



**38<sup>th</sup> LEGISLATURE OF AMERICAN SAMOA**  
**HOUSE OF REPRESENTATIVES**

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Hon. Savali Talavou Ale  
Speaker

Su'a Alexander Eli Jennings  
Swains Island Delegate

COMMITTEES

*Vice-Chairman*  
Transportation

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Agriculture, Forestry  
Marine & Wildlife

**Date:** January 15, 2024

**To:** United States House of Representatives Subcommittee on Indian and Insular Affairs,  
Committee on Natural Resources

**From:** Su'a Alexander Eli Jennings, Swains Island Delegate, American Samoa House of  
Representatives

**Re:** January 18, 2024 Legislative Hearing on **H.R. 6062** and H.R. 6273 | Indian and Insular Affairs  
Subcommittee, Written Testimony in Opposition to **H.R. 6062**

Honorable Subcommittee,

Since 1983, the procedure for amending the American Samoa Constitution has been (1) approval by the people, (2) approval by the Secretary of the Interior, and (3) approval by Congress. At that point amendments become part of the American Samoa Constitution.

H.R. 6062 seeks to take Congress out of the picture, leaving sole authority to approve changes to our Constitution with the Secretary of the Interior by repealing 48 U.S.C. § 1662a.

In November 2022, the people of American Samoa approved 5 of 11 proposed amendments to the American Samoa Constitution. As the Swains Island Delegate to the *Fono* for the past 18 years, I would like to extend my sincere appreciation and gratitude to all of those who voted in favor of the Swains Island Amendment giving the Swains Island Delegate the ability to vote in the *Fono* for the first time. I would also like to extend my appreciation and gratitude for the approval of the "Swains Island Amendment" as the Traditional Leader of the Swains Community in Tutuila for the past 18 years. The Swains Community in Tutuila consists mostly of Americans of Tokelauan descent, which are the least recognized American Samoan Natives in the Territory.

The Hon. Governor Lemanu P.S. Mauga sent the approved amendments to the Secretary of the Interior in December 2022. Under the Constitution, the Secretary of the Interior (also referred to herein as "DOI") is required to approve or disapprove amendments within four months after which Congress makes the final decision. To date, DOI has taken no action.

In October 2023, eleven months after the 2022 referendum, without DOI approval and without having introduced any of the 5 approved amendments to Congress, Congresswoman Amata introduced H.R. 6062, seeking to remove Congress from the amendment process. I am opposed to this change for one reason: DOI has not treated Swains Island as an equal part of American Samoa since they assumed administration of this Territory in 1951 and H.R. 6062 lacks assurances from DOI that things will change in the future.

Without verifiable guarantees that all American Samoan Natives, *including descendants of U.S. citizens and nationals of Swains Island* shall be protected from the forced alienation of their lands, and all rights under the American Samoa Constitution, there is no reason to support this bill. While DOI claims to support the protection from alienation of family lands in American Samoa, history paints a different picture for Swains.

### **SWAINS DEPOPULATION**

Swains Island's status as an American possession predates that of the rest of American Samoa. Swains Island was bonded to the United States in 1856 through the Guano Islands Act. 48 U.S.C. ch. 8 §§ 1411-1419. The Jennings family, who descend from Eli Jennings of Southampton, NY, has been in continuous ownership of Swains Island from the 1850s to the present. I am a lineal descendant of the original owner of Swains Island, Eli Jennings, one of Swains' current owners, and currently serve as the Swains Island Delegate in the American Samoa Legislature, or *Fono*.

United States sovereignty over Swains Island was recognized by Congress in 1925 when it was made a part of American Samoa. 48 U.S.C. § 1662. The Islands of Eastern Samoa, meaning all islands of American Samoa other than Swains Island, were recognized by Congress as part of the United States in 1929, four years after Swains. 48 U.S.C. § 1661.

During American Samoa's Naval administration (1900-1951), Swains Island enjoyed unprecedented prosperity and a growing population exporting copra for the production of coconut oil, which was also an essential part of the very fragile economy of the new Territory of American Samoa and provided jobs, tax revenues, and the opportunity for Tutuila and Manu'a to combine their copra harvests with that from Swains Island for export.

However, the 1951 transfer of American Samoa's civil administration from the U.S. Navy to DOI marked the beginning of a slow decline. The lack of services provided to Swains Island, e.g., transportation, communications, fresh water, electricity, and basic infrastructure made the island uninhabitable, resulting in the ultimate depopulation of the island by 2013 and the internal displacement of Swains Islanders into other parts of American Samoa and the rest of the United States.

