Y 4
. M53
93-22
GOVERNMENT
Storage
1021
93/4
M53
93-22
UMENTS
R 1 1 1974
LIBRARY
KANSAS STATE UNIVERSITY
A11600 734052

TULE ELK REFUGE

HEARINGS

BEFORE THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.J. RES. 203, H.J. RES. 204, H.J. RES. 270, H.J. RES. 297, H.J. RES. 336, H.J. RES. 369, H.J. RES. 376, H.J. RES. 413, H.J. RES. 436, H.J. RES. 449, H.J. RES. 507

RESOLUTIONS TO ESTABLISH THE TULE ELK NATIONAL WILDLIFE REFUGE

SEPTEMBER 24, 25, 1973

Serial No. 93–22

Printed for the use of the Committee on Merchant Marine and Fisheries

U.S. GOVERNMENT PRINTING OFFICE

26-390 WASHINGTON : 1974

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

COMMITTEE ON MERCHANT MARINE AND FISHERIES

LEONOR K. (MRS. JOHN B.) SULLIVAN, Missouri, *Chairman*

FRANK M. CLARK, Pennsylvania
THOMAS L. ASHLEY, Ohio
JOHN D. DINGELL, Michigan
THOMAS N. DOWNING, Virginia
PAUL G. ROGERS, Florida
FRANK A. STUBBLEFIELD, Kentucky
JOHN M. MURPHY, New York
WALTER B. JONES, North Carolina
ROBERT L. LEGGETT, California
MARIO BIAGGI, New York
GLENN M. ANDERSON, California
E (KIKA) DE LA GARZA, Texas
PETER N. KYROS, Maine
RALPH H. METCALFE, Illinois
JOHN B. BREAUX, Louisiana
FRED B. ROONEY, Pennsylvania
BOB ECKHARDT, Texas
PAUL S. SARBANES, Maryland
BO GINN, Georgia
GERRY E. STUDDS, Massachusetts
DAVID R. BOWEN, Mississippi

JAMES R. GROVER, JR., New York
WILLIAM S. MAILLIARD, California
CHARLES A. MOSHER, Ohio
PHILIP E. RUPPE, Michigan
GEORGE A. GOODLING, Pennsylvania
PAUL N. McCLOSKEY, JR., California
GENE SNYDER, Kentucky
ROBERT H. STEELE, Connecticut
EDWIN B. FORSYTHE, New Jersey
PIERRE S. (PETE) DU PONT, Delaware
WILLIAM S. COHEN, Maine
TRENT LOTT, Mississippi
DAVID C. TREEN, Louisiana
JOEL PRITCHARD, Washington
EDWARD YOUNG, South Carolina
DON YOUNG, Alaska
ROBERT E. BAUMAN, Maryland

ERNEST J. CORRADO, *Chief Counsel*
FRANCES STILL, *Chief Clerk*
NED P. EVERETT, *Counsel*
FRANK M. POTTER, Jr., *Counsel*
RICHARD N. SHAROOD, *Minority Counsel*
WILLIAM C. ROUNTREE, *Minority Counsel*

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

JOHN D. DINGELL, Michigan, *Chairman*

PAUL G. ROGERS, Florida
ROBERT L. LEGGETT, California
MARIO BIAGGI, New York
GLENN M. ANDERSON, California
E (KIKA) DE LA GARZA, Texas
PETER N. KYROS, Maine
RALPH H. METCALFE, Illinois
JOHN B. BREAUX, Louisiana
FRED B. ROONEY, Pennsylvania
BOB ECKHARDT, Texas
GERRY E. STUDDS, Massachusetts
DAVID R. BOWEN, Mississippi

GEORGE A. GOODLING, Pennsylvania
PAUL N. McCLOSKEY, JR., California
WILLIAM S. MAILLIARD, California
PHILIP E. RUPPE, Michigan
EDWIN B. FORSYTHE, New Jersey
ROBERT H. STEELE, Connecticut
PIERRE S. (PETE) DU PONT, Delaware
WILLIAM S. COHEN, Maine
JOEL PRITCHARD, Washington
TRENT LOTT, Mississippi

CONTENTS

	Page
Hearings held—	
September 24, 1973	1
September 25, 1973	103
Text of—	
H.J. Res. 203	2
H.J. Res. 204	2
H.J. Res. 270	2
H.J. Res. 297	2
H.J. Res. 336	2
H.J. Res. 369	2
H.J. Res. 376	2
H.J. Res. 413	2
H.J. Res. 436	2
H.J. Res. 449	2
H.J. Res. 507	2
Reports from—	
Agriculture Department	3
Interior Department	4
Statement of—	
Arnett, G. Ray, director, California Department of Fish and Game	103
Chitwood, Frances, secretary, Committee to Preserve the Ecology of Inyo and Mono	199
Clapper, Louis S., director, Conservation Division, National Wildlife Federation	46
Connor, Michael, president, board of trustees, Big Pine Unified School District	48
Crandell, Harry B., the Wilderness Society	85
Cranston, Alan, a U.S. Senator from the State of California	5
Danielson, Hon. George E., a Representative in Congress from the State of California	14
Doman, Everett R., Director, Division of Wildlife Management, Forest Service, Department of Agriculture	34
Edmiston, Beula, secretary, Committee for the Preservation of the Tule Elk	168
Edmiston, Joseph T., member, Desert Protective Council	205
Emme, Lawrence R., chairman, Committee to Protect the Owens Valley	196
Frome, Michael, conservation editor, Field and Stream	79
Garrett, Tom, wildlife director, Friends of the Earth	229
Georgeson, Duane L., engineer in charge, Los Angeles Aqueduct Division	134
Goldwater, Hon. Barry, Jr., a Representative in Congress from the State of California	134
Grandy, Dr. John W. IV, administrative assistant for wildlife, National Parks and Conservation Association	40
Hanenkrat, L. W., president, Lone Pine Chamber of Commerce	48
Hodge, Guy R., director of Information and Legislation, the Humane Society of the United States	42
Kadesch, Marsha, member, HELP—the Tule Elk	204
London, Herb, member of the board, Inyo County School Administrators	48
Mathias, Hon. Robert B., a Representative in Congress from the State of California	48
Mayhugh, William W., mayor, Bishop Chamber of Commerce and Inyo Associates	48

Statement of—Continued
Page
McCullough, Dr. Dale R., associate professor of resource ecology, School of Natural Resources, University of Michigan, Ann Arbor 119
Moss, Larry E., Southern California Sierra Club 85
Pearce, Carl, Inyo Mono Cattlemen's Association; director, California Cattlemen's Association 48
Poole, Daniel A., president, Wildlife Management Institute 97
Pope, Jordan, Wildlife Biologist, Division of Wildlife, Bureau of Land Management, Department of the Interior 16
Rhodes, Hon. John J., a Representative in Congress from the State of Arizona 14
Risk, Jane, director, Washington Information Services, Animal Protection Institute of America 94
Ross, Roland C., professor emeritus, California State University at Los Angeles 198
Roybal, Hon. Edward R., a Representative in Congress from the State of California 12
Schmidt, F. Victor, Acting Director, Bureau of Sport Fisheries and Wildlife, Department of the Interior 16
Seater, Stephen R., staff biologist, Defenders of Wildlife 131
Smith, Edward J., Regional Supervisor, Division of Wildlife Refuges, Bureau of Sport Fisheries and Wildlife, Portland, Oreg., Department of the Interior 16
Smith, John K., county administrator, Inyo County Board of Supervisors 48
Sonke, Denton, manager, Chamber of Commerce, Inyo, Calif 48
Strode, Donald, Assistant Director, Forest Service, Wildlife Management Division, Department of Agriculture 34
Sudia, Dr. Theodore, Acting Chief, Office of Natural Science, National Park Service, Department of the Interior 16
Taylor, Donald N., superintendent, Bishop Union High School, city of Bishop, Calif 48
Waldie, Hon. Jerome R., a Representative in Congress from the State of California 11
Wilkinson, Robert M., councilman, 12th district, city of Los Angeles, Calif 134

Additional material supplied by—
Agriculture Department:
Acres of national forest land occupied by tule elk in Owens Valley by herd unit 40
Cost of legislation 39
Elk—Cattle competition in Owens Valley 35
Expenditures for tule elk 37
Grazing permits issued by U.S. Forest Service on national forest lands adjoining the proposed Tule Elk Refuge as of October 1973 40
Clapper, Louis S.:
Prepared statement 45
Resolution of the California Wildlife Federation (73-7) 46
City of Los Angeles:
Joint memorandum with California Department of Fish and Game 255
Memorandum of agreement with Bakersfield district, Bureau of Land Management, Inyo National Forest, Forest Service, for joint planning within the Owens Valley-Mono Basin area 256
Plan and program for Interagency Committee on Owens Valley Land and Wildlife 257
Resolution No. 179 254
Statement presented to the Inyo County Planning Advisory Committee 253
Connor, Michael: Prepared statement 70
Edmiston, Beula:
Fish and Game—Elk—Chapter 1250—Senate bill No. 722 182
Map of Owens Valley 175
Proposed Tule Elk Refuge on map of National Wildlife Refuge System 174
Sanctuary for the Tule Elk 176

Additional material supplied by—Continued
Page
Edmiston, Joseph T.:
The Tule Elk National Wildlife Refuge Proposal and the Los Angeles Water and Power System in Owens Valley ---- 216
Georgeson, Duane L.:
Land Use Study—City-Owned Lands in the Owens Valley-Mono Basin ---- 166
Lease of city of Los Angeles ---- 161
Prepared statement ---- 144
Resolution No. 917 ---- 138
Interior Department:
Benefit of Refuge ---- 29
Cost of legislation to establish Tule Elk National Wildlife Refuge ---- 30
Effect of legislation on State law ---- 31
Endangered Species Conservation Act Effect on H.J. Res. 204 ---- 33
Introduction of other animals in refuge ---- 32
Limitation of Refuge ---- 31
News Release of July 6, 1964: Interior Department Steps Up Fight To Save Near-Extinct Wildlife ---- 248
Pearce, Carl A.: Prepared statement ---- 69
Risk, Jane: Endangered, Rare, or Threatened Vertebrates of the Owens River Watershed ---- 96
Sonke, Denton: Prepared statement ---- 66
Taylor, Donald N.:
Analysis of Potential Loss of School Tax Revenue ---- 64
Prepared statement ---- 63
Wilkinson, Robert M.:
Resolutions of city of Los Angeles ---- 134
Communications submitted for the record—
Bohlen, Curtis, letter of November 10, 1972, to Hon. John D. Dingell ---- 243
Coulter, Raymond C., letter of October 18, 1971, to Senator Alan Cranston, with enclosures ---- 217
Dingell, Hon. John D.:
Letter of September 8, 1970, to Walter J. Hickel ---- 239
Letter of September 8, 1972, to Rogers C. B. Morton ---- 242
Edmiston, Beula:
Letter of December 7, 1972, to Hon. John D. Dingell ---- 245
Letter of February 23, 1972, to Todd Watkins ---- 212
Findlay, John D., letter of May 25, 1973, to Paul H. Lane ---- 136
Georgeson, Duane L., letter of October 10, 1973, to Hon. John D. Dingell, with enclosures ---- 250
Inter-Agency Committee on Owens Valley Land and Wildlife, letter to Hon. John D. Dingell ---- 234
Knowles, Ralph L., letter of August 12, 1971, to Hon. Gilbert W. Lindsay ---- 252
Lane, Paul H., letter of July 2, 1973, to Beula Edmiston ---- 215
Los Angeles Department of Water and Power, letter of May 4, 1973, to Robert V. Phillips ---- 139
McCullough, Dale R.:
Letter of February 23, 1972, to John McLaughlin ---- 210
Letter of September 1, 1972, to Joe Fontaine ---- 209
Reed, Nathaniel, letter of June 2, 1971, to Hon. John D. Dingell ---- 240
Voight, Mrs. Mary T., letter of September 19, 1973, to Hon. John D. Dingell ---- 249
Warne, William E., letter of September 17, 1973, to Hon. John D. Dingell ---- 239
Weege, Michael and Jolene, letter to Hon. John D. Dingell ---- 235
Wood, Harold Wm., Jr., letter of October 2, 1973, to the chairman, Subcommittee on Fisheries and Wildlife Conservation ---- 232

TULE ELK REFUGE

MONDAY, SEPTEMBER 24, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
COMMITTEE ON MERCHANT MARINE AND FISHERIES
Washington, D.C.

The subcommittee met at 10:11 a.m., in room 1334, Longworth House Office Building, Hon. Robert L. Leggett, presiding.

Mr. LEGGETT. The meeting of the Subcommittee on Fish and Wildlife with respect to House Joint Resolution 204 and identical bills to establish the Tule Elk National Wildlife Refuge will please come to order.

We are pleased to welcome Senator Cranston and the other witnesses who are here to testify.

I might announce that, because of a change in his plans, Chairman Dingell found it necessary to be in Michigan today and asked that I chair the hearings this morning. He asked that I extend his regrets in not being able to be here today and advise that he is looking forward to being here for tomorrow's hearings.

As I am sure many of you are aware, on March 16, 1970, this subcommittee held hearings on legislation that called for a study of the desirability of establishing a national wildlife refuge for Tule elk.

During the 1970 hearings, testimony was received which indicated that a significantly larger population of Tule elk was needed than existed at that time, which was estimated to be about 250 to 300 in number. It is fairly well established criteria among conservationists that any species with less than 2,000 in number is a vanishing species and one that is highly subject to extinction, particularly, should an epidemic of a large magnitude occur.

Subsequent to the hearings, Chairman Dingell wrote the Secretaries of the Interior and Agriculture expressing his concern over the lack of adequate protection for Tule elk and requested that they coordinate in developing plans to increase this protection and to increase the herd to 2,000 in number. In accomplishing this purpose, he suggested that grazing permits for livestock should be deemphasized, particularly on federally owned lands.

He also pointed out that there were a number of wildlife refuges in California, as well as other Federal lands, that had desirable habitat and that Tule elk should be relocated in those areas if they could be maintained without unduly jeopardizing other wildlife resources in those areas.

The legislation being heard today would in essence accomplish the requests of Chairman Dingell in his letter of September 1970 to the Secretaries.

In addition to hearing the testimony of the departmental witnesses on the legislation, the subcommittee is most desirous of learning what steps have been taken by the Federal agencies to accomplish the objectives of Chairman Dingell and to see that Tule elk are given the protection to which they are entitled.

The bills being heard today are identical and they are as follows: H.J. Res 203, 204, 270, 297, 336, 369, 376, 413, 436, 449, and 507. I might add that this legislation has the sponsorship of 32 Members out of the 43 member California congressional delegation.

Let the bills and departmental reports appear in the record at this point.

[The bills and documents follow:]

H.J. Res. 203, H.J. Res. 204, H.J. Res. 270, H.J. Res. 297, H.J. Res. 336, H.J. Res. 369, H.J. Res. 376, H.J. Res. 413, H.J. Res. 436, H.J. Res. 449, H.J. Res. 507

Joint Resolutions To establish the Tule Elk National Wildlife Refuge

Whereas the tule elk once roamed the grasslands of central California in large numbers but has had to wage a persistent struggle for survival during the past century, as evidenced by the fact that the population was reduced to twenty-eight animals at one time; and

Whereas the tule elk, which is considered to be a rare, but not an endangered, species by the Department of the Interior, presently exists in a herd of approximately two hundred and ninety head in the Owens Valley area of California where such animals were introduced four decades ago, but large-scale grazing of cattle in that area has resulted in a reduced amount of forage available for the tule elk; and

Whereas it is a well established criteria among conservationists that any species of less than two thousand in number is a vanishing one that is highly subject to extinction, particularly if an epidemic should occur; and

Whereas there is no scientific evidence that the present depleted population of tule elk is adequate to assure the species' survival, but the prospects for survival of the tule elk would be substantially enhanced if the herd were expanded to at least two thousand animals; and

Whereas the protection and maintenance of tule elk in a free and wild state is of educational, scientific, and esthetic value to the people of the United States and its struggle to survive epitomizes the worldwide threat to the larger browse and graze mammals whose environments are shrinking and are being depleted as a result of civilization's incursions: Now, Therefore, be it.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That as used in this joint resolution, the term "Owens River watershed area" means that area of land in Inyo County, California, which is south of Laws but not south of the northernmost point of Owens Lake and which is bounded on both the east and the west by the Inyo National Forest.

SEC. 2. (a) The Secretary of the Interior (hereafter referred to in this joint resolution as the "Secretary") is authorized to acquire any land and any easements, grazing rights, or other interests in land within the Owens River watershed area which he determines to be suitable for carrying out the purposes of this joint resolution; except that nothing in this Act shall be construed as authorizing the Secretary to acquire any rights to water which are held on the date of the enactment of this Act or may be acquired after such date by any State or local agency. All lands and interests in lands acquired pursuant to the preceding sentence and all lands (including withdrawn lands) within the Owens River watershed area which on January 1, 1973, were under the jurisdiction of the Secretary shall be known as the Tule Elk National Wildlife Refuge (hereafter referred to in this joint resolution as the "refuge") which shall be established and maintained in an ecologically and environmen-

tally sound manner in accordance with the laws and regulations relating to the national wildlife refuge system subject to the following conditions:

(1) The refuge shall be managed so as to build and sustain a herd of tule elk which at no time numbers less than two thousand and, in order to achieve this purpose, the Secretary shall to the extent necessary limit the issuance of grazing and other land rights within the refuge; except that if the Secretary at any time finds that the herd within the refuge cannot be maintained at a minimum of two thousand head, he shall take such action as may be necessary to insure that the total number of tule elk at least equals such number, and such action may include the relocation of an appropriate number of tule elk to—

(A) other land within California under the jurisdiction of the Department of the Interior,

(B) land within California under the jurisdiction of any other Federal agency, but the relocation and management of such elk shall be subject to such arrangement as may be mutually agreeable to the Secretary and the chief executive officer of such agency,

(C) land under the jurisdiction of the State of California, but the relocation and management of such elk shall be subject to such cooperative agreement as may be mutually agreeable to the Secretary and the appropriate official of the State, or

(D) any combination of (A), (B), and (C);

(2) The Secretary and the appropriate official of the State of California may enter into, and from time to time modify, a cooperative agreement consistent with the purposes of this Act with respect to the management of fish and wildlife within the refuge and such agreement may provide that—

(A) all or part of the laws and regulations of the State of California relating to the taking of fish and wildlife shall apply within the refuge; and

(B) no person may take any fish or wildlife within the refuge unless he holds a valid fishing or hunting license, as the case may be, issued by the State of California.

(b) The Secretary of Agriculture, in cooperation with the Secretary, shall, to the extent practicable, limit grazing and other public uses in the areas of the Inyo National Forest which adjoin the refuge in a manner appropriate to achieve the purposes of this joint resolution.

SEC. 3. (a) There are hereby authorized to be appropriated, to remain available until expended, such sums as may be necessary for the acquisition of lands and interests in lands the acquisition of which is authorized by this joint resolution.

(b) For the purposes of section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the Tule elk shall be deemed to be a species of wildlife that is threatened with extinction and the Tule Elk National Wildlife Refuge a national area authorized for the preservation of such species

---

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., September 20, 1973.

Hon. LEONOR K. SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives.

DEAR MADAME CHAIRMAN: This is in reply to your request for a report on H.J. Res. 203 and H.J. Res. 204, joint resolutions "To establish the Tule Elk National Wildlife Refuge."

This Department recommends that H.J. Res. 203 and H.J. Res. 204 not be enacted.

The joint resolutions authorize the Secretary of the Interior to acquire land and interest in land within the "Owens River Watershed area" in Inyo County, California, for the purpose of establishing a national wildlife refuge for tule elk. The joint resolutions direct that the elk population within the proposed refuge shall be maintained at a minimum of two thousand head, and that the grazing of domestic livestock and other uses within the area, and

adjoining lands of the Inyo National Forest, shall be restricted if necessary to achieve the herd population objective.

We do not believe that it is necessary to establish a wildlife refuge in order to assure the survival of the tule elk in the Owens River area. Planning and action by the California Department of Fish and Game, the Bureau of Land Management, the Forest Service of this Department, and others have resulted in healthy populations of tule elk in Owens Valley that are generally suited to the available range. Reduction of livestock use on National Forest lands to avoid competition between elk and livestock has already been accomplished.

We believe that recent studies support this approach. A report published in the University of California *Publications in Zoology*, Volume 88, by Dr. Dale R. McCullough, entitled "The Tule Elk—Its History, Behavior, and Ecology," concludes that "The potential for increasing the elk population in Owens Valley even if domestic stock were reduced is quite limited. Most of the potential for increased numbers lies in expansion to presently unoccupied range." He also states that "a population of about 400 head is suggested for Owens Valley when the Whitney herd develops."

For these reasons we suggest that existing authorities are adequate, and that enactment of the joint resolutions is not necessary to protect and preserve the California Tule Elk Herd.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL, *Under Secretary.*

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 20, 1973.

Hon. LEONOR K. (MRS. JOHN B.) SULLIVAN,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MADAME CHAIRMAN: Your Committee has requested the views of this Department on H.J. Res. 203 and H.J. Res. 204, identical joint resolutions "To establish the Tule Elk National Wildlife Refuge." We also note that there are pending before your Committee H.J. Res. 297, H.J. Res. 376 and H.J. Res. 336 which are identical to H.J. Res. 203.

While we support the objectives of this bill we recommend against its enactment because it is unnecessary under existing authority and plans to insure protection of the tule elk.

These resolutions would authorize the establishment of a National Wildlife Refuge for tule elk within the Owens River watershed area in California. The area would be managed in accordance with the laws and regulations relating to refuges subject to building and sustaining a herd of 2,000 animals. It also provides for transplanting tule elk as necessary to other Federal and State areas under a mutually agreeable plan, and for joint management with the State of fish and wildlife on the area. The resolutions also contain a legislative determination that the tule elk are threatened with extinction so as to enable the use of monies from the Land and Water Conservation Fund for acquisition of lands and interests therein for protection of these animals.

