



THE CATAWBA INDIAN NATION
OFFICE OF TRIBAL GOVERNMENT

996 AVENUE OF THE NATIONS ROCK HILL, SOUTH CAROLINA 29730

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**Written Testimony of William Harris, Chief
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On the Catawba Indian Nations Land Act, H.R. 8255

**Before the
Subcommittee for Indigenous Peoples of the United States
House Committee on Natural Resources
September 24, 2020**

Chairman Gallego, Ranking Member Cook and Members of the Subcommittee, thank you for this opportunity to provide testimony regarding the Catawba Indian Nations Land Act, H.R. 8255. I am here to express the full support of the Catawba Indian Nation ("Tribe") for H.R. 8255, which will affirm the decision of the Department of Interior, after lengthy and detailed review, to take land into trust for the Tribe at Kings Mountain, North Carolina for the purposes of economic development, including establishing a casino resort fully subject to the Indian Gaming Regulatory Act.

Purpose of H.R. 8255. As I note below, H.R. 8255 does not create any concerning precedent – Congress has taken similar action in the past. This legislation simply clarifies that the Catawba Indian Nation is subject to the well-established rules and regulations of the Indian Gaming Regulatory Act in the State of North Carolina and it ratifies actions taken by the Department to place land into trust for the Tribe. It is our hope that by ratifying the Department's actions and its thorough analysis of the applicability of the Indian Gaming Regulatory Act to the Catawba Tribe, Congress can help bring certainty to the Tribe's economic development opportunities. In this testimony, I would like to provide background on the need for the legislation and dispel some significant misstatements made by a project opponent.

Eight Years before the Department of the Interior. The Tribe filed its original application to take the Kings Mountain site into trust in 2013. After extensive review and discussion with Interior, the Tribe re-filed its application in 2018, with additional information. Interior's review was long and exhaustive and included extensive historical, environmental and legal analysis. After completing this review, in March 2020, Interior announced its decision to take the Kings Mountain land into trust for the Tribe and its determination that the lands would be eligible for gaming under the Indian Gaming Regulatory Act.

Staying inside the Catawba's congressionally established service area and aboriginal lands. It was important to the Tribe to identify a site within the Tribe's congressionally established federal service area and aboriginal lands. The Catawba Federal Settlement Act treats the Tribe's entire federal service area, including the location that the Tribe now proposes to have taken into trust, for certain purposes as "on or near the reservation", specifically stating at § 4(b) that "[f]or



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the purpose of eligibility for Federal services made available to members of federally recognized Indian tribes because of their status as Indian tribal members, Members of the Tribe in the Tribe's service area shall be deemed to be residing on or near a reservation." In the exact same paragraph, the Catawba Federal Settlement Act states that "the Tribe and the Members shall be eligible for all benefits and services [not just health services as some allege] furnished to federally recognized Indian tribes and their members because of their status as Indians." (emphasis added). This same paragraph in the Catawba Federal Settlement Act reinforces that: "the Tribe shall be eligible to the special services performed by the United States for tribes because of their status as Indian tribes." The taking of land into trust for tribes and their members is one of the most important services offered by the Department of the Interior (hence, the BIA Office of Trust Services, which handles tribal trust land issues).

The Tribe's Use and Occupancy of the King's Mountain Area is well established. The Catawba Federal Settlement Act was intended to settle a land claim brought by the Nation for its previous 144,000 acre, 15-mile square reservation ("Original Reservation"), which had been established pursuant to two treaties with the British Crown. In the Senate Report accompanying the Catawba Federal Settlement Act, the Committee noted:

The Catawba Indian Tribe signed two treaties with King George III in 1760 and 1763. The Catawbas gained recognized title to 144,000 acres under the Treaty of Pine Tree Hill made in 1760, which was confirmed with the Treaty of Augusta was made in 1763 with the King's Superintendent of Indian Affairs and the Governors of the Southern Provinces [a term which encompassed both present day North and South Carolina]. In those two treaties the Tribe ceded its aboriginal territory and reserved a 144,000-acre tract comprising much of the present states of North and South Carolina.

Senate Report 103-124 at 15-16. The border of the Original Reservation, located in the heart of the Catawba's aboriginal lands, and well within the Tribe's congressionally established service area, is about 20 miles from the Kings Mountain site. Indeed, as the Tribe has often reminded the United States, Catawba scouts were instrumental in the victory of the American revolutionaries at Kings Mountain¹ over British forces, setting the stage for victory in the South. Further, the Kings Mountain area is identified as Catawba hunting grounds in more than one document, including the Treaty of Augusta (1763).

There is no crossing of state lines, nor is an extraordinary precedent being set by the Kings Mountain site. First, the Catawba are just as much a North Carolina tribe as they are a South Carolina tribe. This is evident from the historical record, as well as from the Catawba Federal Settlement Act, which states that "[i]n treaties with the Crown in 1760 and 1763, the Tribe ceded

¹ The Kings Mountain battlefield is just south of the state border, but the movements of the forces were throughout both North and South Carolina in that vicinity.



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vast portions of its aboriginal territory in the present States of North and South Carolina in return for guarantees of being quietly settled on a 144,000-acre reservation." See § 2(a)(4)(A). The Catawba Federal Settlement Act also provided for the Tribe to give up all subsequent land claims in North Carolina and established a service area that expressly included the North Carolina counties adjacent to York County, the location of the Tribe's trust lands. Indeed, it is not uncommon for tribes to have lands in multiple states (such as the Navajo Nation which is located in three states).