When Swains Islanders were finally forced to abandon Swains Island in 2013, they left behind several pristine natural resources, many of which could help reduce American Samoa's dependency on the federal government, including:

- Hundreds of acres of coconut trees grown with no chemicals or pesticides making them suitable for Organic Virgin Coconut Oil

- Hundreds of acres of monster coconut crabs (*birgus latro*), some weighing up to 9 lbs. and measuring 3 feet in width which are a delicacy for local and world markets. The population of coconut crab, a vulnerable species, has steadily developed and increased since the last export of copra in 1966.
- Hundreds of old coconut trees at the maturity level for use as coconut wood for building homes and furniture.
- A National Marine Sanctuary protecting pristine marine resources for dive tours and sports fishing.
- A favorite destination for Science Research, Film Production, and Amateur Radio Operation.
- Excellent destination for corporate retreats and special guests.

Swains Island is truly one of the last jewels of the planet.<sup>1</sup> However, the Swains Island Delegate lacking a vote in the Legislature results in Swains Islanders throughout American Samoa being in a “taxation without representation” governance scheme. Despite the existence of such extensive natural resources, Swains Island today remains uninhabited, visited sporadically only when transportation becomes available. Without a vote in the Legislature, the Swains Island Delegate has had little opportunity to advocate for the Island’s interest for the past 63 years under DOI’s watch.

The threat of depopulation is not limited to Swains. As recognized by Gov. Lemanu P.S. Mauga in his 2024 State of the Territory address, Manu’a may follow the same demise as Swains because of the lack of government services for the people living there; our Governor shedding tears seeing people at Faleasao on Ta’u island having to swim out to bring their cargo to shore when the boat was unable to enter the harbor.

In 2024, Swains Islanders can only travel to their home—over 200 miles away from Tutuila—if they personally charter private transportation, while other islands in American Samoa are given regularly scheduled, federally subsidized transportation. To put it bluntly, Swains has been on the receiving end of neglect and abandonment under the unmindful hand of DOI from 1951-the present and DOI has failed to address any of my concerns for decades.

### **THE DEPARTMENT OF THE INTERIOR’S ROLE IN AMERICAN SAMOA**

DOI’s authority in American Samoa is not well understood by many in American Samoa and sadly, many in DOI. On paper, the entire governmental structure in American Samoa operates under the authority of the Secretary of the Interior. And while in practice, DOI has taken an increasingly “hands-off” approach to American Samoa during 63-year relationship, under the law, the Secretary of the Interior can still unilaterally overturn decisions of the judiciary and the executive and legislative branches. It is irrelevant that this does not take place often, if at all. As stated by U.S. Territorial scholar Arnold Leibowitz “the very fact that the Secretary of the Interior exists as an ombudsman, to put it

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<sup>1</sup> See *Swains Island: One of the Last Jewels of the Planet* (Ocean Futures Society, 2014), <https://www.imdb.com/title/tt5352610/>.

kindly, or as a benevolent dictator—to put it less generously—depreciates all Samoan government institutions and makes the Samoan Constitution adopted in 1960 a giant deceit.” Leibowitz, Arnold, *Defining Status: A Comprehensive Analysis of U.S. Territorial Policy*, Martinus Nijhoff Publishers, The Hague (1989) at 420.

DOI and the American Samoa Government often says things about Swains Island such as “nobody lives there,” or “it’s private land” whenever a valid concern is raised about Swains’ treatment. Addressing the claim of “nobody lives on Swains” first, Swains was permanently inhabited for over 150 years and it was the very policies of DOI and ASG that caused the ultimate depopulation of Swains in 2013. Imagine the DOI claiming A’asu or Aoloau Tuai villages don’t deserve recognition because “nobody lives there.” Secondly, to the “privately-owned island” claim, 90% of all land in American Samoa is privately-owned family land: under the *fa’asamoa* for Tutuila and Manu’a, and descendants of U.S. Citizens for Swains Island. Those who point out that Swains is private land are probably unaware that private landownership is what made Swains such an ideal community for Congress to partner with American Samoa 99 years ago.

When Swains Island became part of American Samoa in 1925 and joined Tutuila, Aunu’u and the islands of the former Kingdom of Manu’atele, it marked the merging of three cultures and peoples under one flag which has remained to this day; this is the American Samoa of our times. Unique among the territories, the United States’ contribution of Swains to American Samoa extended the protections against alienation of communal land under the *fa’asamoa* to Swains Island while explicitly stating Swains “is not under the *matai* system.” The private ownership of Swains made it a perfect fit with American Samoa.