It is our judgment that this legislation would give to the Secretary no authority not already provided by law. This Department, in cooperation with the United States Forest Service and the California Department of Fish and Game, has completed a survey of potential transplant sites with a view toward establishing additional herds of tule elk. On the basis of that survey, we believe that a number of smaller, separated herds will afford more assurance of preservation of the species than would one or two larger herds.

To implement this program, the Bureau of Sport Fisheries and Wildlife of this Department has initiated a management plan on San Luis National Wildlife Refuge to provide sufficient grazing. Fencing, which will cost approximately $75,000 will be required before the tule elk can be stocked on this area. Construction funds for this purpose are not currently available, however, this work will be implemented as soon as possible.

In addition to the changes in the management program on the San Luis National Wildlife Refuge, the State of California stocked 5 animals (3 cows and 2 bulls) in the Whitney Area of the Owens Valley in November of 1971. Two calves have been observed and it is thought that there are now 6 animals in this group.

The State of California and the Bureau of Land Management of this Department are engaged in a study of the Cache Creek-Swanson range area involving habitat improvement and delineating land for possible acquisition.

There have not been any significant changes in tule elk numbers. In January 1973, the Owens Valley herd contained about 307 tule elk, the Cache Creek herd 135 to 140, and about 35 animals on the Tupman Elk Preserve.

While the Endangered Species Conservation Act of 1969 (16 U.S.C. 668aa et seq.) requires the Secretary to "carry out a program in the United States of conserving, protecting, restoring and propagating selected species of native fish and wildlife that are threatened with extinction," and while the tule elk can be considered rare, it is generally the opinion of mammalogists and conservationists that this resident species is not in danger of extinction. We believe that our plans insure attainment of the objective to preserve the populations of tule elk. Implementation of our plans will depend upon the availability of funds for acquisition and construction of fencing and other facilities and the availability of suitable transplant stock.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL, *Secretary of the Interior.*

Mr. LEGGETT. Our first witness is the distinguished senior Senator from the State of California, Mr. Alan Cranston.

Senator, your statement will appear in the record as if given and you can proceed to emphasize it in any fashion you please.

STATEMENT OF HON. ALAN CRANSTON, U.S. SENATOR FROM THE STATE OF CALIFORNIA

Senator CRANSTON. Thank you very much, Mr. Chairman.

I appreciate this opportunity to appear before you and members of the committee on behalf of legislation to establish the Tule Elk National Wildlife Refuge, in Owens Valley, Calif. I am delighted that you are one of those supporting this legislation in the House.

As author of the Senate version of the bill—Senate Joint Resolution 6—I want to compliment the distinguished chairman of the House Subcommittee on Fisheries and Wildlife Conservation, Congressman John Dingell. He is an able and articulate friend of wildlife and very much a leader in this cause, as evidenced by his sponsorship of a Tule elk preservation bill in the House.

Mr. Chairman, we have today in the Owens Valley of California, a small herd of little, dwarf elk called the Tule elk. The small herd—just 340 animals, according to a 1973 census—is the only free roaming, unfenced survivors—unhybridized—of a species once common to the Scaramento and San Joaquin Valleys of California.

The Tule elk has waged a persistent and remarkable struggle for survival during the past century. In 1885, there were only 28 elk. Some 90 years later, there were 291, which dropped to 280 the next year, and just this past year the number has risen a little again.

In 1971, the California Legislature recognized that the up-and-down survival battle of the Tule elk could lead to extinction in a

very little time if something wasn't done. The legislature enacted a statute providing for the restoration of the Tule elk to a statewide species level of at least 2,000. That is the number considered to be essential to maintain the species.

The resolution before this committee is simple and direct. It declares that it is Federal policy to cooperate with the State of California in establishing a statewide Tule elk herd of at least 2,000. It also authorizes the Secretary of the Interior to establish a Tule Elk National Wildlife Refuge in California.

To carry out this policy, the Secretary is authorized to acquire such lands in the Owens Valley as may be necessaary to effect the increase. Such acquired lands, and all other lands in the Owens Valley watershed under Interior Department jurisdiction, shall constitute the Tule Elk National Wildlife Refuge.

In addition, the Secretary is authorized to relocate some of the Tule elk in various other areas of California. Such relocations would be in Federal or State jurisdictions where the elk may be ecologically compatible and where there is mutual agreement among the parties involved.

Also, the Secretary is authorized by the resolution to enter into a cooperative wildlife management agreement with the State of California so long as such an agreement is compatible with the purposes of the resolution.

Finally, the resolution requires the Secretary of Agriculture to manage the Inyo National Forest in compliance with the purposes of the measure. That might involve decreasing the number of grazing permits issued by the U.S. Forest Service.

Mr. Chairman, the reasons why the Tule elk should be saved range from scientific to ethical to pragmatic.

Let me summarize it this way. We have defiled our biosphere to the point where there is serious question about whether we can turn back the tide of environmental degradation. At such a time, every variety of life form must be considered a precious resource to be protected and nurtured.

So we are not talking about "just a herd of little elk." We are talking about what might be called "genetic reservoirs"—protectors of that thin, but vital thread of organic continuity upon which life may depend.

Ecologists are only now beginning to understand the function and importance of diversity among life forms in the survival of the ecosystems which perpetuate the biosphere.

Thus, in a manner not yet understood, the preservation of large native mammals may prove to be an essential key to man's environmental struggle for survival.

The Tule elk story is the story of how near a species can be driven to extinction by the actions of men. And it is also the story of how sound conservation policy, which I believe will be enhanced by this bill, can swing the pendulum of ecological history in another direction.

During the days of the California gold rush, the Tule elk population began to vanish. Fortunately for the elk, a rancher by the name of Henry Miller established his own conservation policy with a sin-

gle sentence, when he said, "Anyone molesting the tule elk will answer to my gun."

In that one sentence, Miller not only created a refuge, but he named the elk. He referred to the "tule" elk simply because they had been discovered hiding in the tules—or California's moist valley bulrushes.

Although we don't know exactly, legend has it that there were some 28 head of elk when Miller took his action.

Over the years, many efforts were made to reestablish the elk in various parts of California, but only one was successful. In the 1920's, a few of the remaining elk were taken to the Yosemite Valley in Yosemite National Park. The National Park Service, however, was not inclined to confine the animals. So the search for a new home for the tule elk continued, and eventually led to Owens Valley.

In 1933, the Yosemite elk were crated and trucked to their new Owens Valley home, where they are today.

But the problem of survival did not end. Wild elk compete with ranch cattle for forage in the valley, and for years Tule elk numbers in the Owens Valley were kept below 300 by hunts sanctioned by the State Fish and Game Commission.

Those hunts have ended, and in the interval California has passed its new law mandating that the number of Tule elk be increased to 2,000.

Mr. Chairman, this is one of the most important features of my bill. For my bill is an effort by the Federal Government to cooperate with a State—in this case, the State of California—to bring about a State conservation policy that is also in the Federal interest.

The Tule elk measure recognizes policy of the California Department of Fish and Game, which states that the elk carrying capacity of Owens Valley should be kept at about 496, to preserve cattle grazing options.

I do not dispute that policy, and I want to make it absolutely clear that my bill does not mandate the establishment of a 2,000-head tule elk herd in Owens Valley.

What my bill does is accept the population figure adopted by the California Fish and Game Department and enable the Secretary of the Interior to look elsewhere for lands upon which the "surplus" elk can be maintained. So, the measure simply helps the State of California implement its own law with regard to Tule elk conservation.

Mr. Chairman, there is also some concern that my bill would lead to the acquisition of lands in the Owens Valley by the Federal Government. This concern arises from the fact that the Secretary of the Interior is given authority to carry out the intent of the bill through acquisition of land, if that is necessary.

But that power can only be exercised if someone attempts to thwart the establishment of the valley's maximum herd level. The only property owner big enough to do that is the city of Los Angeles, which owns much of Owens Valley, and I cannot believe the city would take any action that would run the risk of losing its own land.

So I intend, Mr. Chairman, the mention of eminent domain in my

bill as only standby authority, and I forsee no situation in which the authority would need to be used.

Further, to clear up any misunderstandings about grazing rights of domestic stock, let me point out—as I have on a number of occasions—that the Secretary of Agriculture can use that authority only if it is necessary to accomplish the purposes of the resolution.

As long as cattle do not diminish the carrying capacity for Tule elk—and I am told by an authority on the other side of this issue that cattle will not diminish that capacity—then the bill clearly would not necessitate a decrease in grazing permits.

Mr. Chairman, what the resolution before you does is require that the Federal Government, as a matter of policy, cooperate with the State of California in attaining the State's own conservation goal. I believe it is that general principle, along with a sincere concern for the Tule elk specifically, that have led so many Members of the Senate to cosponsor my Senate Joint Resolution 6.

I believe that we must begin to move toward more Federal-State cooperation in conservation and preservation and I believe the measure before you is an important, vital step forward.

Thank you, Mr. Chairman.

Mr. LEGGETT. Thank you very much, Senator for a very comprehensive statement.

I believe it amplifies and explains a number of questions which have arisen.

Let me ask you this.

What is the status of this legislation in the other body?

Senator CRANSTON. It is in committee. We have not moved it out, but I am very hopeful that we can.

Mr. LEGGETT. Have you held hearings over there yet?

Senator CRANSTON. No, we have not.

Mr. LEGGETT. At the present time, we have how many of these Tule elk in Owens Valley?

Senator CRANSTON. Three hundred and forty, according to a 1973 census.

Mr. LEGGETT. And the target then would be to increase this number by some 150?

Senator CRANSTON. About that, to a total of 2,000 statewide.

Mr. LEGGETT. And it would be then your purpose, I suspect, to relocate these elk any place in the State where the habitat would support the multiplication and developments?

Senator CRANSTON. Yes, such as the Point Reyes National Seashore, and San Luis National Wildlife Refuge.

Mr. LEGGETT. I also understood there were some Tule elk in my district, in Colusa, Glen; I have not seen them, but have you heard about that?

Senator CRANSTON. There are rumors to that effect, but the census has not been taken, or established.

Mr. LEGGETT. When was the last time that the State of California allowed these animals to be taken by hunters, do you recall?

Senator CRANSTON. I think about 2 years ago.

Mr. LEGGETT. And the policy has now been established by the State of a complete moratorium, at least until the herd reaches 2,000?

Senator CRANSTON. Or until the target in various places, such as Owens Valley, has been reached.

Mr. LEGGETT. It would be the purpose then, though, at a later time, to perhaps open this up for wildlife hunters?

Senator CRANSTON. If the target of 2,000 was achieved, and then they began to grow beyond that point, I suppose that could be expected.

Mr. LEGGETT. You state it is not the purpose of your legislation to take by eminent domain the Los Angeles watershed lands in the general area of Owens Valley?

Senator CRANSTON. It is not anticipated that that would be necessary.

Mr. LEGGETT. And it might be so on some claims for land of various purposes, I would suspect.

Senator CRANSTON. Conceivably.

Mr. LEGGETT. And has your staff done any reconnaisance studies to determine what might be a high and a low probable target of this legislation with respect to eminent domain proceedings, if that is required?

Senator CRANSTON. No, we have not gotten that far. Actually, we are very doubtful that there would be any land acquisitions.

Mr. LEGGETT. Have you come to any conclusion as to the estimated cost of the bill for other purposes of relocation and perpetuation of the herds?

Senator CRANSTON. Again we have not, although we believe they would be very minor.

Mr. LEGGETT. Thank you very much.

Mr. Goodling?

Mr. GOODLING. Just one question, Mr. Chairman.

Senator, why, if this is an endangered species, did the State of California have an open season, as recently as 2 years ago?

Senator CRANSTON. I think general awareness of endangered species, and the fact that the Tule elk was one of them, is something that has only recently begun to cause States like California and the rest of the country to take affirmative action.

Mr. GOODLING. I think you will agree that once we get any species down to around 200 it is an endangered species.

Senator CRANSTON. Absolutely.

Mr. GOODLING. I am not accusing you of being responsible for the open season.

Senator CRANSTON. Thank you.

Mr. GOODLING. But I would like to know why this season was granted.

Senator CRANSTON. Again, I think there was not sufficient general awareness that the Tule elk was a truly endangered species to bring an end to the open season until recently.

Mr. GOODLING. I might say, Senator, that in the last week of August I had the privilege of looking over a lot of the territory where this new herd is supposed to be established.

I am not a biologist, but it looks to me like it would be a desirable thing to do.

Senator CRANSTON. I am delighted that you do, and I would like to say that quite the opposite of having been responsible for pro-

longing any open season, it was the introduction of my bill in the Senate that brought about the end of the open season on the Tule elk in California.

Mr. GOODLING. That is all.

Mr. LEGGETT. Thank you, Mr. Goodling.

Mr. McCloskey of California.

Mr. MCCLOSKEY. Thank you, Mr. Chairman.

Senator, I joined the bill that was first introduced, as did most of our California Congressmen, who want to preserve the open valley aspect of Owens.

The bill, as drawn, would indicate that there would be one refuge in California.

You raised one point—what was the second?

Senator CRANSTON. Yes, they are mentioned in the bill as possible relocation points.

Mr. MCCLOSKEY. What is the second location?

Senator CRANSTON. The San Luis National Wildlife Refuge.

Mr. MCCLOSKEY. These essentially were originally native, and have been relocated, and apparently thrive in the Owens Valley, which encompasses a great deal more area.

Senator CRANSTON. Yes.

Mr. MCCLOSKEY. With the city of Los Angeles taking much of the water rights to expand the city of Los Angeles?

Senator CRANSTON. Yes.

Mr. MCCLOSKEY. What is the attitude of the city of Los Angeles with the desire to make it into a park for the Tule elk?

Senator CRANSTON. I think they should speak for themselves, and I think they will.

Mr. MCCLOSKEY. I want to know if they have any knowledge.

Senator CRANSTON. I think they were not enthusiastic.

Mr. MCCLOSKEY. As they were taking the water rights in 1970?

Senator CRANSTON. That is correct.

Mr. MCCLOSKEY. The bill that I joined with you, there is nothing in the bill to indicate who would limit the Owens Valley to 500 Tule elk.

We have 2,000 now. You would have no objection to an amendment in the bill to limit the Tule elk herd to 500 to the Owens Valley with the other 1,500 to the State of California, in such areas as might turn out to be suited?

Senator CRANSTON. I have no objection in the amendment to make plain that that was in terms of a permanent herd. It might be necessary to go above initially, until a place is found to herd them, or during the process of transition.

But the permanent herd should not be above that figure, and an amendment to that effect would possibly reassure the people of the Owens Valley.

Mr. MCCLOSKEY. The difficulty that has been raised to me is the economics of the proposal, there is about 97 percent of it held in ownership. They would hate to see a loss of the cattle industry up there, and that each Tule elk that grazes, and replaces one head of cattle. The nature of the grazing, which is sort of winter grazing in Sierra, and summer grazing, what graze remains thereafter, will take all the water. I think that they are entitled to any guarantee of

some bill that we pass, that we would not exceed a certain amount of that herd. 500 head seems to be the limit that the State has worked out with the local people.

You would have no objection then to the amendment which indicated 500?

Senator CRANSTON. No. No, not one that would indicate that that is the goal, and even one that would limit it to that in terms of a permanent herd size.

Mr. MCCLOSKEY. With 97 percent of the land owned there, I am glad to see your testimony is standby. It would be hard for me to see that the Federal Government would acquire anything in the amount of land that it does.

Senator CRANSTON. Yes, I concur.

Mr. MCCLOSKEY. Thank you.

I think that covers the area, Mr. Chairman.

Mr. LEGGETT. I think you brought out a good point, Mr. McCloskey. You have been very helpful.

Mr. Lott of Mississippi.

Mr. LOTT. No questions, Mr. Chairman.

Thank you for your statement.

Mr. LEGGETT. Does counsel have any questions?

Mr. EVERETT. No, thank you.

Mr. LEGGETT. Thank you very much, Senator, it has been very helpful to have your testimony as our leadoff witness.

Senator CRANSTON. Thank you very much.

I want to thank the members of this committee for their interest in what seems to be a small matter, but it may not be as small as it appears on the surface.

Thank you very much.

Our next witness will be the very able Congressman from California, the Hon. Jerome R. Waldie.

STATEMENT OF HON. JEROME R. WALDIE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. WALDIE. I appreciate this opportunity to appear before the committee and to express my support for House Joint Resolution 204, to establish the Tule Elk National Wildlife Refuge in Owens Valley, Calif.

There are approximately 280 free roaming Tule elk left in the world. Some would have us leave the question of their survival to the State legislature in California. And indeed there has been some action taken by the State legislature to protect the Tule elk. But, I do not feel that the Tule elk belong solely to the residents of Owens Valley or to the State of California, but are part of our natural heritage. House Joint Resolution 204 would assure that proper protection will be granted to the Tule elk, irrespective of whatever the State of California may or may not do in the future, and therefore I believe deserves our favorable consideration.

House Joint Resolution 204 authorizes the Secretary of the Interior to acquire any land and grazing rights in the Owens Valley which will allow the area to sustain aa herd of 2,000 elk. If the area cannot maintain a minimum of 2,000 elk, the Secretary is authorized

to relocate surplus elk at appropriate habitats throughout the State until a target stable population of 2,000 is achieved.

Mr. Chairman, there have been some objections raised to this legislation such as the adverse effects it might have on the city of Los Angeles water supply in the future, and the availability of grazing land for cattle in the area. I believe that these objections will be proved to be groundless by testimony from witnesses today.

To insure the compatibility of interests, I would like to offer an amendment to the resolution clarifying some possible ambiguous language. On page 3, line 16, I feel the section should be amended as follows:

The refuge shall be managed so as to build and sustain a herd of tule elk which at no time numbers less than two thousand and, in order to achieve this purpose the Secretary shall to the extent necessary limit the issuance of grazing and other land use rights *within the refuge . . .* to read: *which would have a substantial adverse effect on grazing within the refuge . . .*

The purpose of the section, as I interpret it, is to insure that the area within the refuge will provide forage for the Tule elk. However, there is a concern that the phrase "other land use rights" is so broad as to be interpreted to prevent any other use of the land. The largeness of the land area proposed in this bill could make it prohibitively difficult for such needs as transmission lines to avoid the area. Permits for transmission lines are at the discretion of the Secretary of the Interior on NWR lands, but this amendment would clarify the intention of this legislation to provide for compatible interests.

In conclusion, I would like to say that the issue at hand is not that the State of California is not interested or capable of providing for the Tule elk, but rather to emphasize that conservation is more than a parochial interest—it is a national concern. As with all environmental questions, we are faced with a series of choices. We can continue to threaten our delicate environment or we can seek to preserve and protect the remaining life forms. We can seek private development at all costs or we can urge planned, reasonable development of our remaining natural resources. The Tule elk is only part of this important struggle. With this bill, we hopefully will begin to answer some of those important questions.

Mr. Chairman and members of this committee, I appreciate your positive consideration and action on this bill.

Thank you.

Mr. LEGGETT. Thank you for an excellent statement.

I would now like to call on another gentleman from California, Hon. Edward R. Roybal.

STATEMENT OF HON. EDWARD R. ROYBAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. ROYBAL. I am pleased to have this opportunity to appear before your committee to speak in support of House Joint Resolution 204, a resolution which I am proud to cosponsor. Mr. Chairman, I know that you have been a leader in the drive to establish a much needed Tule Elk National Refuge in the Owens River watershed

area in California. I salute you for your efforts in past years on the Dingell plan to help save the Tule elk.

The resolution I support today is the product of a tragic history. The Tule elk, or Valley elk, is native only to the central and coastal valleys of California. The animals are gentle, shy, and beautiful creatures. They were originally inhabitants of the San Joaquin Valley, but were pushed out as man moved in with irrigation projects anl large farms. In 1933, private individuals in cooperation with local agencies, arranged for 27 elk to be released into the lower part of the Owens Valley. There the elk thrived and increased. The habitat was perfect for their needs. But cattlemen resented their presence and hunters saw a bountiful new supply of game. In 1943, cattlemen and sportsmen prevailed on the State Fish and Game Department to authorize a hunt which claimed 43 bulls. In October 1964, when there was a herd of no more than 329, 50 of the animals were shot. The hunting was meant to weed out the older animals, and those which were sick, but of course, calves and healthy adults elks were sometimes killed too.

The herd still inhabits the area bordered by the Sierra Nevada on the west and the Inyo Mountains on the east, and they are considered an established part of the native flora and fauna.

But the herd that does exist today—numbering only a few hundred—should be looked upon as a miracle of survival. With the population of California growing at an astronomical rate, the move toward massive land development has been intense. At this time, the Owens Valley herd is not secure. The valley is owned by the city of Los Angeles, and in recent years the city has leased the lands to cattlemen. Today, hard as it is to believe, these men are complaining about having to share their range with the elk. Some feel that the fate of the Tule elk may be sealed within the next couple of years, and that since it is now competing with the cattlemen in the area, it may disappear completely within our lifetime.

Many who are concerned about the preservation of order in nature and about the balance of our environment consider the little Tule elk a symbol. When we say that this is the decade of the environment, when we say we are truly concerned about protecting the earth's bounty—then many think about a dwarf elk which has fled from one place to another escaping the ravages of high-powered civilization. So far we have been lucky, the animal has survived.

If we are truly committed to bettering the environment, then we should be able to place the needs of a tiny herd of elk before the whine of an earthmover. We must move to create this refuge so that the last few of a magnificent species will not vanish.

As you know, efforts have been made in California to protect the Tule elk at the State level. A number of active citizens' groups have worked very hard to preserve the elk. In 1971, legislation was enacted in our State to restrict hunting for Tule elk until the herd size had reached at least 2,000. But what many of us thought at the time was an answer, turned out to be less than adequate. We had hoped that the State would put wildlife survival above hasty land development, and that California would prove to be a shining example for other States.

But State wildlife agencies cannot really be expected to call the

plays on problems of protecting endangered or threatened species. Their central function is game management. Support must come from the Department of the Interior—an agency which has expertise in such matters.