Staying outside of the Eastern Band's agreed upon "Exclusive Gaming Zone." One very important consideration in identifying the Kings Mountain site was to stay outside of the Eastern Band's exclusive gaming zone. The Eastern Band, in its compact with the State of North Carolina, secured the exclusive right to live table gaming in all lands *west* of I-26 ("Eastern Band Exclusive Gaming Zone"), a line that roughly follows the generally agreed upon eastern edge of Cherokee lands. The Kings Mountain site is approximately 55 miles *east* of I-26. Notably, it is only about 20 miles from the boundary of the Original Catawba Reservation, which was in the center of Catawba aboriginal lands and which was the basis for the Catawba's land claim. The site is about 34 miles from the Tribe's current reservation lands.

Cleveland County is not within the Ancestral Lands of the Eastern Band of Cherokee Indians. The Cherokee Nation brought a successful claim for compensation for loss of aboriginal lands before the Indian Claims Commission. The Eastern Band joined into settlement of that claim. Before those claims could go forward there was a rigorous judicial process to determine the aboriginal lands of the Cherokee Nation. The Indian Claims Commission, as part of its final report, published a map showing not only the great size of the judicially established Cherokee aboriginal lands, but also that the **Cherokee aboriginal lands do not include Cleveland County.**² As the face of the map itself states, "This map portrays the results of cases before the U.S. Indian Claims Commission or U.S. Court of Claims in which an American Indian tribe proved its original tribal occupancy of a tract within the continental United States." The Cherokee, for reasons well known to the Catawba, could not prove aboriginal title to Cleveland County.

² A digitized version of the Indian Claims Commission's final map can be found here: <https://www.loc.gov/item/80695449/>. This definitive map should be contrasted with that of Charles C. Royce, which shows the territorial limits of the Cherokee and just reaches, at the boundary, Cleveland County. Royce did important map work, but with significant limitations. The Indian Claims Commission praises Royce's maps, but found that his maps show "cessions" but that "often the cession did not match the true ownership of the land." United States Indian Claims Commission, Final Report, September 30, 1978, p. 127, fn. 1. This is because non-Indian negotiators were always asking Tribal leaders to cede land far beyond the holdings of their own tribe. In contrast to the Royce maps, the Indian Claims Commission goes on to state that "This map [meaning the Indian Claims Commission's final map] is a positive expression of land determined [in a rigorous process] to have been owned, without special reference to the cession or extinguishment processes."



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Interior has determined that the Tribe is subject to IGRA's regulatory scheme in North Carolina – the Tribe welcomes Congress' affirmation of that finding. Interior has a detailed process for determining whether a land acquisition is eligible for gaming under IGRA. Interior reviewed the Kings Mountain site and expressly determined that in North Carolina the Tribe is fully subject to IGRA, and that the acquisition met the conditions of the restored lands exception found in IGRA. Nonetheless, the Tribe supports Congress expressly applying IGRA to the Tribe so that there are no lingering questions about the strictness of the Tribe's regulatory scheme.

The Tribe is working with industry leaders to provide comprehensive, highly regulated casino/resort operations. Without supporting evidence, another tribe has suggested that the Tribe is under the sway of unscrupulous developers and that this legislation would lead to an undermining of the Indian gaming regulatory framework nationwide. To the contrary, the Tribe has partnered with Delaware North, a 103-year old global food service and hospitality company, which operates in the lodging, sporting, airport, gaming, and entertainment industries, to advise in the operation and regulation of the casino. Delaware North employs approximately 60,000 people worldwide and has over \$3.2 billion in annual revenues.

This other tribe's assertions are an irrational distraction from the fundamental goal of this legislation – which is to bring justice to the Catawba and to clarify that the Catawba have the same gaming rights as other Tribes, subject to the same strict regulation that other tribes are subject to. *No one will manage or be associated in any way with Catawba gaming operations who cannot meet IGRA or higher standards.* The Tribe's support for the application of IGRA to the Tribe's gaming operation in H.R. 8255 is proof positive that the Tribe will not tolerate suspect parties in the management of its gaming operations.

Working with our North Carolina friends to create 4,000 jobs and support economic development. Before advancing on this initiative to take land into trust in Kings Mountain, Cleveland County, the Tribe approached both the Kings Mountain and Cleveland County leadership, who welcomed the Tribe's proposal with open arms. This project will spark extraordinary economic development, providing critically needed employment in a hard hit area of North Carolina and South Carolina (the project is only one mile from the state border), in addition to allowing the Catawba to become economically self-sufficient. It will immediately create thousands of construction jobs, and up to 4,000 permanent jobs. Notably, the Tribe and Cleveland County have reached a detailed inter-governmental agreement to address public safety, taxation, jurisdiction, and other issues associated with the establishment of a casino/resort operation at the proposed location.

On behalf of the Catawba people, I thank this Subcommittee for its consideration of this important legislation. With the passage of H.R. 8255, the Subcommittee will assure justice for the Catawba and enable us to lift all of our people out of poverty while rejuvenating an entire region of North and South Carolina.