The initial differences between Swains and American Samoa have faded over time. Despite many Swains Islanders being descendants of U.S. Citizens, in 1952, U.S. Citizens by descent born on Swains Island became non-citizen nationals with the passage of the Immigration and Nationality Act of 1952, thus bringing Swains Islanders into the same U.S. National category as the rest of American Samoa.

The 1960 and 1967 Constitutions ratified under DOI’s sole authority gave voting power to all representatives and senators in the *Fono* except the Swains Island Delegate, thereby separating Swains Island from the rest of the American Samoan Islands for the first time. *See* Rev. Const. Am. Samoa Art. II, § 2:

The adult permanent residents of Swains Island who are United States nationals may elect at an open meeting a delegate to the House of Representatives who shall have all the privileges of a member of the House **except the right to vote**. (Emphasis added).

I have a simple question about the Swains Delegate’s non-voting status: why? That one-word question has gone unanswered by ASG and DOI for the past 63 years. The closest thing to an answer I have received from DOI or ASG is “talk to a lawyer.”

Swains Island receives little to no money from the federal government. In 2021, out of \$1.4 Billion in COVID related CARES Act and American Rescue Plan Act Funds allocated to American Samoa, Swains Island was only eligible to receive \$3,400.00 (three thousand four hundred dollars). My

concerns about the inequalities in funding around 2020-21 were expressed in a November 30, 2021 letter to the DOI Deputy Assistant Secretary of Insular and International Affairs, Keone Nakoa. See **Attachment 1**. After no response from DOI for seven months, I wrote to the Secretary of the Interior, Deb Haaland on June 7, 2022. See **Attachment 2**.

Without a response to my various concerns about the past, present, and future inequities facing Swains Island, I was able to arrange a meeting with Deputy Assistant Secretary Nakoa and DOI Field Rep. for American Samoa, Lydia F. Nomura in the Tradewinds Hotel lobby in Tafuna village, American Samoa on November 7, 2022. It was at this point I was informed that DOI is not going to fight my battles for me and that I should talk to a lawyer.

The Constitution of American Samoa clearly provides “American Samoans,” meaning lineal descendants of Tutuila, Manu’a, and Swains Island have the basic fundamental right to protection from the alienation of their lands. Every time the American Samoa Government has issues with the Federal Government, they cite the right to the protection from the alienation of land and culture. Unfortunately, that same reasoning has not worked within American Samoa for Swains Island. Not having a vote in the local legislature means the Swains Island Delegate cannot effectuate the protection of this right, which led to the complete evacuation of its people.

### **2022 REFERENDUM AND H.R. 6062**

In November 2022 a constitutional referendum a majority of American Samoans voted to give the Swains Island Delegate the right to vote in the *Fono*. The amendments were submitted by the Governor to the Secretary of the Interior in December 2022. Under DOI’s 1967 Revised Constitution of American Samoa, once a majority of voters pass a constitutional amendment, the Governor submits the proposed amendment to the Secretary of the Interior, who shall give “formal approval or disapproval within 4 months after its receipt.” It has been over one year since the voters passed the amendments and over one year since the amendments were forwarded to the DOI Secretary. DOI has taken no action nor provided justification why.

In October 2023, the American Samoa Senate passed *Fono* Senate Resolution 38-28 introduced by Sen. Togiola Tulafono urging the Governor “to pursue Congress with urgency and petition the approval of our constitutional amendments.”<sup>2</sup> The American Samoa Senate, the upper house of the *Fono* (Legislature) is unique among all state and territories in that it is the only body not elected by popular vote, but rather, selected among chiefly *matai* title holders through traditional means according to the traditions of each district of American Samoa. The decisions of the American Samoa Senate are the cultural barometer for policy in American Samoa. I am not standing in opposition to H.R. 6062 alone, in addition to my concerns about H.R. 6062’s impact on Swains Island, I am taking the same position as that of the traditional leaders of Tutuila and Manu’a in the American Samoa Senate. The people have

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<sup>2</sup> See *Senate Approves Legislation regarding Constitutional Amendments*, Talane News Now (American Samoa), October 3, 2023, available at <https://www.talane.com/2023/10/03/senate-approves-resolution-regarding-constitutional-amendments/council%20paper%20on%20self-determination>, last accessed January 14, 2024.

spoken through the passage of these 5 amendments. Yet, DOI has still taken no action. Why are these amendments being held up?