The resolution before us would authorize the Secretary of the Interior to increase the size of the herd to at least 2,000 members by acquiring lands for refuges, relocating elk when necessary and cooperating with the State of California in managing the herd. I know that all the members of this committee are vitally interested in presenting to the Congress a good bill which will best serve the interests of the preservation of nature. I believe this measure meets that test.

Mr. LEGGETT. An excellent statement Ed, we appreciate your time.

Next, I will call our good friend from Arizona, the Hon. John J. Rhodes.

STATEMENT OF HON. JOHN J. RHODES, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. RHODES. Mr. Chairman, thank you for this opportunity to make a statement in support of House Joint Resolution 436 and other identical bills, which would establish the Tule Elk National Wildlife Refuge in California.

The Tule elk once roamed the grasslands of California in great numbers. As the west became more populated, the Tule elk were forced into a struggle for survival and their very existence. So servious was the attack on the elk that the last remaining herd was reduced to 28 head at one time.

Although today, 290 head are alive in the Owens Valley area of California, a distinct danger still exists for survival of the herd. Extensive grazing of cattle in that area has resulted in a reduced amount of forage available for the elk. The Department of the Interior considers the Tule elk a rare species, not endangered. It is interesting to note however, that a well established criteria among conservationists is that any species of less than 2,000 is a vanishing one. An epidemic could easily end the Tule elk's existence forever.

Passage of this resolution would establish a wildlife refuge for the Tule elk and other animals and fish indigenous to the area. This area would sustain a herd of not less than 2,000 elk in an ecologically and environmentally sound habitat. I strongly support this resolution and I am hopeful that this committee will give it full and careful consideration.

Mr. LEGGETT. Thank you for a brief, but comprehensive statement.

Another Member from California, our colleague George Danielson will be our next witness.

STATEMENT OF HON. GEORGE E. DANIELSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. DANIELSON. Mr. Chairman, I wish to thank you and the members of your subcommittee for your consideration of House Joint Resolution 203 and others, for the establishment of a Tule Elk National Wildlife Refuge in the Owens Valley.

The Tule elk presently number about 280, in herds scattered throughout the Owens Valley of the State of California. Years ago, with a population in the millions, Tule elk roamed the entire San Joaquin and Sacramento Valleys. But with the growth of the farming communities in the two valleys, and the expanded fencing and hunting practices which accompanied the growth, the Tule elk were cruelly decimated until only 28 were left in 1885.

Only the protective action of one rancher kept this species of elk from extinction. He established a preserve on his ranch to save the few remaining elk. Nearly all the Tule elk now living are descended from the few elk on this ranch.

In the 50 years from 1885 to 1935, 23 attempts were made to relocate the Tule elk, finally succeeding in the Owens Valley. Several herds were established and flourished briefly, until competition with the grazing rights of cattle ranchers forced a turn in policy against the elk.

With strong prodding from cattlemen, the California Department of Fish and Game organized a series of hunts to "cull" the herds down to "manageable" size. These hunts have successfully kept the elk population dangerously below 300 animals. In 1960, the same department tried to cut the herd size in half, and kill approximately 150 elk in the process. The outrage that spontaneously arose with this announcement helped create the Committee for the Preservation of the Tule Elk, which was instrumental in preventing that scheduled killing from occurring. However, in 1969, another killing was scheduled and took place over the loud protests of the committee. That hunt was described as a massive campaign involving caravans of vehicles, airplanes and other war-related paraphernalia which successfully cut deeply into the few remaining herds.

This slaughter must be stopped. We must insure that the Tule elk will be allowed to thrive and be enjoyed by future generations. We must take steps to guarantee the security of the Tule elk as well as the safety of the 22 other rare, endangered or depleted species of animals resident in the Owens Valley. Already, through mismanagement and insufficient conservation-oriented action, we have lost forever the enjoyment of many native American animals. We must not take any chances with the remaining scarce species. Roy Pinney, in his book "Vanishing Wildlife," said:

> The Tule Elk is in grave danger of extinction . . . The ultimate fate of the Owens Valley herd may be determined within the next few years. Since the animal is now competing with the cattlemen in the area, it may be that the Tule Elk will disappear within our lifetime unless positive steps are taken to protect it.

The recent actions of the California Legislature, while admirable, are not sufficient to guarantee the continued existence of the Tule elk. It is my opinion that only a national wildlife refuge can successfully insure the safety of this rare and beautiful creature. We must safeguard this animal from extinction before the hazards of man's civilization result in its destruction.

Thank you for the opportunity to address this subcommittee, and I am confident that favorable action on these resolutions will be forthcoming.

Mr. LEGGETT. Thank you for giving us your views. That was an excellent statement.

Our next witness will be Mr. F. Victor Schmidt, the Acting Director of the Bureau of Sport Fish and Wildlife of the Department of the Interior.

Mr. Schmidt, we are glad to have you here and your full statement will appear in our record as if delivered, and you can proceed in any way ou care to.

STATEMENT OF F. VICTOR SCHMIDT, ACTING DIRECTOR, BUREAU OF SPORT FISHERIES AND WILDLIFE, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY DR. THEODORE SUDIA, ACTING CHIEF, OFFICE OF NATURAL SCIENCE, NATIONAL PARK SERVICE; JORDAN POPE, WILDLIFE BIOLOGIST, DIVISION OF WILDLIFE, BUREAU OF LAND MANAGEMENT; EDWARD J. SMITH, REGIONAL SUPERVISOR, DIVISION OF WILDLIFE REFUGES, BUREAU OF SPORT FISHERIES AND WILDLIFE, PORTLAND, OREG.

Mr. SCHMIDT. I would like to be accompanied by several other witnesses.

Mr. LEGGETT. You may be accompanied by several other witnesses, if you like.

Please identify them for our record, if you would.

Mr. SCHMIDT. With your permission, Mr. Chairman, I would like to identify Dr. Theodore Sudia, Acting Chief of the Office of Natural Science of National Park Services on my far right.

Mr. Edward Smith, Regional Supervisor, Division of Wildlife Refuges, from the Bureau of Sport Fisheries and Wildlife, Portland office on my immediate right, and Mr. Jordan Pope, Wildlife Biologist with the Division of Wildlife, Bureau of Land Management on my left.

Mr. Chairman, I appreciate this opportunity to appear before you this morning to present the Department's views on House Joint Resolution 204, and similar bills "To establish the Tule elk National Wildlife Refuge."

House Joint Resolution 204 would authorize the establishment of a national wildlife refuge for Tule elk in the Owens Valley area of California to sustain a minimum herd, if possible, of 2,000 animals. It also provides for elk transplants, cooperative agreements, and management of the area.

However, one of the more important facets of this legislation is the determination that the Tule elk is deemed to be threatened with extinction for the purposes of section 6 of the land and water conservation fund—section 6 was renumbered section 7 by Public Law 92–347.

The Tule elk—*Cervus elaphas nannodes*—which was native only to the central valleys of California, is recognized as a distinct subspecies. It is the smallest of North American elk, with mature bulls weighing up to 680 pounds. The average cow will weigh about 380

pounds. In contrast, the Roosevelt elk, North America's largest, will weigh as much as 1,200 pounds.

These animals were primarily nonmigratory creatures of the valley floor which preferred to feed on forbs and grass in the low elevations and swamplands. Other species of elk tend to occupy higher elevations during the summer, coming down to the valleys during the winter as available food becomes scarce.

In the early 1800's Tule elk numbered in the thousands. However, harvesting of these animals by trappers and gold miners for food and hides, and competition with cattle ranching reduced them to near extinction as the 20th century began. In the late 1800's and early 1900's measures were taken which were to insure survival of the Tule elk.

At first it was interested cattlemen who provided protection to the remnant populations. Later a State refuge, in reality an enclosure, was established near Tupman, Calif., in Kern County. Other transplants were attempted in somewhat different habitat. The two free roaming transplant herds that eventually proved successful were at Cache Creek, Colusa County, and Owens Valley, Inyo County.

Mr. Eichhorn is pointing out those areas on the map at the present time.

Mr. LEGGETT. Colusa County, that is my district.

Mr. SCHMIDT. I hope I pronounced it correctly.

We share with the committee their interest in preventing the extinction of the Tule elk. The Tule elk has not been listed as endangered pursuant to the Endangered Species Conservation Act of 1969. It appears to be adequately protected and increasing in numbers under the authorities presently available to Federal and State agencies, therefore, we see no need for this legislation.

To the extent that additional authority is necessary to safeguard this and other animals that might become endangered, we urge early enactment of the Endangered Species Conservation Act of 1973.

I think a review of the present situation would be beneficial. A recent count of the Tule elk indicates populations to be approximately 43 in the Tupman enclosure, 100 to 125 in the Cache Creek area, and 380 to 400 in the Owens Valley, including 66 calves. This gives a minimum of 523 animals, and a maximum of about 570, which is the total population of Tule elk, excluding individuals or small groups that are in zoos or similar areas.

A study to identify additional potential transplant sites for Tule elk was completed March 5, 1971. Participants in the study included the Bureau of Land Management, National Park Service, National Forest Service, the Game and Fish Departments of Arizona, California, Nevada, and Oregon, the Universities of California and Michigan, and the Bureau of Sport Fisheries and Wildlife. This task force originally identified 23 areas—22 of these areas were in California—as possible sites on which new Tule elk herds could be established.

The evaluation resulted in the conclusion that the following four areas offered the greatest potential for developing additional capacity for Tule elk.

(1) San Luis National Wildlife Refuge.

Again, Mr. Eichhorn is pointing this area out on the map.

(2) Point Reyes National Seashore.

(3) Swanson Range, Calusa County (Cache Creek).

(4) Whitney area (Owens Valley).

The above sites are either in Federal ownership or Federal ownership comprises a significant portion of the acreage. A tentative plan for each area was prepared.

The San Luis National Wildlife Refuge, a 7,400-acre area in Merced County, Calif., was purchased in 1967 with duck stamp funds for the benefit of migratory waterfowl. A Tule elk management plan has been prepared for the area, and as a result, cattle grazing was terminated in December 1972, in anticipation of elk introductions.

Approximately 14 miles of fence will be required along the refuge perimeter to prevent depredations on private lands. The current estimated cost of the 14 miles of elkproof fence is $108,000. Budget constraints have not permitted the construction of the fence. Once fencing is completed, and elk introduced, we estimate the refuge can support a maximum of 300 animals.

An optimum population, however, would be a lesser number of animals.

Mr. Smith, would you mind pointing out again the boundaries?

Mr. SMITH. The boundary of the refuge is shown by the green line. It encloses 7,400 acres, and as you may know, the area was primarily acquired for waterfowl, and it is serving as an important area for waterfowl population.

In going along with the task force recommendations, we have eliminated grazing in the area as of December 1972 and are working with the State of California in terms of a long-range transplant program.

A range survey just completed by the Soil Conservation Service, which addressed itself principally to the grass forage, indicated a maximum carrying capacity of 300 Tule elk.

Our plan would be to go slow on introductions, probably on the basis of 10 or 12 adult animals per year, and building up to herd size, and evaluating what happens.

This plan calls for fencing of the refuge perimeter to prevent escape and depredation on outlying private ranches.

Mr. LEGGETT. Would that fence keep out the coyotes in the area?

Mr. SCHMIDT. The fence we are planning would be coyoteproof; yes.

Mr. LEGGETT. Now, do you not have any emergency funds at all in the Department of the Interior to construct this fence that will cost $108,000? Does this require a line item in the appropriations bill that would satisfy a claim like that?

Mr. SCHMIDT. Mr. Chairman, a fence of that magnitude would be a construction item in the budget, and that is what makes it more difficult than, say, using straight refuge money.

Mr. LEGGETT. You are making up your budget for next year; have you requested $108,000 for next year?

Mr. SCHMIDT. Not at this point; no, we have not, sir.

Mr. LEGGETT. When do you think you might do that?

Mr. SCHMIDT. As the budget process moves along, it is still within the Department. This could be a consideration in the 1975 budget process.

Mr. LEGGETT. It could be?

Mr. SCHMIDT. Yes, sir.

Mr. LEGGETT. But it might not be?

Mr. SCHMIDT. I would hate to make that judgment at this time.

It would have to take its place with other priorities that we are considering.

Mr. LEGGETT. How much money do you lose by not grazing cattle on this land in a year's period?

Mr. SCHMIDT. I would have to ask Mr. Smith to respond to that.

Mr. SMITH. About $36,000 a year.

Mr. LEGGETT. You may proceed.

Mr. SCHMIDT. Another area which was selected for transplants is the Point Reyes National Seashore. Approximately 2,600 acres of land suitable for Tule elk has been acquired on Tomales Point with a provision that the former owner, a rancher, vacate by October 4, 1974. Approximately 1½ miles of fence will be required to confine the elk to the range. Development of the range for Tule elk will cost about $79,000, and has tentatively been scheduled for fiscal year 1975.

An initial transplant of 8 to 12 animals is contemplated. The maximum carrying capacity of the range is estimated to be about 300 animals.

Here, I might ask Dr. Sudia to expand for a moment.

Mr. SUDIA. This is the point, and the fence would probably cross somewhere about in here—indicating. And it is expected that the only thing that will be required is a fence across the peninsula.

There is a road that leads into the area to a lookout point, and the road will have cattle guards, and that sort of thing. The fence itself, as it is planned, will not be a cyclone steel wire type fence, but a rail fence, a wooden fence primarily, because of the severe corrosion problems in this particular area.

It is expected that this area will ultimately hold in the neighborhood of 300 animals. It is expected that the animals will be from Owens Valley.

Mr. LEGGETT. Are not there already a number of fences in that particular locality?

Mr. SUDIA. Yes, this area has been used for cattle raising, and this is going to pose problems, because it is over grazed, and part of the $79,000 is for the removal of old barbed wire fences and for cleanup activities. About $10,000 is projected for a cleanup of this area, including the removal of fences.

Mr. LEGGETT. Does that require a construction item in the 1975 budget to accomplish this?

Mr. SUDIA. It is my impression that it will, yes, sir.

Mr. LEGGETT. Would $50,000 require a projection item?

Mr. SUDIA. I cannot say, sir.

Mr. SCHMIDT. I believe so, sir.

Mr. LEGGETT. You have limited your discretion in important areas, I think. Go ahead.

Mr. SCHMIDT. In the Owens Valley, a sixth herd was established by the State of California in the Mount Whitney area in 1972 through the introduction of two bulls, two cows, and one female yearling. The U.S. Forest Service has reduced grazing on certain areas of the Inyo National Forest utilized by the Tule elk in the Owens Valley.

Cooperative studies are underway in the Owens Valley to determine the impact of fencing, population distribution on food habits, and to solve other problems related to management of the species. At this time there appears to be very little competition between cattle and elk, except possibly in periods of drought.

If further studies verify this point, it appears the herd in the Owens Valley may be approaching the capacity of the range. The legislation under discussion indicates the desirability of a 2,000 animal herd in the Owens Valley. Biologists from the Bureau of Land Management and the State of California presently estimate Owens Valley will support a maximum population of about 500 Tule elk.

Mr. LEGGETT. I believe Senator Cranston has clarified the intent of the legislation in that respect, which kind of corresponds with your testimony, and I think that that does meet probably the criteria of the coauthors.

Mr. SCHMIDT. Yes, sir. There has been little recent change in the Cache Creek herd.

At this point I might ask Mr. Pope to point out the various herds in Owens Valley.

Mr. POPE. In the valley itself, the habitat encompasses approximately 200,000 acres. Of that 200,000 acres, BLM administered land —natural resource lands—comprise approximately 60,000 acres or 30 percent, and 33,000 acres are U.S. Forest Service lands.

We have already established in the valley five herds, and a sixth one was introduced in January of 1972.

We have the Bishop herd in this area of approximately 50,000 acres comprising about 90 animals.

The Tinemaha herd occupies approximately 30,000 acres, and numbers about 84 animals.

The third group is the Goodale herd, occupying approximately 38,000 acres, numbering somewhere in the neighborhood of 80 animals. The aerial census this year located only 46 animals, but our biologists went out later and found the additional animals that were not located in the aerial census of the Goodale herd.

The Independence herd occupies approximately 33,500 acres, and numbers in the neighborhood of 60 animals.

The Mount Whitney herd was introduced in January 1972, and occupies an area of 30,000 acres. This herd totals 5 animals. We have had several deaths in this herd, but gained a couple of animals through new births this year.

The Lone Pine herd ranges over 18,500 acres and totals approximately 58 to 62 animals.

The California Fish and Game Department was not able to locate all of the animals during their aerial census, so you may find some variance between the Bureau of Land Management's report and the California Fish and Game Department census for this year.

We had a biologist in this area following the migration routes of these animals and trying to determine their habits. He was able to determine about how many were there.

We located approximately 380 to 400 animals in the Owens Valley during the last census.

We do have a potential problem developing in regard to the California Big Horn sheep winter concentration area. Any increase in the elk herd, especially in the Goodale area, must take into consideration the effect on the Bighorn sheep.

Mr. LEGGETT. You indicate there are about 380 to 400 animals.

What is the margin in those numbers?

Mr. POPE. I would estimate about 10 percent error in the aerial census. That is a rough guess.

I say roughly 10 percent because often you are flying at high altitudes and are unable to locate the elk under trees, brush, etcetera.

Mr. LEGGETT. So the range could possibly be, instead of 380 to 400, it could be a high—as many as 440 and a low of 342?

Mr. POPE. Yes.

Mr. LEGGETT. Well, you can revise or extend those remarks if you want to.

Mr. POPE. I believe 10 percent is a conservative answer.

Mr. LEGGETT. Well, do you think that the man on the ground, his estimates are reasonably accurate?

Mr. POPE. Yes, I do.

Mr. LEGGETT. Now, the target for the Bureau of Sport Fisheries and Wildlife is 500, as has been indicated by Mr. Schmidt?

Mr. POPE. Do you mean the Bureau of Land Management?

Mr. LEGGETT. Yes.

Mr. POPE. I would say we should take into consideration the recommendations of the California Department of Fish and Game as to the population of elk the area would support. Through the studies completed in connection with them, we feel that the area can support in the neighborhood of 500 animals. Under present conditions, I would say this should be the maximum.

Mr. LEGGETT. Now, under the present conditions, you do not anticipate limiting grazing land in this particular area?

Mr. POPE. No, except perhaps on BLM administered lands.

I would say the area could support the target population under present conditions by grazing.

Mr. LEGGETT. As presently managed and with the present ownership of land as is, right?

Mr. POPE. Yes.

Mr. LEGGETT. And you would anticipate then that Owens Valley in these 5 different locations could support a herd of some 500 target Tule elk animals, is that correct?

Mr. POPE. Correct.

Mr. LEGGETT. What is the amount of Federal expenditure per year in the Owens Valley for the Tule elk?

Mr. POPE. Presently I do not have those figures.

However, I would surmise that it is principally the salary of the resident biologist. We also are engaged in a 5-year study in the valley designed to gather all available information on food requirements,

calving and rutting areas, migration routes and concentration areas.

Mr. LEGGETT. Now, the views of the Department of the Interior, which developed the negative analysis on this legislation, I believe, were premised on the fact that we were targeting toward 2,000 animals in the Owens Valley.

Considering the fact that the authors of the legislation have reorganized their target toward 500, which appears to be synchronized with what the Bureau of Sport Fisheries and the State of California are targeting, from a biologist's standpoint, and not committing the Department of Interior, do you think there would be objection to the legislation?

Mr. POPE. From a wildlife biologist's standpoint, I have no objection to the legislation.

Mr. LEGGETT. Mr. Schmidt, you can continue.

Mr. SCHMIDT. All right, sir.

There has been little recent change in the Cache Creek herd. The 100–125 Tule elk found there may represent the maximum carrying capacity of the range.

A series of management studies on Tule elk have been undertaken in this area similar to those being carried out in the Owens Valley. We feel that an increase in the Tule elk population is desirable only as long as the number of animals do not exceed the carrying capacity of the range.

The Tule elk is a resident animal which is not now endangered, and we think their management should be the primary responsibility of the State. Jointly with the State, areas have been identified which would provide range for 4 distinct herds numbering about 1,000 to 1,200 animals.

We are firmly convinced this multiple approach is preferable and will adequately provide for the perpetuation of the Tule elk.

Mr. LEGGETT. Is the 4 State herds numbering 1,000 to 1,200 each?

Mr. SCHMIDT. No.

Four distinct herds totaling about 1,000 to 1,200 animals.

California has an excellent biological stac and an outstanding and comprehensive fish and wildlife program funded in part by the Federal Aid to Wildlife Restoration program.

Since this program's inception in 1938, California has received in excess of $23 million. Of this total $150,000 has been spent in the past 15 years for work on the Tule elk.

I know the Committee and the distinguished Chairman are extremely pleased with the success of our Federal aid program which emphasizes the restoration of wildlife. Legislation providing increased funding for wildlife restoration has been introduced. This program has been eminently successful.

Through this unique grant-in-aid effort, we have provided the States the tools. I think we should give the State a chance to use them.

Our Department is prepared to manage our lands, where possible, in cooperation with the State to insure that the Tule elk remains a permanent part of the natural scene. Specific legislation on this animal is unnecessary and could be detrimental to the existing Owens Valley herd.

Thank you, Mr. Chairman.

Mr. LEGGETT. When you indicated that the Colusa Cache Creek Basin would not support any additional animals, did you include in your analysis the construction and the effects of the Indian Valley project on Cache Creek which currently is underway?

Mr. SCHMIDT. Mr. Chairman, I will need some help from Mr. Pope.

Mr. POPE. Yes. We took into consideration the proposed Indian Valley Dam.

Of course the dam is going to be in this area off the map. It would have no effect on the present herd in the Cache Creek area.

The total habitat area here is approximately 57,000 acres of which 16,000 acres is BLM land.

The main herd area is outlined in red on the map. This area supports approximately 110 animals.

