whether or not it ever gets to \$80 million.

Mr. ABERCROMBIE. So it is a percentage versus a fixed figure?

Mr. HALLORAN. Correct.

Mr. ABERCROMBIE. Okay. That is all.

Thank you, Mr. Chairman, I appreciate it.

Mr. RICHARDSON. I thank the Chairman.

Chief Sturges and Mr. Gejdenson mentioned the importance of moving this bill rapidly for a variety of, what I consider, very good reasons. I would like to mark up this bill in subcommittee in July. Is this acceptable to both of you?

Mr. GEJDENSON. That would be terrific, Mr. Chairman. We are very appreciative obviously of the effort that you and the staff have put into this, and the cooperation of the town and the state and the tribe.

Mr. RICHARDSON. Well, that will be marked on our calendar. Chief, I promise you, I did read your testimony even though I stepped out. I want to commend you, the city and the State of Connecticut for what I think is a good agreement. I was just telling the Assistant Secretary of Indian Affairs, Ada Deer, that this is the way we want these disputes to be settled, and she agreed, and she is vaguely familiar with this settlement.

I wanted to commend you. We will move this bill. Mr. Gejdenson has made it a very strong case for priority action before we adjourn for the August recess. I think if we can mark up this bill in sub-

committee in the next few weeks, we can also mark up in full committee during July and then possibly even go to the Floor of the House before the August recess.

I would like to do that, and it sounds like that is what you want as well as the state.

Mr. HALLORAN. Yes, sir.

Mr. SCOTT. Yes, sir.

Mr. STURGES. Yes, sir. Thank you.

Mr. ABERCROMBIE. One more question I neglected to ask the Chief and Mr. Halloran.

Is the obligation with respect to whatever gaming activities takes place, the capitalization of whatever facilities, is that up to the tribe to negotiate with whatever banks or backers, sponsors will enter into it? That doesn't involve the Town of Montville or the state; is that correct?

Mr. STURGES. Yes. That is correct.

Mr. ABERCROMBIE. So you have to establish any indebtedness or anything will then come to the tribe's shoulders; is that correct, pay off the amount of indebtedness or any debts that you incur when you build your facility?

Mr. STURGES. Right.

Mr. ABERCROMBIE. Mr. Mayor, if I understood your testimony correctly, I think it was your testimony, how does the zoning and everything work in this? Does the tribe become in effect its own planning and zoning body for the acreage with respect to what kind of facility goes up and the sewage and the drainage and all of the rest?

Mr. SCOTT. Yes, they do. The town's planning and zoning will no longer have jurisdiction over the tribal lands.

Mr. ABERCROMBIE. Is there some agreement as to how you connect up? I mean, presumably you are going to have interconnecting sewers and roads, et cetera.

Mr. SCOTT. Well, part of the town and the tribe agreement is that the tribe can use the town wastewater treatment facility. They will also be using the town's municipal trash disposal site. And we have jointly agreed, as part of the agreement, that the town and the tribe will appoint a representative to work together and to meet together for planning and keep each other informed and to help each other with the planning.

Mr. ABERCROMBIE. Thank you.

Mr. GEJDENSON. I thank the gentleman.

I thank the witnesses, again, for your cooperation. It certainly makes our lives easier when the town and the tribe and the state get together, instead of fighting each other. I can't let the moment pass but think of the irony that about 36 years ago in my one summer at 4-H camp, Chief Tantaquidgeon was my counselor, and I think that the Chief then and this Chief and all of the Members of the tribe are part of the reason that there has been such a good relationship in working out a solution here. They have really been a tremendous asset to the community, and I am privileged to be here today at this hearing at this event.

Thank you all very much. The hearing is adjourned. The record will stay open until June 11th.

[Whereupon, at 11:05 a.m., the subcommittee was adjourned.]

ISBN 0-16-046172-3