In the 2022 referendum we rejected amendments 1-3 that sought to diminish the oversight role of the Secretary of the Interior in American Samoa by:

- (1) Transferring the power to appoint the Chief and Associate Justices of the High Court from the DOI Secretary to the Governor, **Defeated: 66% No-34% Yes** (defeated by the largest margin of any amendments);
- (2) Removing the power of the Secretary of the Interior to change decisions of the High Court, **Defeated: 60% No-40% Yes;**
- (3) Removing the Secretary of the Interior's power to change the *Fono's* override of the Governor's veto, **Defeated: 61% No-39% Yes.**

These all failed.<sup>3</sup> At least we were given an opportunity to vote on the Secretary of the Interior's oversight role. Where was the vote on Congress's oversight role?

I have been told that H.R. 6062 didn't exist in 2022, and that it deals only with federal law, and that's why it wasn't included in the Constitutional Convention (the "ConCon") or the referendum. But amendments 1-3 we voted down deal with federal law also. The Secretary of the Interior gets her powers from Congress and the President. American Samoa cannot supplant powers of federal officials granted by federal law. We tried anyway.

At the ConCon, Congresswoman Amata said "We have the option of asking Congress to repeal the law and revert to the previous arrangement of approval by the Secretary of Interior, amending the law just to prohibit unilateral changes by the federal government, or leave the law as it is. This body may want to recommend a course of action in its transmittal to the Governor. As your representative in Congress, I will be guided by your wishes and introduce any changes needed in the laws."<sup>4</sup> Congresswoman Amata was talking about H.R. 6062 before it was introduced. Everyone at the ConCon heard her speech and the Congresswoman even went as far to make a press release about it.<sup>5</sup>

The ConCon never introduced a resolution to change Congressional involvement in the process. To me, that appears to be (in Congresswoman Amata's words) asking Congress to "leave the law as it is."<sup>6</sup> Nonetheless, on October 25, 2023, Congresswoman Amata introduced H.R. 6062, which seeks to remove Congress from the approval process. Again, why was such an important change never included in the ConCon or the referendum?

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<sup>3</sup> See Results of 2022 American Samoa Constitutional Referendum. Source Ballotpedia.com, available at [https://ballotpedia.org/American\\_Samoa\\_2022\\_ballot\\_measures](https://ballotpedia.org/American_Samoa_2022_ballot_measures), last accessed Jan. 14, 2024.

<sup>4</sup> See *Amata's Remarks at 2022 ConCon* (link available at <https://radewagen.house.gov/media-center/press-releases/amata-speaks-self-government-and-self-determination-concon-decries>, last accessed, December 30, 2023).

<sup>5</sup> See *Amata Speaks of Self-Government and Self-Determination at ConCon; Decries Threat from Outside Special Interests*, screenshot of press release by Congresswoman Amata, September 22, 2022, (available at <https://radewagen.house.gov/media-center/press-releases/amata-speaks-self-government-and-self-determination-concon-decries>, last accessed, December 30, 2023).

<sup>6</sup> See *supra* n. 4 at 4

For simply asking these questions locally and to Congress, I have created enemies. Directly due to my opposition of H.R. 6062, I have been publicly threatened physically<sup>7</sup> and verbally threatened that if I don't change my position on this bill, the Swains Island Amendment will possibly not be implemented for five years or more. These threats are not coming from members of the public, they're coming from senior level members of the legislative and executive branches. On the contrary, I have also been told if I support this legislation, I could have the vote by the end of the year by some of the same people. This does not seem right to me.

I have been told DOI does not review constitutional amendments. I have been told they do not review local legislation. I have been told there may have been conflicts with the federal constitution in the amendments that came out of the 2022 ConCon. I have been told these things by ranking officials at the DOI Office of Insular Affairs.

### NATIONAL SECURITY CONCERNS

Swains' recent thrust into the center of constitutional deliberations in American Samoa has caused the amount of online misinformation about its history to increase. Swains and the neighboring New Zealand dependency of Tokelau share a rich history, which was recognized and celebrated since the marriage of the 3rd generation Jennings, Alexander Eli Jennings I, to his wife of the prominent Pedro family in Tokelau, Margaret Pedro. However, Tokelau has since made historic claims to ownership of Swains Island, recently given the name *Olohega* in the Tokelauan language. The 1980 Treaty of Tokehega between New Zealand and the United States delineating the maritime boundary between American Samoa and Tokelau increased the United States' exclusive economic zone (EEZ) in the South Pacific by roughly 100,000 square miles that has continued to feed the canneries of American Samoa for 70 years; Swains Island being geographically responsible for the extension, once again signifying that Swains Island has been a major economic asset to American Samoa since its inclusion nearly 100 years ago. First with the coconut farm and up to the present day with the EEZ.

While New Zealand confirmed U.S. sovereignty over Swains with the Treaty of Tokehega the government and people of Tokelau continue to question the validity of the United States' sovereignty over Swains Island.