The areas outlined in green on the map have had recent sitings and are supporting about 16 elk. We have had a 2-year study going in Cache Creek in which we are trying to obtain enough information to write a habitat management or recovery plan for the Tule elk in the area. This will hopefully be completed in the next fiscal year.

In the area outlined in blue on the map, we have located approximately two animals. Highway 20 goes right through this particular area evidently acting as a barrier to their movement.

Mr. LEGGETT. Those two animals that you have found there, have you identified their gender?

Mr. POPE. They are actually elk.

Mr. LEGGETT. But are they male or female?

Mr. POPE. Oh, I am sorry. I think it was two females that were found.

Mr. LEGGETT. That does not do us much good there.

Mr. POPE. No. However they may be able to entice males to join them.

Mr. LEGGETT. Mr. Schmidt, what is the annual expenditure of the Bureau of Sport Fisheries and Wildlife on the Tule elk?

Mr. SCHMIDT. On the Tule elk in Owens Valley or——

Mr. LEGGETT. On the Tule elk worldwide.

Mr. SCHMIDT. Worldwide—this would be a judgment.

Mr. LEGGETT. Give me a ballpark estimate.

Mr. SCHMIDT. I would say perhaps less than a man-year in time consisting of participation on the task force I mentioned earlier, and including time spent on coordination, correspondence, and preparation for legislation.

Mr. LEGGETT. Without the bill, what would be the expenditure by the Department?

Mr. SCHMIDT. Well, if I translated that into dollars and cents, I would say approximately $15,000 to $20,000.

Mr. LEGGETT. On the first page of your statement, you stated,

> However, one of the more important facets of this legislation is the determination that the Tule elk is deemed to be threatened with extinction for the purposes of section 6 of the Land and Water Conservation Fund Act.

Is that a correct statement?

Mr. SCHMIDT. Yes, sir.

Mr. LEGGETT. Would that be an important legislation to be made?

Mr. SCHMIDT. Yes, sir, in the event that the current legislation passes, I believe the Bureau would have to make a determination regarding the Tule elk, with regard to a status as a threatened species.

And, quite frankly, if we had to rank the Tule elk, in order to so categorize it, a number of other species would probably have priority. The Tule elk might not rank even in the first 50 animals, [or perhaps even in the first 100] in terms of its population being threatened.

What we are trying to point out is that other species probably rank higher in priority in terms of being threatened.

Mr. LEGGETT. What you are saying is that even though the animal is, in fact, endangered, that fact should not be declared by either the Congress or by the Department of Interior, is that right?

Mr. SCHMIDT. I think there may be a little misunderstanding on this point.

Tule elk is not on our list as an endangered species.

Mr. LEGGETT. Is it a threatened species?

A VOICE. Yes.

Mr. LEGGETT. I just want Mr. Schmidt to—just the witness.

Mr. SCHMIDT. No, sir. The term "threatened species" has no present authority. It shows up in the new endangered species legislation.

The Endangered Species Act of 1973 would establish two classes or categories of danger. One, endangered, and the other, threatened with becoming endangered.

Mr. LEGGETT. I believe, in your 1973 edition, page 263, you do have an item entitled "Tule Elk."

Are you acquainted with that?

Mr. SCHMIDT. No, sir, I am not.

Mr. LEGGETT.. If you were acquainted with that, would that modify your testimony here today?

Mr. SCHMIDT. I have someone here who could help clear this particular point up, Mr. Chairman, if you would permit me to introduce him.

Mr. LEGGETT. Certainly. I would be glad to have any assistance.

Mr. SCHMIDT. Mr. Dave Marshall from our Office of Endangered Species.

Mr. LEGGETT. Mr. Marshall?

Mr. MARSHALL. Thank you.

Under the terms of the Endangered Species Conservation Act of 1969, the act currently in force, the Tule Elk is not listed as endangered.

It does appear in our "Red Book" entitled "Threatened Wildlife of the United States."

The "Red Book" contains endangered species. It also contains writeups on species for which we have special concern. Although we titled this book "Threatened Wildlife of the United States," it has no particular status in terms of the law.

The term "threatened" does not apply to our present authority under the 1969 Endangered Species Act.

The proposed Endangered Species legislation would have two list-

ings or categories. One, endangered, and the other, threatened. If that legislation were enacted the Tulk elk might be considered a candidate for listing as a threatened species. But the term threatened does not have any statutory meaning at this time. It is just a title for the book.

Mr. LEGGETT. Counsel has an observation he would like to make for the record at this point.

Mr. EVERETT. The Tule elk could qualify as a threatened species under the bill now under consideration by the House and Senate, could it not?

Mr. MARSHALL. It would be a candidate, yes, but the list of species that would be threatened under the new act has not been prepared.

Mr. LEGGETT. Very good.

Thank you very much, Mr. Marshall, for clearing that up.

I think I have no other questions at this time.

At this time, Mr. Goodling?

Mr. GOODLING. Very briefly, Mr. Chairman.

Mr. Schmidt, are the feeding habits of the Tule elk and cattle similar?

Mr. SCHMIDT. Biologist say that the Tule Elk is more of a browser, feeding on woody plants, whereas the cattle are grass eaters.

However, in drought years some degree of competition may take place, especially in the winter months.

Mr. GOODLING. Are there Tule elk in the United States other than in California?

Mr. SCHMIDT. There are several in zoos. Those are the only ones that I am aware of, sir.

Mr. GOODLING. How about worldwide?

Mr. SCHMIDT. None that we are aware of.

Mr. GOODLING. All we have are in California?

Mr. SCHMIDT. To the best of my knowledge, yes, sir.

Mr. GOODLING. I am curious to know what an elk fence is. I am familiar with a deer fence, but I am not familiar with the elk fence.

Mr. SCHMIDT. In terms of the San Luis range, we would like to keep the elk within the refuge without having depredation problems on the outside.

I envision it as a hurricane fence, probably 10 feet high.

Mr. SMITH. The one we are in favor of and programing for on the San Luis refuge would be 7 feet high and woven wire, about No. 10 weight, and it would be supported by metal posts.

Mr. GOODLING. Did you say to prevent depredation from the outside?

Mr. SCHMIDT. No, sir.

We would like to keep the elk after they are transplanted within the refuge. The fence would keep them from drifting outside of the refuge onto adjacent lands and causing some degree of depredation.

Mr. GOODLING. I have known deer to go over an 8-foot fence.

Mr. SCHMIDT. I do not believe the Tule elk is as fast——

Mr. GOODLING. Were there any young observed in 1973?

Mr. SCHMIDT. I will have to ask the local man to respond to that question.

Mr. POPE. Yes, throughout the State we had many births. Within the Whitney herd we had two births this year. Unfortunately, we lost one of them.

Mr. GOODLING. What was the cause of the loss, do you know?

Mr. POPE. Presently, I could not say.

Mr. GOODLING. That is all, Mr. Chairman.

Mr. LEGGETT. Thank you very much.

Mr. McCloskey?

Mr. MCCLOSKEY. Mr. Schmidt, as I understand the Department's decision, you have been cooperating with the State to bring their level up to some 1,200 animals.

In these studies, and your work thus far, have you not allocated the money on this San Luis Range in the amount of $108,000? You have $79,000 raised.

If it should be the intent of the Congress to try to assist the State of California first to get up to this 1,200 size herd that they apparently agreed is possible on lands now identified and ultimately to 2,000 if additional lands are obtained. What, in your judgment, can the Federal Government do or should it do to assist you in defense of these two measures?

Mr. SCHMIDT. I think the primary direction that we would like to see taken in terms of the Tule elk is to get some diversity in these herds, to keep them spread out.

I do not think total numbers are the most important thing so long as we introduce sufficient elk at San Luis Refuge a viable population, one that can sustain itself.

To me it does not matter whether it is 50 or 100, unless there are some values that I am not acquainted with.

To assure the perpetuation of this elk, we would like to place some limitations on the spread of disease. This is an important consideration when animals are down to the numbers of the Tule elk. If one herd is devastated by disease, those in other areas may still be safe.

This is the direction in which our Department would like to move. I think our anticipated efforts at San Luis and at Point Reyes would complement the herds that now exist in the Owens Valley and the Cache Creek area.

Mr. MCCLOSKEY. Then, the best thing we can do, I assume, is a line item appropriation for these two items that you identified, and then override a Presidential veto if we so choose. Would there be any other action that you suggest?

Mr. SCHMIDT. I think we have indicated to this committee that we would like to move ahead and build a fence on both areas; it remains a matter of priorities.

I would like to have an opportunity to consider the 1975 budget, to see how the $108,000 compares to other priorities. It may well be that the cost of the fencing will wind up in the 1975 budget request.

Mr. MCCLOSKEY. You indicated the one danger to the existing Tule elk herd in the Owens Valley would be in the event of drought, in which case it would be competition.

What is the Department prepared to do in the case that there is that kind of drought to exist?

What do you do with the Tule elk if a drought exists?

Mr. SCHMIDT. Well, what I visualize is quite a bit of competition occurring on the valley floor. As to what options are available, I am again going to ask for help from Mr. Pope.

Mr. MCCLOSKEY. I wonder if I could broaden that question to refer to your statement here, that there was no competition between cattle and the Tule elk except possibly in periods of drought.

Mr. POPE. Not "no competition", but little competition.

Mr. MCCLOSKEY. Where do they differ?

Mr. POPE. Basically, we found that in the areas of BLM-administered lands, competition has been found to be very minor, and in lean years, when we have very little vegetation, cattle grazing on BLM's lands is limited.

If there is nothing available for the cattle, the ranchers do not usually bring them out.

We only have 5,000 AUM's allotted in the valley, and they do not heavily utilize it during bad years because there is just not anything there for the cattle to eat.

We have found that most of the grazing is on the city of Los Angeles lands which consists of between 91,000 and 95,000 acres of land with a potential of approximately 108,000 AUM's.

Returning to your question, I would say that during bad years there is probably little that could be done if we permitted the population to grow beyond the present carrying capacity. In a bad year we could lose a lot of elk.

Mr. MCCLOSKEY. Is there anything that the Congress could enact by way of legislation in this bill that would put the Bureau of Land Management, Department of Interior, under an obligation to take such action necessary to preserve that herd?

Mr. POPE. I would say the best thing that could be done is supplemental feeding.

Mr. MCCLOSKEY. This is my question. Under existing law, would the Department of the Interior feel any obligation to provide that supplemental feeding for a species which is not endangered but would fit under the threatened category because of the new legislation?

Mr. SCHMIDT. Yes, we practice this in Jackson Hole now. A sizable number of elk come down in that area and we supplement their feed either with baled hay or pellets.

Mr. MCCLOSKEY. Could we be assured, without passing any additional legislation, that the Department would move to preserve the Tule elk herd at this point in the event that these conditions should arise in future years?

Mr. SCHMIDT. Yes, sir, I think it is a concern of the Department but I do not wish to cut the States out of this, either.

As I indicated earlier, I feel that California has one of the best conseravtion programs around, and based on what I know about it, I cannot imagine them allowing a situation like this to get out of hand.

Mr. MCCLOSKEY. Well, we have seen in recent years under financial structures—they have an initiative before the voters now to limit taxation—there may be new priorities.

What I am interested in this respect is whether or not without existing law, that should you become satisfied the State has done everything it can within its priorities, would the Bureau help it out?

Mr. SCHMIDT. Yes, indeed.

Mr. MCCLOSKEY. You have that assurance?

Mr. SCHMIDT. Yes, sir.

Mr. MCCLOSKEY. I do not have any further questions, thank you.

Mr. LEGGETT. Thank you very much, Mr. McCloskey.

We have your assurance, but how do we know about your successor, Mr. Schmidt?

Mr. SCHMIDT. I believe there is also precedent under the Surplus Commodity Act where grain or other types of feeds can be made available to States in the event their herds or species like the elk are in serious threat of starvation. Grain has been made available to States in such situations.

Mr. LEGGETT. Now, prior to the time that we initiated legislation, did your Department have any plans to introduce the Tule elk on Federal lands, particularly the San Luis and the Point Reynes National Park?

Mr. SCHMIDT. To the best of my knowledge, Mr. Chairman, consideration of such action has been given in the last 2 or 3 years as a result of the joint task force study.

Mr. LEGGETT. And the joint task force resulted from the legislation being introduced?

Mr. SCHMIDT. Yes, sir, together with the activities of some of the people in California who gave a high degree of visibility to the Tule elk situation.

Mr. LEGGETT. Very good.

Now, is not it a fact that we can establish a refuge without in fact initiating eminent domain proceedings?

Also, isn't it a fact that you can declare a refuge on Federal lands without taking the Federal lands again?

Mr. SCHMIDT. Yes, sir, I think this can be done.

Mr. LEGGETT. And the private lands involved, you can in fact take a nominal lease of private lands which would allow existing nonconforming uses or uses which are not in consistent with the refuge to continue?

Isn't that a fact, those practices have been exercised in the past?

Mr. SCHMIDT. Yes, sir.

Mr. LEGGETT. And now considering the fact that the scope of the legislation has been narrowed by testimony, to 500 target species in the Owens Valley and considering the fact that that appears to be the target of our own Department and likewise the State of California, do you still have objections to the legislation?

Mr. SCHMIDT. Yes, sir, in consideration of the Federal-State relationship question.

Mr. LEGGETT. Would you itemize those objections, 1, 2, 3, 4, 5?

Mr. SCHMIDT. We have a major grant-in-aid program designed to assist the States in bringing about wildlife restoration. In my judgment——

Mr. LEGGETT. How many Tule elk? We spent $150,000 since 1938.

Mr. SCHMIDT. Yes, sir.

Mr. LEGGETT. And how many Tule elk have we generated with that $150,000?

Mr. SCHMIDT. I think I ought to make it clear, Mr. Chairman, that this amount is only $150,000 of grant-in-aid funds. I have no idea what additional funds the State of California spent on the Tule elk.

Mr. LEGGETT. You have no idea whatsoever?

Mr. SCHMIDT. No, sir.

Mr. LEGGETT. How many Tule elk were created by that Federal expenditure; do you have any idea?

Mr. SCHMIDT. No, sir, I do not know.

Mr. LEGGETT. It might have been a very costly ineffective program considering the fact that we have only about 570 Tule elk in the State at the most.

Mr. SCHMIDT. Yes, sir, but I think what has come out of this is an in-depth look at the Tule elk. There now exists a pretty good understanding of what might have to be done to keep the Tule elk off the endangered species list. It is important to prevent a population decrease to that level.

Mr. LEGGETT. Considering the fact that the Federal Government does not have $108,000 for the two fences you indicate would be desirable and the fact that this may not get into your 1975 budget, since it is clearly not in the 1974 budget that has already cleared the conference, would it be possible for legislation to be enacted which would allow for the State of California to perhaps install these fences on Federal land and allow for reimbursement to the State at a later time?

Mr. SCHMIDT. Yes, sir, I think that is possible.

Mr. LEGGETT. Counsel, do you have any questions?

Mr. EVERETT. Thank you, Mr. Chairman, just a few brief questions.

Mr. Schmidt, the legislation indicates that any refuge that would be created would be managed in an ecologically and environmentally sound manner and I understand there are a number of endangered species as well as other wildlife in this area that would benefit from the establishment of such a refuge.

I wondered if you could address yourself to that point, that is, how the other wildlife, especially the indangered wildlife, would benefit from the establishment of a refuge.

Mr. SCHMIDT. I am not knowledgeable on this particular point. I may have to call on our endangered species expert at this point.

Mr. LEGGETT. If you could provide that information for our record, it would be helpful.

Mr. SCHMIDT. I would be pleased to.

[The information follows:]

BENEFIT OF REFUGE

We believe there would be very little benefit to wildlife values other than the Tule elk in Owens Valley. There would be little, if any, land use change, perhaps less cattle grazing on private land. Some esthetic values would be increased, but there would be no significant increase in wildlife benefits in addition to the Tule elk above what are presently there.

Mr. EVERETT. Also, if you will provide for the record the estimated cost to the Federal Government for the next 5 succeeding fiscal years, including the current fiscal years if the legislation is enacted into law.

Mr. SCHMIDT. We would be most pleased to so report.

[The information follows:]

COST OF LEGISLATION TO ESTABLISH TULE ELK NATIONAL WILDLIFE REFUGE

	Operation and maintenance	Development	Total
Balance fiscal year 1974	$50,000	$50,000	$100,000
1st Year	180,000	250,000	430,000
2d Year	180,000	500,000	680,000
3d Year	180,000	500,000	680,000
4th Year	180,000	750,000	930,000
5th Year	180,000	500,000	680,000

Note.—Partial list of the development and operational and maintenance cost: shop, storage, scheduled tour route, service roads, water development, fence, sub-headquarters, posting. Land acquisition: $38,000,000.

Mr. EVERETT. Should this legislation be enacted, can you indicate at this time what effect it would have on the city of Los Angeles?

Mr. SCHMIDT. Mr. Pope?

Mr. POPE. I have some figures and information on estimated costs for land acquisition.

We have found that the City of Los Angeles owns between 91 and 95,000 acres in the valley. Their representatives in Bishop estimate the cost of purchase of this land as approximately $38 million, $24 million for the land and $14 million for the water rights held by Los Angeles.

To this point, Los Angeles has been cooperating with the Bureau and with the State of California's department of fish and game and all of the other Federal agencies in studies and other projects that have been carried on to gain the information needed for a comprehensive wildlife management plan for the Owens Valley.

Mr. EVERETT. Mr. Schmidt, it is not necessary under the legislation that you acquire the city of Los Angeles lands. As Mr. Leggett indicated, should a refuge be established, could you not obtain some sort of easement so that these lands would not be taken off the tax records and could not some sort of cooperative agreement be entered into with respect to any of the areas described in the bill, in lieu of acquisition?

Mr. SCHMIDT. Yes, sir, I think so. But, I return to the question of whether the Federal Government ought to do this or leave the responsibility with the State.

Mr. EVERETT. I am speaking now of the refuge for the Tule elk.

In our 1970 hearings, there were indications that a number of other species could benefit from such a refuge and some of these species fall within the jurisdiction of the Department of Interior.

Mr. POPE. Yes, sir.

Mr. EVERETT. One question with respect to the State law.

The California State legislature passed a law which indicated that the Owens Valley area would be limited to 490 or any greater

number hereafter determined by the Department in California with the game management principals in being—would you interpret that to mean that we are not limited to 490; that actually the range may possibly carry up to 600? Under State law, we could increase this number to 600 if the range could carry them, could we not?

Mr. SCHMIDT. You mean in the event that a Federal refuge was established?

Mr. EVERETT. Well, whether the refuge is brought about or not.

In other words, this is not a ceiling on the number of animals that can be placed in the Owens Valley area?

Would you agree with that statement?

I do not know whether you have had a chance to make a study of this particular point, if not, you supply a response for the record.

Mr. SCHMIDT. We would be glad to do that, Mr. Everett.

[The information follows:]

LIMITATION OF REFUGE

The limitation (31 Cal. Code 3951) on the number of tule elk in the Owens Valley to 490 is qualified in the statute by allowing the Department of Fish and Game to increase this limit to "any greater number . . . in accordance with game management principles." This supports our desire to limit the capacity of tule elk on the refuge according to the dictates of range conditions in order that a healthy and productive herd can be maintained.

Mr. EVERETT. What effect does the State law have on the legislation should we enact legislation to authorize the creation of a refuge?

You might supply the answer to that question for the record, if you will.

Mr. SCHMIDT. All right, sir.

[The information to be supplied follows:]

EFFECT OF LEGISLATION ON STATE LAW

The California Code (31 Cal. Code 332) prohibits the Fish and Game Commission from allowing tule elk to be taken until the herd "exceeds 2,000." Accordingly, it would be our policy not to permit hunting on the refuges as a means of harvesting healthy excess tule elk until this number is exceeded, unless, of course, there would be damage to the refuge. The size of the refuge herd could be limited by removal of animals for relocation to other areas. The Commission is specifically charged with the responsibility of moving excess animals to other places in California. If no suitable areas remain, and the herd is still under 2,000, the Director of Fish and Game is to so state in his required reports so that the legislature may act accordingly.

Sick or inferior tule elk may be culled and destroyed by California Fish and Game personnel (31 Cal. Code 3951), when this is "done for the protection, enhancement, and healthy increase of the species." Detailed reports are to be submitted to the Commission.

Mr. LEGGETT. Maybe we ought to have that established.

If we establish a refuge in the Owens Valley area and the other three areas that we have talked about, which involve Federal lands and some private lands, and assuming that perhaps the Federal lands that we use remain as they are, and certain leases were taken which allowed for existing compatible uses, what would be the effect of that on the State expenditure funds under their existing program?

Mr. SCHMIDT. Well, in the event that a Federal refuge was established in Owens Valley, I presume the State would expect us to finance it.

Other aspects of the management of the Tule elk, that is in other areas, could be financed through the State or grant-in-aid funds that they receive from us.

Mr. LEGGETT. Is that your main objection to the legislation, that perhaps the $155,000 that we are giving now to the States, plus their matching funds, might evaporate into other programs, and that burden would be placed on the Federal Government in the event this legislation were enacted?

Mr. SCHMIDT. No, sir, Mr. Leggett, not at all.

I think again we are dealing with the matter of State jurisdiction, that this State has proved its competency.

We are dealing with a resident species and in my judgment, the States can do a good job of managing them with some cooperation and assistance from the Federal Government in areas like Point Reyes and San Luis refuge.

Mr. LEGGETT. Would it not be helpful to put in legislative form our support for your action in San Luis and in the Point Reyes area?

Mr. SCHMIDT. Well, possibly. I do not question the judgment of the folks who have a warm spot in their hearts for the Tule elk, but there are innumerable other species which are in worse shape than this animal here.

Mr. LEGGETT. I know, but we can only address one animal at a time.

Mr. SCHMIDT. Yes, I understand that.

Mr. EVERETT. Mr. Schmidt, there are other animals that you might give some consideration to. The antelope might be introduced in this area as well as other species.

I would appreciate it if you would supply a response to that statement.

Mr. SCHMIDT. All right, sir.

[The information to be supplied follows:]

INTRODUCTION OF OTHER ANIMALS IN REFUGE

We would recommend against the introduction of antelope or any grazing or browsing species into Owens Valley if it is determined desirable to produce the maximum number of elk within the limits of good animal and range management. Such introduced animals would compete with the elk for food, particularly during periods of drought when food is scarce. In fact, the existing deer population will require close surveillance to insure their numbers do not become a significant limiting factor to elk density.

There are several small marshes within the valley that could be managed for waterfowl. Improvement that could be made in these marshes, other than preserving their existing productivity, is limited.

The endangered American peregrine falcon, Southern bald eagle and the prairie falcon are occasional visitors to the valley. Establishment of a refuge in this area could mean a greater degree of protection for these birds. The Owens pupfish which is also presently on the United States list of endangered species is confined to several small areas in Fish Slough, near Bishop, and a small pond north of Big Pine. Measures are underway to rehabilitate its habitat. Other anticipated measures include establishment of additional populations in the Owens Valley. Again, establishment of a refuge might mean additional

protection for this species. All land owners in the Owens Valley have been most cooperative in efforts to ensure the continued existence of the pupfish.

Mr. EVERETT. In your statement, Mr. Schmidt, you refer to $79,000 for the Point Reyes National Seashore.

Would that money be coming from the Bureau of Sport Fisheries and Wildlife or would it be coming from the National Park Service, if this program is carried out on National Park Seashore land?

Mr. SCHMIDT. I would hope it would be coming from the National Park Service.

Mr. EVERETT. The $108,000 you mentioned, would be expended on a National Wildlife Refuge, and I assume those funds would come from your budget.

But I would like you to indicate for the record, if you know at this time, whether the $79,000, any or all of it, would come from the Sport Fisheries and Wildlife budget.

Mr. SCHMIDT. The $79,000 would come from the National Park Service's budget.

Mr. EVERETT. I would like to know the effect of this legislation on the Endangered Species Act.

If the Tule elk is determined to be threatened with extinction under the new definition of the Endangered Species Act, then the monies in the Land and Water Conservation Fund could be utilized for acquisition of areas within the Owen Valley area of California, could they not?

Mr. SCHMIDT. That is correct, sir.

Mr. EVERETT. Also, any other funds authorized in that legislation could be utilized, such as for management or improvement, other than in land acquisition. I wish you would respond to that statement also.

Mr. SCHMIDT. Fine.

[The information to be supplied follows:]

ENDANGERED SPECIES CONSERVATION ACT EFFECT ON H.J. RES. 204

The Endangered Species Conservation Act of 1973, if enacted, would provide for listing animals either as endangered or as threatened. The Act would further provide for various degrees of management and protection depending on the category in which the animal is listed. If the Tule Elk is determined to be threatened and is listed, it would be unnecessary to enact specific legislation such as H.J. Res. 204. Depending on the budgetary constraints of the endangered species program established by the proposed Endangered Species Act, various management activities could be undertaken to promote recovery of the elk. Authority would be available to utilize Land and Water Conservation Fund Act money for habitat acquisition if habitat was determined to be necessary for recovery of the species. If either H.R. 37 or S. 1983 are enacted, there would be authority to enter into a cooperative agreement with the State and provide financial assistance for management of endangered and threatened species.

Mr. EVERETT. Thank you, Mr. Chairman.

Mr. LEGGETT. Very good.

Thank you, Mr. Schmidt.

I think we have exhausted our questions, and we thank you for your statement and report.

Mr. SCHMIDT. Thank you.

I appreciate the opportunity to appear before you all.

Mr. LEGGETT. Our next witness is representing the Department of

Agriculture, Mr. Everett R. Doman, Director, Division of Wildlife Management, National Forest System, Forest Service.

Mr. Doman, your statement, as prepared, will appear in the record as is delivered. I see you have an enclosure. The enclosure will also be included.

Nice to have you here, Mr. Doman.

STATEMENT OF EVERETT R. DOMAN, DIRECTOR, DIVISION OF WILDLIFE MANAGEMENT, FOREST SERVICE, DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY DONALD STRODE, ASSISTANT DIRECTOR, FOREST SERVICE, WILDLIFE MANAGEMENT DIVISION

Mr. DOMAN. Mr. Chairman, I have one other Forest Service employee with me today that I would like to introduce, Mr. Donald Strode, who is Assistant Director of the Division of Wildlife Management.

My testimony is quite short, and I will read it.

Mr. Chairman and members of the Committee, thank you for this opportunity to present the views of the Department of Agriculture on House Joint Resolution 203 and House Joint Resolution 204, joint resolutions to establish the Tule Elk National Wildlife Refuge within the Owens River watershed area in Inyo County, Calif.

The Department of Agriculture recommends that the proposed legislation not be enacted.

The Department does not believe that it is necessary to establish a wildlife refuge in order to assure the survival of the Tule elk in the Owens River area.

Planning and action by the California Department of Fish and Game, the Bureau of Land Management, the Forest Service of this Department, and others have resulted in healthy populations of Tule elk in Owens Valley that are generally suited to the available range.

In carrying out its role in the development of the Tule elk herd, the Forest Service has reduced livestock grazing on adjoining national forest lands to avoid competition between elk and livestock.

The condition of the range and the interaction of elk and livestock is being monitored, and further reductions in the number of livestock will be made whenever it is deemed necessary.

Thus, the objective of subsection 2(b) of the joint resolutions to assure that adjoining national forest lands will be administered to supply adequate forage for the Tule elk has already been accomplished.

In support of the Department's recommendation, I would like to bring to the subcommittee's attention a recent major study of the Tule elk. A report published in the University of California "Publications in Zoology," volume 88, by Dr. Dale R. McCullough, entitled "The Tule Elk—Its History, Behavior and Ecology," concludes that "The potential for increasing the elk population in Owens Valley even if domestic stock were reduced is quite limited. Most of the potential for increased numbers lies in expansion to presently unoccupied range." The "unoccupied range" referred to is located in the Whitney area of Owens.

Dr. McCullough also states that "a population of about 400 head is suggested for Owens Valley when the Whitney herd develops."

The study indicates that management of Tule elk in the Owens Valley area has resulted in developing a herd near the optimum size which the area is capable of sustaining permanently.

In conclusion, we suggest that existing authorities are adequate to protect and preserve the California Tule elk herd.

Mr. Chairman, I have attached to my prepared statement some additional excerpts from the study made by Dr. McCullough, which I think may be informative to the subcommittee in its consideration of the proposed legislation.

This concludes my prepared testimony. I will be happy to respond to any questions the subcommittee may have.

Mr. LEGGETT. Thank you very much, Mr. Doman.

The excerpts will be included in our record at this time.

[The excerpts follow:]

ELK—CATTLE COMPETITION IN OWENS VALLEY

(Excerpts from McCullough: The Tule Elk. University of California Press, Berkeley, California, 1969.)

"Foods (of elk) during the spring and summer consist largely of forbs and ditch bank vegetation, including willow leaves and twigs. In winter, browse supplemented with dry grasses is more important."

"Competition between elk and cattle in the foothill areas may occur whenever the two species occupy the same range. Competition between cattle, horses, and elk in the bottomlands is minor, since the elk take mainly forage which is unavailable in winter for domestic stock. On the other hand, elk make relatively light use of coarse, dry grasses, the major winter forage for stock. Competition between deer and elk occurs in the Goodale area where both species make heavy use of bitterbrush."

"It is assumed that removal of domestic stock will allow a proportionate number of elk to occupy the range vacated. My range studies clearly show that the kinds of food taken in the bottomlands by domestic cattle and horses in the winter are of little importance to elk. In fact, they take very little of this forage during the summer when stock is out of the valley. —The fact of the matter is that complete removal of domestic stock would be of minor benefit to the total carrying capacity of the *valley floor* for tule elk."

"Increasing the number of bottomland elk would have a second, and usually unrecognized, danger. Population pressure would tend to cause the closing of the gaps now present between most of the Owens Valley herds. In the event of an outbreak of a virulent disease, there would be nothing to prevent it from passing throughout the entire population from one end of the valley to the other. —While the gaps between herds exist, there is a fair chance of a disease outbreak running its course within one herd area, or being checked by sacrificing only one herd by shooting."

"The potential for increasing the elk population in Owens Valley even if domestic livestock were reduced is quite limited. Most of the potential for increased numbers lies in expansion to presently unoccupied range."

"Eventually it will be necessary to control all of the fierra elk herds to prevent range deterioration, particularly as regards bitterbrush."

"Thus the total population of about 400 head is suggested for Owens Valley when the (new) Whitney herd develops."

"In summary, on the basis of the biology of the tule elk, there is little justification for creating an inviolate sanctuary in Owens Valley."

Mr. LEGGETT. I have read them and they appear to recommend a maximum of 400 head in the Owens Valley with or without cattle grazing limitations.

I wonder if you could make the entire study of Mr. McCullough available to the subcommittee on this subject for our review.

Mr. DOMAN. I suppose we could.

This is a publication of the University of California, and I suppose we could get a copy of it for you.

Mr. LEGGETT. If you could obtain that and deliver it to the committee, I would appreciate it very much.

[The study was too voluminous to print in this hearing.]

Mr. LEGGETT. Now, considering the fact that the testimony of the supporting witnesses has narrowed the scope of the bill to a target of some 500 Tule elk, in the Owens Valley, and considering the fact that the Bureau of Sport fisheries and Wildlife Service indicated that the valley would support that number, and also recommend perhaps herd expansion in other areas of Federal lands, do you have continued objections to this legislation?

Mr. DOMAN. Yes, I think we would, Mr. Chairman.

Mr. LEGGETT. Could you itemize those, please?

Mr. DOMAN. We, the Forest Service, work very closely with the California Fish and Game Department in managing of wildlife, all species of wildlife.

We have a joint agreement with the California Department of Fish and Game that they will be responsible for the phases of management that concern the animals.

We are responsible for the phases of management that concern the national forest lands.

I think we would object to any legislation that would take this authority away from the California Fish and Game Department.

Mr. LEGGETT. So, considering the fact that the herds are as limited as they are, and the fact that there are only 570 animals in the State of California, of which 400 of those are in Owens Valley, more or less, and the fact, as you have indicated in your statement, particularly in the statement of Mr. McCullough, that one of the herds perhaps could be sacrificed during an epidemic, if that herd were the Owens Valley herd, would you then think that this species might be threatened or endangered?

Mr. DOMAN. The real worry of Dr. McCullough about the effects of disease on elk was largely related to what the effects might be right in Owens Valley.

At present, there are five distinct herds in Owens Valley. He was quite concerned that there not be a population built up in Owens Valley so that there would be one continuous herd. In such a situation a disease like anthrax could sweep throughout the whole Owens Valley and wipe them out. At present, the elk herds are segregated by a number of miles.

If a disease got started in one of these little segments of the Owens Valley herd, it could probably be confined to that segment.

Mr. LEGGETT. Now, are there Tule elk now in national forest lands?

Mr. DOMAN. Just on the fringes. This legislation would not include, in the refuge, any areas of national forest land.

The way it is worded, the refuge boundary would abut the Inyo National Forest on both sides of the valley. Another of our concerns

is that the Goodale herd range is being overgrazed right now with present numbers of elk and deer and bighorn sheep that are in there.

In 1963, we could see this overgrazing coming and we canceled a permit for domestic sheep that was using this area. Then, in 1965, we discontinued cattle use of that range because we could see that it needed all the protection it could get.

At the time we took these cattle off, we constructed, with the Bureau of Land Management, a fence between the two jurisdictions so that the cattle that graze below on BLM lands and city of Los Angeles land, could not get in this key area for elk.

We are concerned about the condition of the range which has to be the final determination on how many elk we can have.

Mr. LEGGETT. What would be your estimate of the amount of money that you spent with your agency on these elk over the past 5 years?

Mr. DOMAN. We will get that for you. It is very nominal.

[The information to be supplied follows:]

EXPENDITURES FOR TULE ELK

U.S. Forest Service expenditures for management and protection of tule elk habitat during the past 4 years are as follows:

1970 (for Goodale Range drift fence)	$1,800
1972 (for Goodale Range drift fence)	1,300
1973 (for Goodale Range drift fence)	2,200
Total	5,300

Mr. DOMAN. Other than the fence that was built, and the portion of our biologist's time devoted to elk studies and elk management, there has been very little other Forest Service money spent.

We have made attempts to try and improve the range by planting bitterbrush. We find that bitterbrush, although it did not occur on the native Tule elk range, is a very highly palatable and nutritious plant. We have tried to plant bitterbrush on elk and deer ranges in Owens Valley with very little success.

This is a marginal range for Tule elk when you get up as high as the national foresty boundary. And it is marginal from other aspects, too.

It gets very little moisture and our attempts to improve the national forest lands by cultural means has not been productive.

This impresses upon us the importance of managing what we have within its capacity.

Mr. LEGGETT. Do you think the herds might have a much better change for expansion if areas of the north, like San Luis and the Point Reyes Park and Colusa area are utilized?

Mr. DOMAN. I certainly do.

Mr. LEGGETT. All right.

I have no further questions.

Mr. GOODLING

Mr. GOODLING. No questions, Mr. Chairman.

Time is running on.

Mr. LEGGETT. Very good.

Mr. McCloskey?

Mr. McCLOSKEY. I read your statement as objecting to the legislation, but I do not understand why. Everything the legislation does, you say you are already doing.

Mr. DOMAN. Well, we do not think there is need for additional legislation, Mr. McCloskey.

Mr. McCLOSKEY. I understand that, but why do you object to the legislation?

Mr. DOMAN. One of our prime objeections is that this is going to result in increased numbers of elk in Owens Valley that could be putting more pressure on the national forest range.

Mr. McCLOSKEY. I do not understand. You say you have limited grazing to provide for 500 elk. You heard the testimony today proposing a limit of 500 elk; why do you have an objection to the 500 elk?

Mr. DOMAN. I did not indicate that the 500 elk is in conformance to the capacity of the range. Right now, we are getting pressures on the range with less than 500 elk.

Mr. McCLOSKEY. But you say in your testimony you have taken the steps provided in the section 2(b), the section of Agriculture. As far as I know, this is your own responsibility under the act.

The Secretary shall, to the extent practicable, limit grazing and other public usage in a manner appropriate of the resolution. You are already doing that, are you not? You say in your statement you are.

Mr. DOMAN. Yes.

McCLOSKEY. Then why would you object to what you are doing being written into law?

Mr. DOMAN. We do not object to that.

Mr. McCLOSKEY. Well, then, what do you object to?

Mr. DOMAN. We object to building the elk herds up beyond present numbers without careful consideration of the range grazing capacity.

Mr. McCLOSKEY. 500. The purpose is to build it up to 500. You do not object from going from 380 to 500?

Mr. DOMAN. We think it would be a better objective to build the elk herds up to the capacity of their range without specifying any definite number.

Mr. McCLOSKEY. But the State of California, which you say you agree with, has determined that 500 is a reasonable number for the range. Do you disagree with their statement?

Mr. DOMAN. I tend to agree with Dr. McCullough, who made a thorough study of the range and came up with the conclusion that this range would not support more than 400.

Mr. McCLOSKEY. So 400 is your number and not 500. Is that the only dispute that you have under this legislation?

Mr. DOMAN. I would not call it a dispute. We are worried about another wildlife species that occur on national forest lands adjacent to the Tule elk range, Mr. McCloskey. We are worried about the California Bighorn and expansion of the Tule elk herds that is occurring right now into the Bighorn winter range.

This has developed in the last year or two as the elk have built up from 270 to 340, and possibly to 380 now.

Mr. McCloskey. That is only a good Tule elk herd that infringes on that now?

Mr. Doman. Yes, the Goodale elk are moving into higher country, and we think this may be putting undue pressure on another rare species.

Mr. McCloskey. I do not mean to contest anything you say. I value your judgment. The protection that you are giving the Bighorn and the elk is fine, but I find difficulty in establishing in the statute, for example, that you did not want to cooperate with the Forest Service. The act was written to provide for that cooperation under that arrangement.

I have no further questions.

Mr. Leggett. Thank you very much.

Mr. Everett, do you have any questions?

Mr. Everett. Just one question.

Mr. Doman, you can supply this for the record if you will, the cost of the legislation to the Department of Agriculture, if any, in case this legislation is enacted into law the next 5 succeeding years, and the current fiscal year.

Also please supply for the record the number of grazing permits that the Agriculture Department has issued to the Forest Service in livestock grazing on the lands adjoining this refuge and indicate whether the grazing permits are to the residents of the area or to absentee leases.

Also, if you would, indicate how much forest acreage supports each one of the herds in the Owens Valley area.

Mr. Doman. Mr. Everett, we can get you this information again. We did supply this information to you in March of this year with a table.

Mr. Everett. If you would offer it for the record, or if you will supply us with another copy, we would appreciate it.

Mr. Doman. We will do this.

[The information to be supplied follows:]

Cost of Legislation

Cost of the legislation to the Department of Agriculture in the current fiscal year and next five succeeding fiscal years, if enacted. Should the legislation become law, the Forest Service would have to reevaluate the carrying capacity of the livestock allotments now occupied, in part, by tule elk to determine the maximum numbers of elk each could support. Tule elk would be given forage priority over domestic livestock. As tule elk numbers increased domestic livestock would be removed from the allotments. The program to accomplish this action is as follows:

$1,500 fiscal year 1974, design evaluation program, manpower needs, sample plot locations, etc.

$6,000 fiscal year 1975, initiate range survey as outlined above. Probably need to hire two range technicians to do field work.

$2,000 fiscal year 1976, complete habitat management plan and initiate livestock reductions if needed. Conduct annual field sampling of transects, plots, forage utilization, etc.

$1,500 fiscal year 1977, range administration costs.

$1,500 fiscal year 1978, range administration costs.

$1,500 fiscal year 1979, range administration costs.

GRAZING PERMITS ISSUED BY U.S. FOREST SERVICE ON NATIONAL FOREST LANDS ADJOINING THE PROPOSED TULE ELK REFUGE AS OF OCTOBER 1973

Allotment	Permittee	Permitted livestock No.	Animal unit months	Acres
Mazourka	Lona Burkhardt	50	50	15,800
Waucoba	Lona Burkhardt	80	240	42,265
Independence	Keith Bright	120	240	18,315
Georges Creek	Catherine Spencer	42	125	6,130
Alabama Hills	Catherine Spencer	8	48	14,160
Taboose	Catherine Spencer	44	110	5,200
McMurry Mdws	Mike Connors	50	175	9,935

Note: All permittees reside in the Owens Valley area.

Acres of national forest lands occupied by tule elk in Owens Valley by herd unit

Herd unit:	Acres
Bishop	5,410
Tennemaha	2,400
Goodale	2,850
Independence	10,850
Whitney	6,000
Total	27,510

Mr. EVERETT. Thank you, Mr. Chairman.

Mr. LEGGETT. Thank you, Mr. Doman, for your testimony.

The next witness is Dr. John Grandy, the administrative assistant for the wildlife and parks of the National Parks and Conservation Association.

Dr. Grandy, we have your statement, I presume.

STATEMENT OF DR. JOHN W. GRANDY, IV, ADMINISTRATIVE ASSISTANT FOR WILDLIFE, NATIONAL PARKS AND CONSERVATION ASSOCIATION

Mr. GRANDY. Yes, sir.

Mr. LEGGETT. If you would proceed as you wish, your statement will be incorporated in the record at this point as if you had read it in full.

Mr. GRANDY. Yes, sir. Thank you.

I am John Grandy. It is a pleasure for me to appear before you to support House Joint Resolution 204 and the similar measures.

We have long needed more concrete protection for the endangered Tule elk. And as this fine committee is well aware, the only way to insure survival of any species is to insure the preservation and adequate management of the necessary habitat.

One minor suggestion, in agreement with Mr. Schmidt's suggestion earlier. I think the bill should contain adequate provisions to allow the species to be stocked in other areas so that, in effect, we do not put all our eggs in one basket.

I notice with delight the authorization for adequate appropriations. We hope we can all do our best to see that such appropriated funds are, in fact, released for expenditure by the Office of Management and Budget.

In that regard, I commend you and this finee committee for your diligent efforts in attempting to obtain sufficient funding for wild-

life refuges and wetland acquisition in spite of the activities of OMB.

I want to make two additional points here.

First of all, I have no criticism with the management that the personnel from the State of California have been giving to the Tule elk.

This legislation, as I understand it, would simply assure the protection of the habitat and make primary the survival of the endangered Tule elk. Therein, with the accompanying stamp of Federal approval, lies the main value of this legislation.

I have, in addition, no objection, if it is necessary, to the limitation of 500 as opposed to the 2,000 elk.

Thank you very much.

Mr. LEGGETT. Thank you very much for your testimony, Dr. Grandy, and for the qualifying phrases. And it appears to read, from what I can see, that we are really not scrapping about too much in this legislation.

I think it is through the motivating act of organizations, such as you represent, that some special concern is now being given by Federal agencies to the Tule elk.

We want to thank you for that.

Mr. McCloskey?

Mr. MCCLOSKEY. I would just like to add that it appears that the governmental concern for the Tule elk has the genuine support and interest of organizations such as yours.

We thank you for that.

Do you see any objection in our modifying the legislation for the numbers which have been indicated by the Government witnesses—nor not necessary for the legislation——

Mr. GRANDY. Pardon me, sir. I did not get your question.

Mr. MCCLOSKEY. I am specifically thinking of this target number of 2,000, this 400 or 500 in the Owens Valley, and the rest to be increased.

The State's efforts thus far have been looking toward a target number of 2,000 or 400 or 500 in the Owens Valley.

Do you have any objection to the proposed target number?

Mr. GRANDY. No, sir.

And I would prefer, as a biologist, to let it rest with the carrying capacity of the land.

Mr. MCCLOSKEY. As determined by the State and some direction by us that the Federal Government provide?

Mr. GRANDY. Yes, sir.

And, too, I want to make—I made it clear, I think, in my testimony, but to reiterate that I would like to see the transplant as they have begun, being started before the carrying capacity of the land is reached.