In 2006, Tokelau held an independence referendum which failed to reach the required 2/3 majority by a mere 38 votes. One year later in 2007, Tokelau's independence referendum failed by just 16 votes. In 2008 Swains sought to add another layer of federal protection over the Island by establishing it as part of the National Marine Sanctuary prior to its people being forced to abandon the Island completely in 2013. In 2022, the General Fono (Legislature) of Tokelau issued a paper entitled Conversation of the Question of Tokelau's Path Toward Self Determination (the "2022 General Fono Paper"). See **Attachment 3**.

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<sup>7</sup> See *Spar of Words Turns Physical After House Session*, Talanei News Now (American Samoa), Jan. 10, 2024, available at <https://www.talanei.com/2024/01/10/spar-of-words-turns-physical-after-house-session/>, last accessed January 15, 2024.

In the 2022 General Fono Paper, the Tokelau Government stated publicly that they plan to “Develop a Strategy for Olohega [Swains Island]” by 2025/26. It is no secret that Swains Island is in the forefront of Tokelau’s minds when deliberating their potential independence from New Zealand.

American Samoa is the only U.S. Territory in the Southern Hemisphere. Swains is the most remote part of American Samoa over 200 miles to the north. Its position on the border with a potentially new sovereign country who challenges the very legitimacy of American sovereignty over Swains Island and its surrounding waters represents a significant threat to national security. DOI’s history of indifference to the rights and affairs of Swains Island jeopardizes not just the security of Swains, but the integrity of the United States’ international borders.

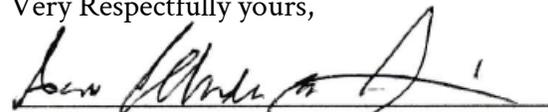
### CONCLUSION

As a veteran of the U.S. Navy and as a member of the *Fono*, I took an oath to defend the Constitution of the United States and the Constitution of American Samoa. And I am grateful the voters approved the Swains Island Amendment and want it to be implemented as soon as possible. But is H.R. 6062 necessary to implement the amendments we approved? If there is an issue with the amendments, bring it to light so the people of American Samoa can agree on a way to fix it. Unfortunately, I do not believe we have been given enough information about H.R. 6062.

I have tried for decades to resolve the issues with Swains Island at the local level and with DOI with no success. No one wants to talk about Swains Island. It was only with the introduction of H.R. 6062 that I had a chance to tell the story of Swains Island and surprisingly, several members of Congress were interested, resulting in my invitation to Congress this Thursday. This is not about politics. If DOI can somehow ensure Swains Island is treated fairly with Tutuila and Manu’a when it comes to protections from alienation of land, and all rights under the American Samoa Constitution, then I have no problem supporting H.R. 6062. But if H.R. 6062 can’t ensure equal treatment for all American Samoan Natives, whether your family is from Tutuila, Manu’a, or Swains, then I see no point in supporting it.

Dated: January 15, 2024

Very Respectfully yours,



Su'a Alexander Jennings  
Swains Island Delegate



Swains Island by drone, November 2023

Enclosures:

- (1) Letter from Su'a Alexander Eli Jennings to Deputy Secretary of Insular and International Affairs, Keone Nakoa, U.S. Department of the Interior, November 30, 2021
- (2) Letter from Su'a Alexander Eli Jennings to the Secretary of the Interior, Deb Haaland, June 7, 2022.
- (3) *Council Paper on Self-Determination for May 2022 General Fono (Tokelau)*, available at [https://www.matauala.org.nz/\\_files/ugd/f198ee\\_c91191cfc2db4ea88c73da395a32f6a0.pdf](https://www.matauala.org.nz/_files/ugd/f198ee_c91191cfc2db4ea88c73da395a32f6a0.pdf), last accessed Jan. 14, 2024.

# ATTACHMENT “1”

Letter from Su’a Alexander Eli Jennings to Deputy Secretary of Insular and International Affairs, Keone Nakoa, U.S.  
Department of the Interior, November 30, 2021



37<sup>th</sup> LEGISLATURE OF AMERICAN SAMOA  
HOUSE OF REPRESENTATIVES

Hon. Savali Talavou Ale  
Speaker

Su'a Alexander Eli Jennings  
Swains Island Delegate

November 30, 2021

Honorable Keone Nakoa  
Deputy Assistant Secretary for Insular and International Affairs  
U.S. Department of the Interior  
1849 C Street, NW  
Washington, DC 20240

Sent by email: keone\_nakoa@ios.doi.gov

Subject: Request for Assistance to the  
Office of Insular Affairs

Aloha Honorable Keone Nakoa,

I would like to extend my heartfelt congratulations on your recent appointment as the *Deputy Assistant Secretary for Insular and International Affairs*. My name is Su'a Alexander Eli Jennings; I am the current serving Swains Island Delegate to the American Samoa House of Representatives – the only non-voting member of this legislative body. In my capacity as a Community Leader, I also have the monumental task and grave responsibility for preserving and perpetuating our unique Swains Island cultural history, traditions, and economic livelihood. I am writing this letter to you to seek your assistance in mitigating the dire struggles we face as a people.