I think you know, to reiterate the habitat is the main thing. And this legislation would provide protection for the habitat and make that primary.

Mr. MCCLOSKEY. Thank you very much, Mr. Chairman.

Mr. LEGGETT. Very good.

Thank you very much, Dr. Grandy, for your testimony.

The next witness is Mr. Guy Hodge, Director of Information and Legislation, The Humane Society of the United States.

Mr. Hodge, we have your testimony and it will be included in our record at this point as though you had delivered it.

We welcome any comments you may care to make at this time.

STATEMENT OF GUY R. HODGE, DIRECTOR OF INFORMATION AND LEGISLATION, THE HUMANE SOCIETY OF THE UNITED STATES

Mr. HODGE. All right, Mr. Chairman, I will try to do that.

Legislation for the Humane Society of the United States.

My name is Guy Hodge, and I am Director of Information and I am also today representing the Society's West Coast Regional Office, which is located in Sacramento.

I will just make two brief comments.

The first, dealing with existing wildlife management programs. Past efforts to protect and manage the elk herds have been of great concern to the Society.

For several years the California State Fish and Game Commission attempted to maintain harmony between conservationists and agricultural interest groups by controlling the Tule elk population at 250 to 300 animals through a series of public hunts.

In 1962 the commission permitted the slaughter of 59 animals, and again in 1964, 50 hunters were granted permits for taking elk.

The most controversial hunt occurred in 1969, when 80 animals were killed. The slaughter reduced the Tule elk population from 335 animals in 1969 to a dangerously low of 228 animals in 1970.

In 1971, the California Fish and Game personnel, firing immobilizing guns from a helicopter, killed three of five pregnant cow elk being captured for relocation. One of the surviving animals which was moved to a new area immediately returned to her old habitat.

In addition, the State of California authorized five "surplus" elk to be sent to Guadalajara, Mexico, as a permanent display. After a hopelessly disorganized 16-day journey the animals were returned to the herd.

One more important factor deserves consideration. That is the establishment of a Tule Elk National Wildlife Refuge would serve to protect a number of species threatened with extinction, including the Sierra big horn sheep, the California cougar, the Southern Pine marten, the desert tortoise, the golden trout, and the Owens Valley pupfish, which are all found in the Owens Valley in the same habitat as the Tule elk.

House Joint Resolution 204 epitomizes international efforts to protect endangered species. I would, however, like to draw the committee's attention to the inadequacy of that portion of the proposed legislation dealing with the distribution of the elk herd.

Within the limited confines of the present habitat of Tule elk, any significant natural or human disturbance might result in the extinction of these magnificent animals.

The Humane Society of the United States, therefore, respectfully suggests that provision be made for the reestablishment of Tule elk

in other portions of their former range still containing satisfactory habitat.

The society supports H.J. Res. 204, and related measures. We urge swift enactment of legislation to preserve the Tule elk.

Mr. Chairman, thank you for permitting me the opportunity to testify.

This concludes my statement.

Mr. LEGGETT. Thank you very much, Mr. Hodge. Your statement has been very helpful.

In your view of this legislation, do you envision that the Federal Government would spend $38 million to acquire lands in the Owens Valley for development of this herd?

Mr. HODGE. Again, I would say, with candor, the society feels the same way that the National Park and Conservation indicated they felt, which was, there is a question as to what the habitat can support, and what habitat is necessary. Our primary concern is with the preservation of the animals, and this might be best accomplished by distributing their range.

Mr. LEGGETT. Very good. I want to thank you for your testimony.

Mr. McCloskey?

Mr. MCCLOSKEY. Just one question.

You mention this fish and game statement, or difficulty in 1971. Do you have any objection to the State department of fish and game being the managing agent of this wildlife refuge?

Mr. HODGE. Again I think not. If the elk are properly preserved, we are not concerned with who manages them, and we are not concerned with the area where they are maintained.

Mr. MCCLOSKEY. I assume you would know about it, with all the publicity in the area——

Mr. HODGE. We were active in it. I would not say we jumped on it. It was primarily brought to the attention of the public by the Committee For the Preservation of the Tule Elk.

Mr. LEGGETT. Thank you very much, Mr. McCloskey.

Mr. Hodge, your full prepared statement will appear in the record.

[The statement referred to follows:]

STATEMENT OF GUY R. HODGE, DIRECTOR OF INFORMATION AND LEGISLATION, THE HUMANE SOCIETY OF THE UNITED STATES

Mr. Chairman, my name is Guy R. Hodge, Director of Information and Legislation for The Humane Society of the United States, a national animal welfare organization with headquarters in Washington, D.C. I am, today, also representing The Society's West Coast Regional Office, which is located in Sacramento, California. The Society appreciates the opportunity to express our views on proposed legislation to protect tule elk.

The tule elk, usually considered a separate species, is a small, pale member of the American elk family. While census surveys have been erratic, the present population of tule elk is estimated at under 500 animals. Usually, the cow elk mates when she is approximately 2½ years old. After an 8½ month gestation period, the cow will give birth to one calf.

Tule elk principally inhabit a sixty mile long section of the Owens Valley in California on the eastern side of the Sierra Nevada mountains. The 320,000 acres which is home to 340 elk is part of a watershed area owned by the city of Los Angeles. A transplanted free-roaming herd of approximately 80 head is

located in the Cache Creek area 80 miles northwest of Sacramento. Another 40 animals are part of a semi-tame captive herd maintained on the Tule Elk Reserve State Park near Bakersfield.

As with many native endangered species, the tule elk have been victims of commercial hunters. The primary decline in the elk population came between 1850 and 1872 when the animals were slaughtered on the perimeter of gold rush towns for their meat and hides. Extinction of this species was avoided only because a small herd of 28 animals managed to hide itself in the tule marshes north of Buena Vista Lake.

Abortive attempts to provide a natural home for the tule elk have occurred sporadically since the early 1900's. The elk is now protected in its state park range by a 1971 California Act permitting the herd's size to rise to 2,000 animals. Unfortunately, this range is small and the animals have become highly domesticated in their behavior. There is, therefore, no real sanctuary for free-roaming tule elk herds at the present time.

Efforts to protect the tule elk have been hampered by the encroachment of civilization and the reduction of available range through cultivation. Cattlemen and farmers resent the wild elk, fearing that it will compete with livestock for forage and damage crops. The agricultural interests feel that the preservation of the tule elk is incompatible with commercial use of the Owens Valley area.

Past efforts to protect and manage the elk herds can only be described as commercially oriented ventures lacking in sound management theory. For several years the California State Fish and Game Commission attempted to maintai nharmony between conservationists and agricultural interest groups by controlling the population at 250 to 300 animals through a series of public hunts. In 1962, the Commission permitted the slaughter of 59 animals and again in 1964 50 hunters were granted permits for taking elk.

The most controversial hunt occurred in 1969 when 80 animals were killed. The slaughter reduced the tule elk population from 335 animals in 1969 to a dangerously low 228 animals in 1970. Society personnel attending the hunt reported animals herded by aircraft to sites where hunters were stationed. Most of the elk were shot at ranges of 550 yards or more without any serious effort to determine their physical condition or age.

In 1971 California Fish and Game personnel firing immobilizing guns from a helicopter killed three of five pregnant cow elk being captured for relocation. One of the surviving animals which was moved to a new area immediately returned to her old habitat. In addition, the State of California authorized five "surplus" elk to be sent to Guadalajara, Mexico as a permanent display. After a hopelessly disorganized 16 day journey, the animals were returned to the herd.

The Humane Society of the United States believes that there are four basic criteria for explaining why the tule elk population should be preserved. Ethically, we recognize that Man is a part of the natural world; he cannot separate himself from it without losing an important part of his own heritage. Every needless or avoidable destruction of a fellow creature is in some sense a derogation of human dignity. The aesthetic factor recognizes that natural beauty is a vital part of man's cultural heritage. The scientific factor recognizes that the natural world is the ultimate source of all human knowledge. Finally, the economic factor recognizes the valuable commercial asset represented by properly maintained animal populations.

The establishment of a tule elk national wildlife refuge would serve to protect a number of species threatened with extinction, including the Sierra bighorn sheep, the California cougar, the southern pine marten, the desert tortoise, the golden trout and the Owens Valley pupfish.

H.J.R. 204 epitomizes international efforts to protect and preserve endangered species. I would, however, like to draw the committee's attention to the inadequacy of that portion of the proposed legislation dealing with the distribution of the elk herd. Within the limited confines of the present habitat of tule elk, any significant natural or human disturbance might result in the extinction of these magnificent animals. The Humane Society of the United States, therefore, respectfully suggests that provision be made for the re-establishment of tule elk in other portions of their former range still containing satisfactory habitat.

Congress has a unique opportunity to insure that the tule elk's long struggle

for survival has not been in vain. The Humane Society of the United States supports House Joint Resolution 204 and related measures. We urge swift enactment of legislation to preserve the tule elk through the establishment of a national wlidlife refuge in the Owens Valley. On behalf of The Humane Society of the United States, I want to express our gratitude to the distinguished sponsors of the measures before this committee and, in particular, to you, Mr. Chairman, for your leadership in efforts to save the tule elk.

Mr. Chairman, this concludes my statement. I will gladly attempt to answer any questions which the committee might wish to ask. Thank you for permitting me to testify.

Mr. LEGGETT. Our last witness this morning will be Mr. Louis S. Clapper, director, Conservation Division, National Wildlife Federation.

Mr. Clapper, your statement will be included in the record, and likewise the resolution of your group, numbered 73–74, supporting the enactment of legislation.

You may proceed in any way you like.

[The document referred to follows:]

STATEMENT OF LOUIS S. CLAPPER ON BEHALF OF THE NATIONAL WILDLIFE FEDERATION

Mr. Chairman, I am Louis S. Clapper, Director of Conservation for the National Wildlife Federation which has its national headquarters at 1412 Sixteenth Street, N.W., here in Washington. D.C.

The National Wildlife Federation is a private organization which seeks to attain conservation goals through educational means. It has affiliates in all 50 States, Guam, Puerto Rico, and the Virgin Islands. These Affiliates are composed of local groups and individuals who, when combined with associate members and other supporters of the National Wildlife Federation, number an estimated 3½ million persons.

We appreciate the invitation to comment up H.J.Res. 204 and identical proposals (H.J.Res. 203, 270, 297, 336, 376, 413, 436, 449 and 507).

Mr. Chairman, we do not believe that the Subcommittee should act favorably upon H.J.Res. 204 and others to authorize the establishment of a Tule Elk National Wildlife Refuge in the Owens River Watershed Area of California. We concur in, and support, the position of our Affiliate, the California Wildlife Federation, which opposes creation of a Tule Elk National Wildlife Refuge in this area, a copy of which is attached.

To summarize, we oppose creation of a Tule Elk Refuge, as proposed, for these basic and fundamental reasons:

The Tule Elk is a native wildlife species which rightfully comes under jurisidiction of the State of California, and there is no evidence that the State is managing this species in anything but a sound and scientific manner which will ensure its perpetuation;

Tule Elk are not threatened with extinction and the establishment of a national wildlife refuge in Owens Valley cannot be justified on grounds of a need to preserve the species;

State agencies already are working with Federal agencies and other groups in efforts to establish new Tule Elk herds at suitable locations;

Once additional appropriations from the Land and Water Conservation Fund are authorized, there are more critical areas of acquisition needed to protect endangered species;

Congress would do well to approve an organic Act for the Bureau of Land Management with provisions giving that agency more authority to move positively in the protection of endangered species;

In conclusion, Mr. Chairman, we see no need for the enactment of H.J. Res. 204 and hope the Subcommittee will see fit not to report it to the full Committee.

Thank you again for the opportunity of making these remarks.

RESOLUTION CWF No. 73–7

TULE ELK NATIONAL REFUGE IN THE OWENS VALLEY, CALIFORNIA

Whereas legislation (SJR–6, HJR–204 and HJR–376) has been introduced in the U.S. Congress that would establish a Tule Elk National Refuge in the Owens Valley of California, and

Whereas this legislation directs that "The refuge shall be managed so as to build and sustain a herd of Tule Elk which at not time numbers less than 2,000," and

Whereas available habitat in this area can support less than 1,000 animals in a healthy condition, and

Whereas Tule Elk which are native to the central valleys of California were introduced into this area under a joint agreement with the City of Los Angeles, Inyo Associates, and the California Department of Fish and Game, and

Whereas these elk have increased in numbers and range under the stewardship of the Department of Fish and Game, and

Whereas the Tule Elk is a resident wildlife species that is adequately protected by both State law and Fish and Game Commission policy, and

Whereas there are other herds of Tule Elk in California, and

Whereas there is no evidence or justification for considering Tule Elk an endangered species, and

Whereas scientists who have studied the Tule Elk in the Owens Valley have concluded there is "little justification for creating an inviolate sanctuary in the Owens Valley," now therefore be it

Resolved, That the California Wildlife Federation opposes legislation to create a Tule Elk National Refuge in the Owens Valley of California.

Adopted This 24th day of June, 1973

HAROLD R. HOCHMUTH,
President, California Wildlife Federation.

STATEMENT OF LOUIS S. CLAPPER, DIRECTOR, CONSERVATION DIVISION, NATIONAL WILDLIFE FEDERATION

Mr. CLAPPER. In view of the time, I would like to merely summarize.

Mr. LEGGETT. Please do.

Mr. CLAPPER. I would like to point out in the statement who my organization is, and my position with it.

I would like to point out that while we certainly favor preservation of the Tule elk, we do not believe that the subcommittee should act favorably upon the establishment of a Tule Elk National Wildlife Refuge in the Owens area watershed of California.

We have indicated our concurrence and support of the position of our affiliate, which you already introduced in the record.

To summarize, we oppose the creation of a Tule Elk Refuge, as proposed, for these basic and fundamental reasons:

The Tule elk is a native wildlife species which rightfully comes under the jurisdiction of the State of California, and there is no evidence that the State is managing this species in anything but a sound and scientific manner, which will insure its perpetuation.

Tule elk are not threatened with extinction, and the establishment of a National Wildlife Refuge in Owens Valley cannot be justified on grounds of a need to preserve the species.

State agencies already are working with Federal agencies and other groups in efforts to establish new Tule elk herds at suitable locations.

Once additional appropriations from the land and water conserva-

tion fund are authorized, there are more critical areas of acquisition needed to protect endangered species.

Finally, we hope that the Congress will approve an organic act for the Bureau of Land Management, with provisions giving that agency more authority to move positively in the protection of endangered species.

In conclusion, Mr. Chairman, we see no need for the enactment of House Joint Resolution 204, and hope that the subcommittee will see fit not to report it to the full committee.

Thank you for the opportunity of appearing.

Mr. LEGGETT. Very good. Thank you very much, Mr. Clapper.

My earlier presentation with respect to your resolution will be modified, and I would point out that the record now stands on the legislation, three plus and three minus.

Mr. McCloskey, would you care to comment at this point?

Mr. MCCLOSKEY. Mr. Clapper, your statement was drawn with respect to House Joint Resolution 204, which you originally read?

Mr. CLAPPER. That is correct, sir.

Mr. MCCLOSKEY. I take it your organization does share, in the last paragraph of the comments, that we ought to approve an organic act for the Bureau of Land Management with provisions giving that agency more authority to move positively.

Mr. CLAPPER. That is correct.

Mr. MCCLOSKEY. You have no objection. I can understand your reservation about taking $38 million for taking this particular property.

But you do agree with the purpose of the act, to give all Federal assistance to preserve the Tule elk?

Mr. CLAPPER. We think the Tule elk should be preserved, and we have no hangups about numbers, as you have questioned other witnesses.

If you want to phase out the grazing entirely, that would not be wrong, from our point of view.

Mr. MCCLOSKEY. Your organization does not protect cattle.

Mr. CLAPPER. No, sir, but we urge that it be donee in a professional manner. We think the State has done a good job, and we think they are moving along in a very fine manner, and we see no need for the legislation that is what we think.

Mr. MCCLOSKEY. Even to write into law what the Interior Department, BLM, the Department of Agriculture, has been kind enough to do in the last couple of years as a result of public interest?

Mr. CLAPPER. Well, we see no need, Congressman.

We think that the agencies have worked very well in the past.

I came out of a State wildlife agency background myself, and I know how this can work, and we see no real need for this.

At the time when several wildlife refuges are being cut back, or curtailed in operations, I do not know really what the Federal Government can add materially to what is already being done for the Tule elk.

Mr. MCCLOSKEY. Thank you very much.

Mr. LEGGETT. Very good, thank you very much, Mr. Clapper.

The statements of Hon. Jerome R. Waldie and Mr. Edward Roybal, supporting the legislation, will be included in our record immediately after the remarks of Hon. Alan Cranston.

The meeting will now stand adjourned until 2 o'clock, at which time Mr. de la Garza of Texas will preside.

(Whereupon, at 12:07 p.m., the subcommittee recessed, to reconvene at 2 p.m., the same day.)

AFTERNOON SESSION

Mr. DE LA GARZA (presiding). The subcommittee will be in order, and we will continue our hearings of this morning on the Tule Elk National Wildlife Refuge resolutions, and we will be very happy to hear from, our distinguished colleague from California, Hon. Robert B. Mathias.

STATEMENT OF HON. ROBERT B. MATHIAS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA, ACCOMPANIED BY INYO COUNTY BOARD OF SUPERVISORS, JOHN K. SMITH, COUNTY ADMINISTRATOR AND HERB LONDON, MEMBER OF THE BOARD, INYO COUNTY SCHOOL ADMINISTRATORS; DONALD N. TAYLOR, SUPERINTENDENT, BISHOP UNION HIGH SCHOOL, CITY OF BISHOP, CALIF.; WILLIAM W. MAYHUGH, MAYOR, BISHOP CHAMBER OF COMMERCE AND INYO ASSOCIATES; DENTON SONKE, MANAGER, CHAMBER OF COMMERCE; INYO MONO CATTLEMEN'S ASSOCIATION, CARL PEARCE, DIRECTOR, CALIFORNIA CATTLEMEN'S ASSOCIATION; BIG PINE, CALIF., MICHAEL CONNOR, PRESIDENT, BOARD OF TRUSTEES, BIG PINE UNIFIED SCHOOL DISTRICT; LONE PINE CHAMBER OF COMMERCE, L. W. HANENKRAT, PRESIDENT

Mr. MATHIAS. Mr. Chairman, I do have a prepared text, and I was prepared to read it. What I would prefer to do is to leave most of my time to the eight citizens from the Owens Valley who are here tod.ay

So I will submit my statement for the record, Mr. Chairman.

But briefly, I am opposed very much to this legislation. It is simply not needed. The Tule elk are in abundance in the Owens Valley.

This afternoon we will hear testimony on the facts of the Tule elk, and the reasons that a refuge is simply not needed in this area.

The State of California has done a fine job in recent years in taking care of the Tule elk. They do have future plans for taking care of the elk. I have been assured by the people in the Owens Valley, that they do not plan to destroy the Tule elk—just the opposite.

They have lived very nicely over many years with the Tule elk, and they do plan to keep the Tule elk there, and so we will always have the Tule elk in that area.

So very briefly, the bill that you are hearing today, House Joint Resolution 204, in my opinion, is simply not needed. It is a very bad piece of legislation, and at this time, Mr. Chairman, I will submit my presentation into the record.

Thank you.

Mr. DE LA GARZA. It will be included in the record, Mr. Mathias.

Thank you.

[The statement follows:]

STATEMENT OF HON. ROBERT B. MATHIAS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. Chairman, colleagues, I come before this distinguished committee today to express my adamant opposition to H.J. Resolution 204 and the other similar measures being considered, regarding the establishment of a Tule Elk Wildlife Refuge in Inyo County, California. The proposed refuge is wholly within my congressional district in a part of Inyo County known as the Owens Valley.

With me today are eight Inyo County citizens who are representing the varied facets of the county. All of these men are here to express their opposition and that of the people they represent.

After all of the testimony is completed, two truths should appear evident, first, Federal Legislation is unnecessary to protect the Tule Elk which, by the way, is not on the endangered species list: and secondly, the damage to the people of Inyo County can be irreparable if the proposed refuge is established.

It is my intention to be brief in this presentation so as to allow ample time for those very knowledgeable people, who are here to oppose this legislation, to go into more detail in the specifics with which they are concerned.

Initially, it should be understood that the Tule Elk is native to California but not to the Owens Valley. None the less, the people in the Owens Valley and Inyo County are very proud and protective of the herd located there and have lived in harmony with the Tule Elk while the herd has grown to its present size of over 325 animals. The experts from the State of California, the State Legislature, and those who have made scientific studies, particularly Dr. Dale McCullough, the leading authority on the Tule Elk, believe that 490 to 500 animals would be the maximum size herd which the Owens Valley could expect to accommodate under reasonable and acceptable wildlife management practices. Those practices which have been responsible for the herds excellent growth to date can obviously continue without establishing a Federal Wildlife Refuge.

The State of California has passed legislation to prevent the hunting of Tule Elk until the various combined herds, including the one in the Owens Valley, exceeds 2,000 animals. The California Department of Fish and Game has committed itself to continue the successful campaign to increase the size of the herd. From California State Senator Howard Way, we have proof that the California Legislature is committed to protecting the Tule Elk. At this point, I would ask to submit for the committee's consideration, Senator Way's letter dated September 13, 1973, addressed to Committee Chairman, Leonor K. Sullivan. As Senator Way points out, as soon as the Owens Valley Herd reaches its maximum size, the excess animals can be transferred to the Point Reyes National Seashore and the San Luis National Wildlife Refuge in California. Therefore, it is clear that the Tule Elk do not need another Federal Refuge because the job of protecting them and expanding the herd is being handled by the State of California in a more than adequate manner.

I would now like to discuss the other aspect of this issue. This distinguished committee will hear about the damage which will serously injure the total economy of Inyo County as well as the severe financial burden which will be thrust on the Governmental Agencies which are financed in whole or in part by the assessment of a property tax. Inyo County is nearly 98% publicly held land which obviously limits tax revenues at the outset. To remove more land from the tax rolls would be extremely harmful to the county.

The cattle industry which is a substantial economic factor in Inyo County, would be seriously jeopardized as a consequence of the proposed refuge. With the price of beef being a subject about which we have all heard much from

our constituents, it clearly is not an appropriate time to take action which would reduce the supply even further, much less cause severe injury to the individuals engaged in the business.

Today, you will hear from Representatives of Schools, the County Government, Private Enterprise, The Cattle Industry and The City of Bishop, the only Incorporated City in Inyo County.

With the public pressure to eliminate unnecessary and wasteful spending by the Federal Government which leaves to the states that which they can do for themselves without Federal intrusion, plus the fact that the Proposed Refuge in the Owens Valley can not be justified as necessary from the scientific evidence or from actual experience with the Tule Elk, and, where Federal Legislation would do great harm to an entire county, it seems clear that the measures now being considered should not be passed out of this committee.

I appreciate your hearing from my constituents on this issue and considering the evidence they are going to present.

Thank you very much.

Mr. DE LA GARZA. Now, if you would introduce those that accompany you, by name. Do you have a spokesman for the group?

Mr. MATHIAS. I would like to introduce at this time Mr. Carl Pearce, who will act as chairman of the delegation from California.

I believe Mr. Pearce has a very short slide presentation, but at this time I would like to turn it over to Mr. Carl Pearce.

Mr. DE LA GARZA. Thank you very much, Mr. Mathias. We are always happy to have you before our committee, and we will be very happy to hear from you at this time, Mr. Pearce.

Mr. PEARCE. Thank you, sir.

I spent an awful lot of time on these slides, but if you would be interested in seeing them, I would be glad to show them to you. I anticipated other members to see what the Owens Valley looks like in brief, and what our Tule elk look like at this time.

Mr. DE LA GARZA. We will be very happy to see your presentation. We do not want you to feel that your time was wasted. I assure you that our interest, and the interest of the subcommittee is not diminished at all by their absence today. Most of them have other problems, and I might also suggest, for the benefit of you here, that over the weekend, if the legislative schedule is light, many of the members stay behind in their districts to get one more day's visit with their home folks, and that is the reason for some of the absences today.

Are you set up with the staff as to lights, and so on?

Mr. PEARCE. Yes.

Mr. DE LA GARZA. Fine.

Mr. PEARCE. This first slide shows the northern boundary—proposed boundary of the wildlife refuge.

Mr. DE LA GARZA. Would you mind, just a moment, sir? I see our guests do not have the benefit of the slides, so would you all kindly join the subcommittee, and sit up here, wherever you might find a place. Just pick your favorite name, and be the member for the afternoon.

See, your effort was not wasted, Mr. Pearce.

Mr. PEARCE. You may proceed; I think we have everyone. This first slide is a picture of the northern boundaries. This would be west to east, north and south. You are standing on the White Mountains, looking down through some pine at Chalk Bluffs, and this is the northern boundary, the crest of the Sierra.

This is a typical cloudy day. This is a typical habitat throughout the valley, and again we are looking to the west at the Sierra.

Here is a wintertime scene in the lower Bishop area. You are looking to the east back of the White Mountains. This is what is called the Black Canyon area, and a group of the Tule elk on the range in the wintertime.

Here is a typical Tule elk bull, and he again is in the normal habitat of the valley.

I rather like this picture, because it shows the grandeur and the beauty of the animal, which I do not think is anything anyone can deny.

Here we are looking at a typical scene of the Tule elk on a little richer, natural vegetation in the valley. A young deer animal, and some of the cows, and in the background is the Owens River with the willow trees that traverse the valley from north to south.

This is—well, this probably could be called—well, I will not say, but this is a closeup shot as you can see it. If you are diligent and you are quiet, you can get close to these animals, and in fact, this picture was taken from a fairly close range.

By the way, all of these pictures are 1973 pictures of the elk.

My son was just north of this area this summer putting up hay, and we had 60 of the elk in the meadows all summer, and he could get quite close to them.

However, you will find in most cases it is not a case of casually wandering through the brush, and they will wait for you.

Here is another scene in the same area, showing the heads of the animals, and getting a type of the rack.

This is a group of animals that are basically at rest, even though you can notice she is pretty cute, she knows someone is taking her picture. Some of them are still laying down, and this is typical vegetation.

They have their problems as well as people.

Here is more of the meadow-type country in the valley. Although it is in limited amounts, the elk do use it extensively, and this just is typical of a group of the elk.

For instance, this is an elk being run out by the older bull, and they are developing their own herd here in the fall.

Here is a group of animals. They move from area to area and elevation to elevation.

Here we are near the Tinemaha Reservoir with a group of the elk in the vegetation.

To the back you can see the lava flow and the rubber country along the edge.

This is a typical fall day in Inyo County right now. Probably why we love the place that we are in, and although we have separate sides, we are conservationists, and we love what we have.

And again, a little bit later, toward the evening, and the quietness and grandeur of the country is certainly shown before you.

Thank you very much.

Mr. Chairman, I have a formal statement that is a little later in our presentation. If I may, I would like to call on Mr. Herb London, county supervisor, and Mr. John Smith, county administrator, at this time.

Mr. DE LA GARZA. Thank you very much.

Those are certainly excellent slides. Did you take them, personally?

Mr. PEARCE. No, sir, I am not a cameraman.

Mr. DE LA GARZA. I would like to commend whoever took them. They are excellent. Beautiful countryside, it looks somewhat like south Texas.

We will be happy to hear from you gentlemen now.

Would you identfy yourselves, please?

Mr. LONDON. I am Herbert London, a member of the Board of Supervisors of Inyo County.

I have a prepared statement, which I would like to address to you, if it is permissible.

Mr. DE LA GARZA. Yes sir, we will allow you the same privilege.

If you would rather submit for the record your statement, and just speak extemporaneously, is fine, or if you would rather read it, just suit yourself.

Mr. LONDON. I think I will read it, sir.

Honorable committee members on Fisheries and Wildlife Conservation and the Environment, the Inyo County Board of Supervisors are clearly on record in opposition to H.J. Res. 204 and all companion resolutions that would establish a Tule Elk National Wildlife Refuge in the Owens Valley of Inyo County, State of California.

I wish to remind the committee that the Tule elk of Owens Valley are a native wildlife elk species of the State of California, and have been properly protected and allowed to propagate ever since 1934 when they were first introduced to the Owens Valley.

The State of California has clearly demonstrated its ability to provide an adequate game management program for the Tule elk that has guaranteed their protection by discontinuing all elk hunts, and by promoting agreement among all pertinent large landowners of the Owens Valley to allow the free roaming of the Tule elk throughout the valley.

Under the National Environmental Protection Act, the Congress, recognizing the profound impact of man's activities on the interrelations of all components of the natural environment, particularly the profound influences of resource exploitation and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declared that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to create and maintain conditions under which man and nature can exist in productive harmony.

I submit that the Owens Valley is presently an outstanding example of where man and nature does exist in productive harmony.

The Owens Valley provides unlimited recreation for man, and a beautiful natural free-roaming habitat for the Tule elk of California, both existing in harmony with each other. This has been made possible through the full cooperation of all State and local government agencies who have resolved to provide for the full protection of the natural resources of the Owens Valley including the Tule elk.

This outstanding example of local and State government cooperat-

ing to provide environmental quality protections, as well as safeguards against the exploitation of natural resources, bolsters to the highest level the concept of "home rule at the grassroots level" as being the best form of effective government.

To destroy this local management of the Tule elk of California by establishing a Tule Elk National Wildlife Refuge would be in direct opposition to the Congressional intent under the National Environmental Policy Act. An environmental impact report on the establishment of the Tule Elk National Wildlife Refuge in the Owens Valley would bring into sharp focus the adverse effects of such a refuge on all resources, including man and the Tule elk.

If you have any questions, why I would be glad to elaborate, sir.

Mr. DE LA GARZA. Thank you very much, sir.

Is this to be the statement for the group that Mr. Pearce was introducing?

Mr. PEARCE. We each have our own.

Mr. LONDON. Mr. Smith has another statement, which he prepared.

Mr. DE LA GARZA. This is Mr. John Smith?

Mr. SMITH. Yes, I am John K. Smith, County Administrator, representing the County Board of Superivors.

Mr. DE LA GARZA. All right, sir, we will be happy to hear from you.

If it appears confusing, Mr. London, it is that your name did not appear on the list here, and we were trying to locate your statement.

We will be happy to hear from you, Mr. Smith.

Mr. SMITH. Honorable Chairman de la Garza, and members of the committee, the establishment of a Tule Elk National Wildlife Refuge within Owens Valley will seriously impair the economy of the county, jeopardize the agricultural industry of Owens Valley, restrict the multipurpose recreational use of the Owens River watershed land, and serve no useful purpose in preserving the well-being of the Tule elk.

To implement the policy of the Tule Elk Refuge, additional lands will be removed from the tax roll and placed in Federal ownership. This will further reduce the limited taxable lands in Inyo County.

The Secreary of the Interior shall be authorized to limit the issuance of grazing permits which will detrimentally effect, and possibly eliminate, the agricultural and cattle industry within the Owens Valley.

The multipurpose use of the land now enjoyed will become a secondary use. Recreational use will be restricted, thereby denying the people of southern California the use of a recreational area as it presently exists, servicing over 3,300,000 annual recreation user-days.

The Inyo County Board of Supervisors, and the people of Inyo County have been living with the Tule elk, with mixed emotions, since their introduction to the Owens Valley back in 1933. The existence of the Tule elk in the Owens Valley has been so controversial over the last 40 years that the files of the county board of supervisors, as well as the State fish and game commission, and the fish and game department, and the files of the Los Angeles Department of Water and Power, as well as the files of the Federal agencies of the

Bureau of Land Management and the U.S. Forest Service are filled with pros and cons on the existence of the Tule elk in the Ownes Valley.

When the Tule elk were first moved to the Owens Valley 40 years ago there was very little thought that in 1973 we would be seriously considering turning the Owens Valley into a Tule Elk National Wildlife Refuge. If such a proposal had been submitted 40 years ago it would have met with thunderous opposition from the people of the Owens Valley.

Today that same strong opposition among the people of Owens Valley, and in addition, strong opposition from the State of California through its fish and game department and fish and game commission, and from the Federal agencies through the Bureau of Land Management, and the U.S. Forest service and Fish and Wildlife Service has been documented and presented to your committee this opposition.

This overwhelming opposition to the establishment of a Tule Elk National Wildlife Refuge in the Owens Valley is supported by the one truly recognized expert on the Tule elk, Dr. Dale R. McCullough, who qualified himself by living with the Tule elk titled "The Tule Elk; Its History, Behavior and Ecology." Dr. McCullough's letters, studies and statements are all on file with your committee.

The people of Inyo County, through their board of supervisors, have made it very clear that they fully recognize the value of the Tule elk to the valley, as well as to the State of California, and in turn to the United States of America.

The board of supervisors have passed resolutions which they have put before you, endorsing the Tule elk as a valuable wildlife species that must be protected, and must be perpetuated.

The State of California has likewise made the same resolutions, and has set forth the required legislation to make certain that the Tule elk will be protected and perpetuated.

It has been documented here before this committee that the Tule elk is being maintained as a natural wild component of a natural health ecosystem. It has been demonstrated beyond any doubt that the present management policies of the State of California do guarantee a health existence for the Tule elk of the Owens Valley, and will allow their propagation to continue as long as that healthy condition exists.

Those same management plans guarantee that the Tule elk of the Owens Valley will never be in dire need of a suitable habitat because continuous studies on the welfare and existence of the Tule elk will in themselves guarantee that adequate feed and habitat are available for their continued survival.

There is no way that a national wildlife refuge could possibly improve on the existing management programs that the State of California presently has for the Tule elk of the Owens Valley.

On the other hand, designating the Owens Valley, which is now the free-roaming natural range for the Tule elk, as a national wildlife refuge, would bring recognition, regulations, and manmade controls into play on the Tule elk, which would be extremely adverse to

the welfare of the elk, and in turn an extremely ill-advised program.

The Inyo County Board of Supervisors, speaking for all of the people of the Owens Valley, strongly urge your committee to reject the present resolutions that would establish a Tule Elk National Wildlife Refuge in the Owens Valley.

We urge you endorse the present elk management program enforced by the State of California through their State legislature, and their State fish and game commission. The State of California has demonstrated beyond any doubt that the Tule elk of the Owens Valley have been taken care of, have been adequately protected, have been guaranteed a beautiful natural free-roaming habitat.

The Tule elk have been greatly appreciated by the millions of people who have traveled through the scenic grandeur of the Owens Valley and witnessed the Tule elk in a truly natural healthy ecosystem.

To take all of this away and replace it with the stigma of a national wildlife refuge would surely be creating a zoo-like condition with all the regulations, controls and human intrusions that go with all of our national wildlife reguges. This could very well go down in history as one of your greatest political crimes against nature. Do not ruin this beautiful natural free-roaming habitat of the Tule elk by establishing it as a refuge.

Thank you.

Mr. DE LA GARZA Thank you very much, Mr. Smith.

If you do not mind, sir, we might as well get into questions at this time.

Mr. McCloskey?

Mr. MCCLOSKEY. Thank you, Mr. Chairman.

Mr. Smith, what percentage of the tax base of Inyo County is furnished by the lands owned by the city of Los Angeles?

Mr. SMITH. We are quoting about 47 percent of our tax base is derived from Los Angeles County based lands within Inyo County.

Mr. MCCLOSKEY. They essentially own all of the valley floor and agricultural lands of the Owens Valley, do they not?

Mr. SMITH. That is correct.

Mr. MCCLOSKEY. That map behind you, that shows the portion depicted in yellow, where the five existing herds, proposed herds are, is your tax base in that county essentially limited to the areas in white?

Mr. SMITH. Yes, the bulk of our tax base is derived from this valley right here. The rest of the county being BLM, and a monument, the Death Valley National Monument.

Mr. MCCLOSKEY. Outside of a few ranches, all of that land, with the exception of immediately around the cities of Long Point and Bishop, appears to either be owned by the city of Los Angeles, or—

Mr. SMITH. That is correct, all of the pink, the yellow, is city of Los Angeles ownership.

Mr. MCCLOSKEY. Your concern, if we should pass a refuge bill, and I am talking about the second, third and fourth paragraphs.

Your second paragraph states that "to implement the policy of the Tule Elk Refuge, additional lands will be removed from the tax roll and placed in Federal ownership."

Your fear is, if we took all of the yellow land, we would be taking 40 percent of your tax base?

Mr. SMITH. That is correct.

Mr. MCCLOSKEY. The objection would be removed if we did not take the land, is that right?

Mr. SMITH. That is correct.

Mr. MCCLOSKEY. Some form of easement could be worked out that a refuge could be worked out without owning the land. There would be no problem from your standpoint?

Mr. SMITH. Not from the standpoint of the tax base.

Mr. MCCLOSKEY. Now, Los Angeles started acquiring those lands in 1960, primarily for the water rights, is that correct?

Mr. SMITH. That is correct.

Mr. MCCLOSKEY. Could you give me some idea if the water rights are not involved at all, what the value of that land is per acreage, exclusive of the water rights? How do you assess it?

Mr. SMITH. The property has been assessed, and I do not have that breakdown for you, Congressman, but I can certainly get it for you.

Mr. MCCLOSKEY. As county manager, I am sure you can tell me whether it carries 47 percent of the tax rolls.

Mr. SMITH. What was the question again?

Mr. MCCLOSKEY. How much per acre is that land assessed?

Mr. SMITH. How much is it assessed for?

Mr. MCCLOSKEY. What is the assessment per acre?

Mr. SMITH. Just a minute. I have that report from the county assessor, and I can give it to you precisely.

Mr. MCCLOSKEY. What I am interested in is a breakdown of the land there, as opposed to the value of water rights. If the Federal Government were condemning the land alone, regardless of the water rights, what would be the value——

Mr. SMITH. Well, the total taxes paid by the city of Los Angeles are $3,056,000, equal the 47 percent of the county of the taxes paid by the city, about $1,640,000 were derived from the 197 acres, city of Los Angeles lands within the proposed refuge. The balance of it is applied against the water.

Mr. MCCLOSKEY. So it is about half on the land, and half on the water?

Mr. SMITH. That is generally correct.

Mr. MCCLOSKEY. Within your county plan for the development of the county, do you show development of any part of that 197,000 acres of land for any purposes other than merely what the city of Los Angeles presently uses it for?

Mr. SMITH. No, our master plan, or general plan for the county, has zoned the city of Los Angeles lands as agricultural exclusively, and open states.

Mr. MCCLOSKEY. Now, what is to prevent the city of Los Angeles, if it chooses, with the concurrence of the county, from creating a new city up there, a new town, under our new town legislation?

Mr. SMITH. It would have to be approved by our planning commission, and our master plan for the county is definitely against any

kind of development of that type, and it is on record as being very much opposed to the development of that type.

Mr. McCloskey. If I understand this correctly, 197,000 acres of land, you are presently, from the land alone, deriving a tax revenue of $1.6 million, so you are getting about $10 per acre, or less in tax revenues per year.

Mr. Smith. That is correct.

Mr. McCloskey. There would be a powerful incentive to increase that revenue to the county, to return that revenue.

Mr. Smith. The incentive would be there, but it would be to the detriment of the county, in general, because the beauty of the area is in the natural status that it is now, and to have it overrun by people, and developments, and industry, is something that we can thank the city for today, that we do not have that.

Mr. McCloskey. Let me go back then to your third objection here: "The multi-purpose use of the land now enjoyed will become a secondary use."

The multipurpose now enjoyed is cattle grazing and Tule elk grazing, and the enjoyment of people that pass by for usage of its space. Is there any other usage?

Mr. Smith. No, that is generally it right now. It is recreational and cattle industry.

Mr. McCloskey. What are your county's revenues, based on recreational activities? Can you give us some idea of your own county budget, that is 50 percent of Inyo County, based on tourists coming in and spending money, how does it break down?

Mr. Smith. We consider recreation our No. 1 industry in the county. Now, the Tule revenues, as derived through recreational-type activities, I cannot quote that to you right now.

Mr. McCloskey. What is your total annual budget?

Mr. Smith. It is about, just about $5 million.

Mr. McCloskey. Can you tell me, roughly, of that $5 million, what is derived from sources other than the property tax—you have $3,056,000 from property tax. You have another million and a half in revenues to the county. How much of that is a sales tax, business license tax?

Mr. Smith. We do not—from the sales tax, we derive about $100,000 in sales tax. We do not have a business tax in the county. The other revenues are probably from the highway users, tax moneys collected by the State. It is a big chunk for our highways. And others, just miscellaneous small items.

Mr. McCloskey. You do not have very many ways to extract revenues from the passerby other than for recreational purposes?

Mr. Smith. That is correct; we are very limited. We do have some income from a bed tax that we do have levied in the county, again through the State, and we do levy a bed tax.

Mr. McCloskey. That is just a question, but if you had the water rights bac kfrom the city of Los Angeles, what might that property increase to in value?

Mr. Smith. Well, if the land had the waters returned to it, and it was put on the market, of course it would, it would be, probably

full, might saturate the market, and I do not know what the eventual market would be.

Mr. McCLOSKEY. Let me ask you this: Does your appraisal data reflect any recent sales of this land in the valley floor, what it sells for, have you had any up there?

Mr. SMITH. We have had very little acreage sales in the valley. But I would judge upon acreage sales it would go 2,000 plus, an acre. By lot sales they run at—as high as 10,000 to 15,000 a lot.

Mr. McCLOSKEY. Are these second home lots sales that you are speaking of?

Mr. SMITH. Some of them are for retirees. Some are second homes. However, many of them, and it is difficult to afford a lot of that cost, but someone who is involved in living in the valley as an employee there.

Mr. McCLOSKEY. Your master plan shows no change, or contemplation of the recreational use of this area. It is grazing land of the Tule elk and cattle under the present plan.

Mr. SMITH. That is correct.

Mr. McCLOSKEY. You have no changes?

Mr. SMITH. Do we anticipate any changes?

Mr. McCLOSKEY. Yes.

Mr. SMITH. No, we do not, as long as the present operation is kept intact.

Our master plan calls for it without zoning restrictions.

Mr. McCLOSKEY. In the last 2 years, have you had any proposals for zoning change affecting the valley floor that would prevent more intensive recreational use?

Mr. SMITH. No, nothing of any substantial degree. We have had some small zoning change to provide for various types of housing development for local use.

Mr. McCLOSKEY. Nothing of Marriott coming to put a Frontierland up, like Disneyland?

Mr. SMITH. No, and they would not be encouraged at all in the county.

Mr. McCLOSKEY. Do you have any communities in Inyo County that are receiving the kind of development pressures that the town of Monmouth has?

Mr. SMITH. No, we do not have those pressures in Inyo County.

Mr. McCLOSKEY. If they began to occur, you feel your county would resist?

Mr. SMITH. We definitely would. Our planning commission would resist that type of development.

Mr. McCLOSKEY. More power to you.

I want to thank you both for this testimony. You have heard the testimony before the subcommittee this morning, do you see any problems with limiting the elk herd to 400 to 500?

You apparently have that size herd now?

Mr. SMITH. No, we are clearly on record that we can live with the 500, and we feel it is a safe number to protect the Tule elk.

I want to remind the committee that our concern is to protect the Tule elk, as well as the other side is concerned about the protection.

Our concern goes a little further, in that we feel that 500 is a maximum that can survive in the Owens Valley. Anything above

that has pretty well been demonstrated, they can pretty well starve to death, or be eliminated by making one continuous herd, and then a disease could wipe them out.

So we are concerned about keeping them in five separate herds, and we feel that 500 is a maximum number that we can develop in the valley, and still have this kind of protection for the elk, and their natural free roaming State that they are now in, is ideal for the elk.

And to establish a refuge there, to try to give them some man-made protections, is just flat not necessary. They are free roaming, they are healthy, and safeguarded by their own dispersion of the herd.