For background information, here is a brief history of Swains Island. Eli Jennings (an American from Long Island, NY) acquired Swains Island in 1856; the United States first established a claim of sovereignty about 1860 under the Guano Act of 1856. In a report to Congress in 1924, the

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Secretary of State indicated that the U.S. Government had "... the responsibility either of extending its sovereignty over Swains Island and assuming the obligations which such a course would necessarily entail, or of disclaiming the exercise of any control or jurisdiction over the island ..." The following year Swains Island was officially annexed by the United States through an act of Congress and was placed under the jurisdiction of the government established in American Samoa by the United States (administered by the Commanding Officer of Naval Station Tutuila until 1951, when it was transferred to the U.S. Department of Interior).

While American Samoa has benefitted from its relationship to the United States, Swains Island has not. Though we are United States nationals, we have no significant voice in the government of American Samoa (where I am a **non-voting** delegate to the Legislature) or of the United States. Swains Island continues to be a vital economic asset to American Samoa and the United States, adding some one hundred thousand square miles of ocean to the Exclusive Economic Zone (EEZ). But the Swains Island community has been forced to relocate elsewhere due to the complete lack of economic support from the governments of American Samoa and the United States.

Now Swains Island has been notified that out of the \$1.4 billion anticipated for American Samoa through the CARES and ARPA fundings, Swains Island is only eligible for \$3,400 (Three Thousand Four Hundred Dollars). This is like the on-going practice of allocating only \$50,000.00 (Fifty Thousand Dollars) yearly to Swains Island out of an annual ASG budget of over \$400 Million Dollars. It was further explained that the distribution of ARPA funding was set by the Federal Government and based on population.

On July 28, 2021, I wrote the American Samoa Leadership, explaining why Swains Island was forced to evacuate its residents, and our desperate need for Infrastructure Development and employment opportunities. To my disappointment, I have received no response. In subsequent discussions with the OIA Field Representative it was revealed that Swains Island is set to receive \$3 million. However, the ASG government responded that they are not aware of any such funding for Swains Island. In a recent public meeting (on November 9, 2021) for ports, airports,

and transportation projects, it was confirmed again that Swains is not included under any of these projects, where millions of dollars are allocated to Tutuila, Manu'a, and Aunu'u. Even under non-specified areas where flexible justifications are acceptable for additional millions of dollars to Tutuila, Manu'a, and Aunu'u, Swains Island does not qualify for assistance.

The purpose of my letter is to bring to your attention the inequities, injustices and neglect that have seen the systematic demise of our Swains Island Community. We are a United States Territory by annexation, not by a Deed of Session. In our view the governments of the United States and of American Samoa have failed to assume the obligations which that annexation necessarily entails. The unfair treatment under the CARES Act and ARPA is the most recent and most egregious example of this failure.

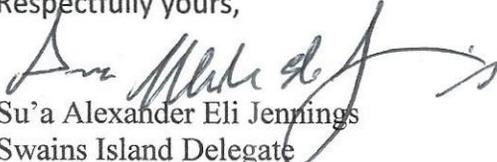
Therefore, as the Agency with oversight over American Samoa and Swains Island, and as stated in my original letter to the ASG Leadership dated July 28, 2021, I humbly submit to you the following request:

- **Funding for Swains Island:** I respectfully request assistance in providing me with information on any funding which may be available through CARES, ARPA, or the Department of the Interior for Swains Island. Also as mentioned in my letter to the ASG Leadership, Swains Island is seeking \$10 Million for infrastructure development and \$3 million annual funding for essential services.
- **Resources to explore other political options for Swains Island:** I respectfully request funding assistance to explore other political options for Swains Island under the United States.

Finally Honorable Keona Nakoa, if we are unable to resolve these injustices to a 165-year Territory of the United States, then On May 13, 2025, Swains Island will recognize one hundred years since becoming part of American Samoa in 1925, and 70 years of oppression under the jurisdiction of the U.S. Department of Interior since its transfer from the U.S. Department of the

Navy. I look forward to your favorable response to my request, and please do not hesitate to let me know if more clarification is needed.

Respectfully yours,



Su'a Alexander Eli Jennings  
Swains Island Delegate

Attachment:

Letter to ASG Leadership July 28, 2021

cc:

Hon. Lemanu P. S. Mauga  
Governor of American Samoa

Hon. Tuaolo Manaia Fruean  
American Samoa Senate President

Hon. Savali Talavou Ale  
American Samoa Speaker of the House

Hon. Uifaatali Aumua Amata Radewagen  
American Samoa Delegate  
U.S. House of Representatives

Hon. Nikolau Pula  
Director  
Office of Insular Affairs  
U.S. Department of the Interior

Swains Island Stakeholders

# ATTACHMENT “2”

Letter from Su’a Alexander Eli Jennings to the Secretary of the Interior, Deb Haaland, June 7, 2022.



**37<sup>th</sup> LEGISLATURE OF AMERICAN SAMOA  
HOUSE OF REPRESENTATIVES**

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Hon. Savali Talavou Ale  
Speaker

Su'a Alexander Eli Jennings  
Swains Island Delegate

COMMITTEES

*Chairman*

Human and Social Services

*Vice-Chairman*

Agriculture, Forestry

Marine & Wildlife,

*Member*

Transportation

Commerce & Retirement

June 7, 2022

The Honorable Deb Haaland  
Secretary of the Interior  
1849 C Street, NW  
Washington DC, 2024

Sent Via email and Certified Mail: [Debra.Haaland@doi.gov](mailto:Debra.Haaland@doi.gov)

Dear Madam Secretary,

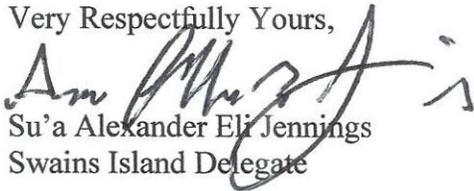
My name is Su'a Alexander Eli Jennings, and I have served as the Delegate of Swains Island for the last eighteen years in the American Samoa House of Representatives. Moreover, during the last eighteen years I have also served as the Traditional Leader for the Swains Island Tokelau Community in American Samoa, and among other things I preside over Traditional and Ceremonial events.

With much apprehension, I plea for your leniency given this stretch of extreme events in the United States, the Insular Areas, and even here in American Samoa and the Pacific Region, to consider my desperate appeal for assistance to the Office of Insular Affairs (OIA) in my attached letter dated November 30, 2021.

My apprehension and disappointment in writing to you stems from the apparent lack of significance to claims of inequities, injustices, and neglect against Swains Island in the Territory of American Samoa for over fifty years, including potential violations of the Constitutional rights of a U.S. Territory and U.S. Nationals, because of the lack of a response from OIA for nearly seven months. The situation is further escalated by the rapidly approaching and long-anticipated Constitution Convention of 2022, and the 2023 Budget Hearings which will negatively impact Swains Island even more without a response from the Department of the Interior. Meanwhile, Swains Island is forced to be abandoned and left alone and unprotected two hundred miles to the North, even while the threat of influence by the People's Republic of China in the Pacific (including illegal fishing activities) is attracting other countries to the aid and security of neighboring islands.

Therefore, I beg your indulgence to support a prompt response from OIA to my letter, so that Swains Island can be better prepared for the upcoming Constitution Convention and Budget Hearings, as well as to afford a solid foundation for moving forward to a better future for all American Samoa. I am prepared and willing to provide any additional information, or recommendations, or to answer any questions at your pleasure.

Very Respectfully Yours,

A handwritten signature in black ink, appearing to read 'Su'a Alexander Eli Jennings', written over the typed name and title.

Su'a Alexander Eli Jennings  
Swains Island Delegate

Attachment:

Request for Assistance to OIA Letter – November 30, 2021

# ATTACHMENT “3”

*Council Paper on Self-Determination for May 2022 General Fono (Tokelau)*, available at [https://www.matauala.org.nz/\\_files/ugd/f198ee\\_c91191cfc2db4ea88c73da395a32f6a0.pdf](https://www.matauala.org.nz/_files/ugd/f198ee_c91191cfc2db4ea88c73da395a32f6a0.pdf), last accessed Jan. 14, 2024.

**CONVERSATION ON THE QUESTION OF TOKELAU'S PATH TOWARDS SELF-DETERMINATION. – *Malo Fakaauau***

**Purpose**

1. The purpose of the paper is to propose a revisit the views of our people on the question of self-determination for now and into the future.

**Introduction**

2. We are well aware of our efforts in the government development agenda through our forefathers and foremothers who have passed and those who are still alive, the able men – aumaga/taulelea, elderly women and Fatupaepae, through to our children.

3. Tokelau expressed many views to a number of international forum especially the UN starting back in 1993, to detail Tokelau people's dreams and their aspirations for the future. Right up to this moment Tokelau continues to present a voice annually to the C24 (UN Committee of 24 on Decolonization) who is responsible to decolonize countries.

4. The two referenda in 2006 and 2007, we know didn't achieve the threshold required for the referendum. But the nature of the views and our dreams remains. It's now 14 years since we took that referendum, and there has been silence since with no further conversation where to from here.

5. That is the spirit of the proposal; Tokelau should be looking at defining its position. What future dreams does Tokelau wants? The answer is only within Tokelau.

6. It's is not an easy task, but it is controllable. We keep our faith that our Lord will help strengthen us because of the nation. We, Tokelau, should start meeting and have a conversation in our respective national forums. Also, in villages the conversations should be had. There may also be a decision required to include our diaspora overseas to be involve in the conversation. The purpose is to ensure the people of Tokelau understands what is ahead.

7. Some thoughts that may generate the conversations:

- Who will lead such thinking?
- Don't leave it for others to start the thinking, but initiate an internal conversation first
- Tokelau should be well prepared to respond to the question: of a preferred type of governance appropriate for Tokelau
- It is a belief such a conversation will be supported by NZ
- If we are not willing and start exploring now, we may be questioned by our future generation

8. Once Tokelau has decided, then a discussion with our administering power, NZ to support in improving our capacity and capability towards our preparations.

9. It is proposed that, by 2025 – 2026 Tokelau will have a clear response. The reason being Tokelau was administered by Samoa and NZ since 1925. If we are fortunate enough

to be alive in 2025, that is the 100 year anniversary the people of Tokelau have been administered by NZ. And there will be other thoughts to improve this matter.

10. But the thinking is, if approved by the three Taupulegas and villages than we look and investigate we have a clear understanding of the relationship between Tokelau and NZ over the past century. It will remind Tokelau also of the efforts to date since the delegation of the Administrator's powers to the 3 Taupulegas and the GF. It is hoped there will be important workshops, which will be crucial for Tokelau to consider on the way ahead.

11. There should be no proposed model from us, but we leave that to be decided by our people. Or do we select a model from the governance models provided by UN, or develop our own fit for purpose model that suits Tokelau and using some component of outside models to achieve the most appropriate governance model for Tokelau.

12. What is important, as our ancestors would say 'Taia ko Lata Matau'. Let's be strong to first allow Tokelau to develop then seek help later. Let's look forward for better days, knowing, there will be many challenges, but Tokelau can initiate the work to know the right tack depending on the wind direction whether it's from the stern, the bow, starboard or port side. Important the vaka is buoyance, steady keel, straight forward sailing, kae, e lahi foki na pokotau, kae e mafai lava ia Tokelau ke taumaka, ke gauku, fuafua lava ki te matagi pe tuliheke, pe fetalaaki pe uamua. Ko te Vaka ke hako na tau, ke takele lelei, ke teletonu, ke gutua, ke tauala, ke malu, ke tologa. And very dependent on the Voyage Guidance ('Taki Folau').

13. The three models from UN:

- Independent
- Free Association
- Integration

14. Tokelau should first understand these models, as well as another model that may be different, should Tokelau decides. The final decision is Tokelau.

15. There are a number of development that works alongside with the preparation for our internal self-determination agenda.

16. We hope that once agreed by the Taupulegas, then, it is the time to formally inform NZ

17. By the year 2025-2026 progress made:

- Workshops has happened
- Activate workshop meetings, reviewing and discussions in villages and the nation;
- Decide on a model that may be selected in future
- Improve structures of governance with politics in all levels of decision making.
- Improve governance of services in villages and national, and properly put right the Office in TALO
- The national airport would be complete by then
- A proper inter- atoll vessel in place
- The fibre optic cable is cut over for high speed internet

- Complete priorities for Education and Health
- Complete preparation for Climate Change
- Tokelau continues to be protected from COVID19
- Complete part of the independent Judiciary sector (consultation?) and the laws themselves
- The Tokelau Language Commission is established
- The TREEP project is complete.
- Secured the EZZ and fishing boundaries
- Develop a strategy for Olohega

18. There may be other development agenda that the General Fono and the Taupulega may wish to add.

**Recommendations:**

19. It is recommended that the General Fono:

i) **note** that the purpose of the paper is to encourage and seek endorsement that Tokelau now start the conversation on self-determination heading into commemorating 100 years under NZ administration;

ii) **agree** that Tokelau revive the conversation on self-determination heading into commemorating 100 years under NZ administration