Mr. McCLOSKEY. Assuming we pay $38 million to acquire all that Los Angeles lands, and turn the water over to Inyo, would that make any digerence?

Mr. SMITH. I am not sure it would be in the best interest of the Owens Valley.

Mr. McCLOSKEY. Thank you.

No further questions.

Mr. DE LA GARZA. Mr. Pritchard?

Mr. PRITCHARD. No.

Mr. DE LA GARZA. Counsel?

Mr. EVERETT. One question.

Mr. Smith, should the committee report legislation that would, in essence, limit the Owens Valley herd to 500, and provide that there be no acquisition of any city of Los Angeles lands, or any lands that would take the land off the tax rolls and would not interfere with any water rights that are presently owned by the city or county, or city of Los Angeles, and would, in essence, not interfere with any grazing rights, would your opposition to legislation be removed?

Mr. SMITH. Well, it would naturally be substantially lessened.

Mr. EVERETT. What else would bother you about the legislation other than those things?

This is what you highlight in your statement.

Mr. SMITH. Yes.

One of our basic concerns is the establishment of a refuge in itself we feel is unnecessary and could very possibly give us additional regulations in the country from the Federal level that could very well be awkward and probably and possibly detrimental to our present operation as we now know it.

Mr. EVERETT. They are all the questions I have, Mr. Chairman.

Mr. DE LA GARZA. Counsel?

Mr. ROUNTREE. No. Thank you, Mr. Chairman.

Mr. DE LA GARZA. Mr. Smith, the State legislature has passed legislation, the Senate bill—are you in agreement with that legislation?

Mr. SMITH. Yes, we are definitely in agreement and support it wholeheartedly.

Mr. DE LA GARZA. You keep referring to 500. They say 490.

Mr. SMITH. 490 is the figure that was actually given to them by the experts and Fish and Game Commission. And I am sure that the Fish and Game Department will testify to that, exactly how they arrived at that.

Mr. DE LA GARZA. Now, that legislation says that the State of California shall cooperate to the extent possible with Federal and local agencies in relocating to suitable areas.

Are you in agreement with that part of the legislation?

Mr. SMITH. Yes.

We have no objections to that at all.

Mr. DE LA GARZA. Well, basically, this is what the resolution here intends to do.

I cannot quite get the clear delineation of your opposition.

Mr. SMITH. All right. I think I can clarify that.

Mr. DE LA GARZA. With the tax base.

Mr. SMITH. The bill says to use in quite clear English that there will be a refuge established known as the Owens Valley Tule Elk National Wildlife Refuge in the Owens Valley.

It says that no number—at no time will the number of elk be less than 2,000.

Now, it is telling us very clearly that the intention here, although, this morning, we heard the legislative intent was otherwise, the bill reads very clearly that we are going to have possibility for 2,000 head.

In fact, it said that it will at no time number less than 2,000.

They are talking about the refuge, and they also spell out the refuge as being the Owens Valley Tule Elk National Wildlife Refuge.

So we can only interpret that for what it precisely states.

Mr. DE LA GARZA. Well, you understand that once a species gets below 2,000, it's endangered.

Mr. SMITH. Yes, I am familiar with that.

Mr. DE LA GARZA. I am not that familiar with the legislation, but does the legislation say it shall at no time be less than 2,000?

Mr. EVERETT. A minimum of 2,000, yes.

Mr. DE LA GARZA. And you have a basic disagreement with that?

Mr. SMITH. We certainly disagree with more than 500 head in the Owens Valley.

Mr. DE LA GARZA. What should the 2,000 apply to?

Mr. SMITH. To the State of California.

Mr. DE LA GARZA. To the Owens Valley and other areas that do not now have any?

Mr. SMITH. Two thousand head of elk elsewhere in the State of California or in the Western States certainly probably would be acceptable and give you the necessary safeguards for the number of elk.

Mr. DE LA GARZA. Do you have any historical data as to the species of the Tule elk?

Why is it different than the regular elk?

I know that in dimension it is smaller, but is it a throwback, is it a different elk?

Mr. SMITH. I think Mr. Ray Arnett of the State Department of Fish and Game, who will be testifying later, will be the expert to talk on that issue if you do not mind.

I am not really that acquainted with the Tule elk history.

Mr. DE LA GARZA. That is fine.

Now, Inyo County, is there a historical reason for the name?

Mr. SMITH. No.

The name of the county is Inyo, I-n-y-o.

Mr. DE LA GARZA. Is there a history behind that?

Mr. SMITH. Well, it is an Indian name which means the dwelling place of the Great Spirit, I believe, and there is no significance there with the elk that I know of.

Mr. DE LA GARZA. Okay. Thank you very much.

Thank you, Mr. London and Mr. Pearce.

Mr. SMITH. We do have other representatives from Inyo County listed here.

I would like to have you listen to their presentation as well, if you do not mind.

Mr. DE LA GARZA. Well, we will be very happy if you would introduce them.

Mr. SMITH. I feel that they will add new dimension to the presentation with new importance on the impact of the Tule Elk Wildlife Refuge in our valley.

Mr. DE LA GARZA. Very well, sir.

We will be happy to hear from them, yes.

Mr. SMITH. Then the next speaker would be Mr. Donald—Dr. Donald N. Taylor, who is superintendent of the Bishop Union High School, and he will make his presentation.

Mr. DE LA GARZA. Mr. McCloskey, did you want to add something?

Mr. MCCLOSKEY. No.

I just wanted to say, Mr. Chairman—I had a couple of questions that I wanted to ask Mr. Pearce as well as the local school district representatives, based on their first-hand knowledge, since they have lived in the area most of their lives.

Mr. DE LA GARZA. Yes, surely.

Mr. McCloskey has some questions that he would like to ask of you, Mr. Pearce, and also Mr. Taylor who has not testified yet.

Mr. MCCLOSKEY. Right.

Why can't we wait until all——

Mr. DE LA GARZA. Will you ask Mr. Pearce now, or shall we wait for Mr. Taylor?

Mr. PEARCE. Congressman, I am not going to read my statement.

I have several things I want to say but I am not going to read my statement.

If you want to carry on with me——

Mr. DE LA GARZA. Mr. McCloskey?

Mr. MCCLOSKEY. Mr. Chairman, perhaps we should hear all of these gentlemen and then ask the questions.

Mr. PEARCE. We anticipated everyone giving their prepared statement. You have sort of thrown us off balance.

Evidently you are going to take them and put them in the record, and so it is not necessary. Some of us are not that smooth.

Mr. DE LA GARZA. Well, the Chair will advise my colleague that we will run the committee in a very democratically oriented fashion.

Mr. MCCLOSKEY. We are privileged that the Chairman comes from an area like Inyo County, I think.

Mr. DE LA GARZA. Time is very important to both you and to us. And if five statements of the same nature with the same figures are to be read, one would suffice.

But we always allow the courtesy to the individual to make his own judgment as to whether he feels his contribution will further add to what has been presented.

So Mr. Smith has answered that question for us, and we will be very happy to hear from all your group who wish to present a statement or testify.

Mr. PEARCE. Thank you, Mr. Chairman.

I would like to ask, if I may, if Mr. William Mayhugh, mayor of the city, would come forward.

Mr. Denton Sonke, manager of the chamber of commerce.

And Mr. Michael Connor, president of the board of trustees, Big Pine Unified School District, and Mr. L. W. Hanenkrat, president of the Lone Pine Chamber of Commerce.

Mr. DE LA GARZA. Thank you very much, sir, and if you will make your presentation in the order which Mr. Pearce introduced you, we will be very happy to hear from you.

Mr. PEARCE. We will start with Dr. Don Taylor of the high school.

Dr. TAYLOR. Thank you very much, Mr. Pearce.

Gentlemen of the committee, I am going to paraphrase my comments because some of my testimony has been alluded to, so I will, in the interest of brevity, do some paraphrasing. I am speaking today on behalf of five of the school districts in Inyo County which would be affected by H.R. Res. 204.

This resolution does provide for the acquisition of land. The only land available for acquisition or purchase by the Department of Interior is owned by the city of Los Angeles.

The percentage of taxable land owned by Los Angeles, excluding surface water rights values, within those five school districts ranges from 13 percent in Lone Pine Unified to over 40 percent in Big Pine Unified School District.

I have submitted with my testimony a table pointing out the potential revenue loss to the five schools in Inyo County, amounting to a total potential loss of $923,227 plus an additional $110,000 of possible loss by the County of Inyo School Department.

This obviously would have a tremendous impact on the school districts. I could talk at some length about the services that would be reduced.

The alternative to raise the tax rate, for instance, would be unpalatable to the taxpayers in Inyo County.

We know of no remedy for the revenue loss. We are familiar with Public Law 874, and we all derive revenues under Public Law 874. They would not apply in this case if the Los Angeles lands were withdrawn from the tax rolls, because Public Law 874 funds are based on pupil counts. And there are not many pupils involved in the lands in question.

The only alternative that we know of would be to raise the tax rate for the other taxpayers and, of course, that is unpalatable to us.

So we are confronted with a potentially significant loss in revenue without any visible relief available.

The members of the subcommittee, I am sure, are aware of the pressures on schools and the possible losses, and that the impact on the schools in Owens Valley will not be overlooked.

The schools' boards of education and administrative staffs in Inyo County urge the rejection of H.R. Res. 204 as it is written.

Mr. DE LA GARZA. Thank you very much, sir.

[The statement of Dr. Taylor follows:]

STATEMENT OF DONALD N. TAYLOR, SUPERINTENDENT, BISHOP UNION HIGH SCHOOL

Gentlemen, this testimony concerning H. J. Resolution 204 is respectfully submitted on behalf of the public schools in the Owens Valley which would be affected by the adoption of the resolution to establish a Tule Elk National Wildlife Refuge.

As we understand the resolution submitted on anuary 18, 1973, provision would be made for building and sustaining "a herd of tule elk which at no time numbers less than two thousand" and for the acquisition of "any land and any easements, grazing rights, or other interests in land within the Owens River watershed area . . . suitable for carrying out the purposes of this joint resolution".

The concern of the school districts relative to the resolution is that of taxable land. More than 90 percent of the Owens Valley watershed area is now owned either by the U.S. Forest Service, the Bureau of Land Management, or the City of Los Angeles.

Most of the land available for purchase by the Department of Interior to carry out the purposes of the resolution is owned by the City of Los Angeles. While there is nothing in the resolution which requires the Department of Interior to purchase any or all of the available land for the purposes of maintaining a tule elk refuge, the authorization to do so is an inherent part of the measure.

The percentage of taxable land owned by Los Angeles, excluding surface water rights values, within five of the school districts in the Owens River watershed ranges from 13 percent in Lone Pine Unified to over 40 percent in Big Pine Unified. (See accompanying table)

In the case of the Bishop Union High School District, the potential loss of tax income on the basis of its present tax rate would exceed $178,000 out of a total expenditure budget of $1,063,295.

As the members of the subcommittee are unquestionably aware, the matter of school finance generally is a tenuous one for most schools in the country. The schools in Owens Valley are no exception.

The effects of the financial losses possible under H. J. Resolution 204 are obvious—educational services to young people would be substantially reduced. In an age when education is becoming increasingly important, such reductions would have a crippling effect on the future of the young people of the Owens Valley.

There are no known feasible remedies to the potential financial losses for schools. Public Law 874 which provides Federal funds in lieu of taxes in the case of Federally owned lands would not provide relief because those funds are based on pupil counts and a tule elk refuge would not produce many, if any, children.

California's new school finance measure, commonly known as SB 90, would not provide any compensating funds from the State. What SB 90 would do would be to allow each district to raise its tax rate sufficiently to make up for any losses in property tax income. This is tantamount to no relief at all in the light of tax payers' reactions to increased taxes.

Thus the school districts in the Owens Valley are confronted, through adoption of H. J. Resolution 204, with a potentially significant loss of tax base and a resulting severe curtailment of educational services without any visible relief.

If there were over-riding circumstances involved in the measure, such profound effects on schools might be overlooked. But other testimony to be presented to the subcommittee will indicate; (1) other negative effects on the economy and characteristics of the area, (2) that a herd of tule elk of the

optimum size of 490 head can be managed under existing laws and practices, and (3) that the people of the Owens Valley are virtually solidly opposed to the measure.

The members of the Subcommittee on Fisheries and Wildlife Conservation and the Environment cannot overlook the potentially devastating impact of the H. J. Resolution 204 on the schools of the Owens Valley.

Members of the boards of education and administrative staffs of the schools which might be affected request careful consideration of this impact and urge the rejection of H. R. Resolution 204.

ANALYSIS OF POTENTIAL LOSS OF SCHOOL TAX REVENUE, UNDER H.J. RES. 204

School district [1]	1973–74, total assessed valuation [2]	1973–74, Los Angeles assessed valuation [3]	Percent of Los Angeles to total	1973–74, total Expenditure Budget	1973–74, tax rate	Potential revenue loss [4]
Big Pine Unified	$10,057,933	$4,095,111	40.72	$683,398	$4.86	$199,022
Bishop Union Elementary	41,522,200	10,379,964	25.00	1,699,514	3.31	343,576
Bishop Union High	48,920,129	10,421,484	21.30	1,063,295	1.71	178,207
Lone Pine Unified	12,630,312	1,673,069	13.25	748,756	4.53	75,790
Owens Valley Unified	8,372,368	3,246,976	38.78	433,072	3.90	126,632
Total	121,502,942	29,816,604	24.55	4,628,035		[5] 923,227

[1] There are two other school districts in Inyo County: Round Valley Elementary and Death Valley Unified which would not be affected by H.J. Resolution 204.

[2] Total base: Secured and unsecured including State assessed property before deduction for Homeowner and Business Inventory Exemption.

[3] Los Angeles land within the boundaries of the proposed tule elk refuge. Excludes values within towns. Excludes surface water right values.

[4] Potential revenue loss if all Los Angeles City owned land were removed from tax rolls.

[5] Total potential loss does not include the Inyo County schools office which has a tax rate of $0.37 which, when applied to the total Los Angeles land assessed valuation, would result in an additional potential loss of $110,321.

Source: Data compiled by: Donald N. Taylor, Superintendent, Bishop Union High School District, 301 North Fowler Street, Bishop, Calif.

Mr. DE LA GARZA. Now we will be happy to hear from the mayor.

Mr. MAYHUGH. Thank you, honorable Members of the Congress. I am going to have to read mine verbatim. I do not know anything that I can cut out really.

Please let me introduce myself. I am Bill Mayhugh, Mayor of the city of Bishop. Bishop is the only incorporated city in the county of Inyo, the center of commerce, and the point of largest population.

I wish to thank you for the opportunity to speak before you on this matter that we citizens of the Owens Valley feel is of grave importance to us. I would like you to know that I speak for all of the people deriving their livelihood and wellbeing from this Valley.

We are opposed to this legislation, and are very fearful of the future if it is passed.

Since the turn of the century, our area has been under control of Government agencies, such as the Bureau of Land Management, Forest Service, National Park Service, and the city of Los Angeles, to the extent that private ownership of land in the county has been reduced to just slightly over 2 percent.

Our population increase has been about 2 percent per year for the last 40 years, far below normal growth, and many, many times less than the Stage average, indicating the suppression we have been under.

It is not statistics that alarm us. It is the fact that we are consistently suppressed.

There are constant threats of campground closure—in some instances already a fact. There are continuing closures of our wilderness areas.

Now, proposed legislation carries the threat of taking away our only remaining lands in the Valley. The people want to know, what do we do now, move?

Today, our youth attaining adulthood find it difficult to find a future at home, and a great many are forced to move to other areas. We cannot say that return to rural America is happening here, where it should.

In this time of food and energy crisis, the possibilities in our area for farming, cattle raising, agriculture, and many other vital ventures, is unlimited with the help of the city of Los Angeles department of water and power.

What can possibly be accomplished by an elk refuge that experts in the field advise against and declare unnecessary?

What land is available is now under multiple use, wherever possible, by the citizens, the department of water and power, and the California Department of Fish and Game, with a great deal of success for everyone.

It has taken many, many years for the hatred to die down from the original "Rape of Owens Valley," as set forth in the book, "The Story of Inyo," by W. E. Chalfant, which relates the history of the lands acquired in the Owens Valley by the city of Los Angeles in the early years of this century. This is past history.

I am very happy to report that, at present, the city of Bishop and the county of Inyo are on the brink of solving a major sewer problem with the help of the city of Los Angeles.

I am sure you are aware that the tribal council, representing all the Piute-Shoshone Indian citizens in the area, has indicated opposition to the proposed legislation by resolution.

I would, at this point, like to refer to Senator Cranston's letter of record of May 3, 1973.

In the third paragraph, he refers to the expert advice of Dr. Dale R. McCullough, that Owens Valley can only support 500 elk. He believes the Interior Department would make the same finding.

Item 2, he also states that the only property owner concerned would be the city of Los Angeles, which has resolved to oppose this bill.

With the expertise of the State of California Department of Fish and Game has demonstrated in handling the elk in the past years, and the excellent conditions of the herd, I find it hard to understand the necessity or even the desirability of this bill.

I do not want to keep reiterating the words "people" and "citizens," but this is what I speak for—we, the people, do resent legislation for the people but not by the people. I refer to proposed legislation by people who do not live in this area, and people who will pass legislation who have never been in our area.

I would personally like to invite any and all of you to visit our area any time. I am sure it would be a very rewarding experience for all of us.

Mr. DE LA GARZA. Thank you very much, Mayor.

Next we have, from the manager of the chamber of commerce, Mr. Denton Sonke.

Mr. SONKE. Thank you very much.

I have my prepared statement here which I will present for the record.

I think pretty much basically what I will do is recap as to what is said in there.

Mr. DE LA GARZA. Without objection, your full statement will appear in the record.

[The statement follows:]

STATEMENT OF DENTON SONKE, MANAGER, BISHOP CHAMBER OF COMMERCE

Mr. Chairman and members of the committee, my name is Denton Sonke, Manager of the Bishop Chamber of Commerce. It is my pleasure to appear before this subcommittee for the purpose of speaking on the subject of the proposed Tule Elk Refuge in Owens Valley and we do appreciate the opportunity to present our views on this important issue.

As Manager of the Bishop Chamber of Commerce, I do represent our business community, as well as our citizens, in the testimony which I am about to present. As you might assume, upon hearing the words "Chamber of Commerce," we are indeed concerned about the financial well-being of the residents of our city as well as those of Inyo County. We would be particularly concerned about this financial well being in the event that the proposed H. J. Resolution 204 does in fact become a reality and the Secretary of the Interior does, in fact, see fit to acquire the necessary lands needed within the proposed refuge in order to carry out the purposes of this resolution.

However, before we enter into this concern, we would first like to make it clear that we are indeed in favor of the protection, enhancement and expansion of the Tule Elk in California, particularly in Owens Valley with the expansion being limited to the present management plan of the California Department of Fish and Game of 490 animals. We value the presence of the Tule Elk in our valley and, again, I state that we are in favor of the preservation of this magnificent animal.

We would like to further state that we are well satisfied with the management program of the Tule Elk which is being carried out by the California Department of Fish and Game. Under this plan, the Tule Elk now number 340 animals in Owens Valley; this figure a result of the most recent count taken by the Department of Fish and Game, which puts it within reach of the 490 animals projected for Owens Valley as so stated in Section 3951 of the California Fish and Game Code. Section 332 of the California Fish and Game Code states that no Tule Elk will be taken until we have a total statewide population of 2,000 such animals, which is the figure called for in H J Resolution 204. It should be pointed out that these 340 animals are in a fine state of health; this condition, along with the increase in numbers of Tule Elk certainly indicates that we have a successful management plan in force under the capable direction of the California Department of Fish and Game. It would seem to only complicate the program now in existance with the addition of federal authority and controls.

In returning to the subject of our financial concern in this proposed H J Resolution 204, we find the real danger to the citizens of Bishop and of Owens Valley is, as already mentioned, the authority given to the Secretary of the Interior to acquire the land within the boundaries of the refuge in order to carry out the purposes of the Resolution. Within this proposed Tule Elk Refuge, there are 197,000 acres which currently belong to the City of Los Angeles. The total taxes paid during the 1972–73 fiscal year by the City of Los Angeles to Inyo County amounted to $3,056,200. Of this total, about $1,640,000 were derived from this 197,000 acres of City of Los Angeles land within the proposed refuge. When you consider that the total of Inyo County's 1972–73 budget was $6,383,945, this represents a substantial reduction in revenue.

The question would now be "where do we come up with the necessary funds to replace this potential tax loss"'

We are told that there is a provision in the federal law for payments by the Federal Government to counties in which National Wildlife Refuges are located. We are also told that these monies will amount to only approximately one-third of our projected tax loss and then there is always the ever-present danger of having these funds withdrawn, which I understand has been known to happen.

That puts the Inyo County taxpayer face to face with two alternatives with the first being that his tax bill would have to be increased by an average of approximately 30% over what it is presently. The second alternative would be to cut back on our services to the Inyo County resident by the amount of the tax loss, which, as mentioned, is a substantial loss.

This seems like a rather high price for the residents of Inyo County to pay when you consider that we already have a successful management program for the protection, enhancement and expansion of the Tule Elk in California of which includes Owens Valley.

We would, very briefly, like to object to the possibility of having our Owens Valley cattlemen squeezed out of the valley, Whereas, our economy is dependent upon tourism by some 80%, the cattle industry contributes its share to our overall economy. This, coupled with the scenic beauty of the cattle grazing in the green fields of the valley, makes this possible loss most undesirable.

For the reasons stated, and others that we do not have time to comment upon, we urge that you gentlemen see fit to *not* establish a Tule Elk Refuge in Owens Valley.

Mr. Sonke. Thank you very much.

I think the basic thing that we are talking about—first of all, we would very much like to point out that we are very much for the preservation of the Tule elk in our valley. And just to take a step or two beyond that, I think we are pretty much in favor of particular unique and special quality which the area has.

We have talked about the fact that our country is pretty much recreation oriented. We have Southern California, which is basically about 285 miles south of us, which is pretty much a vast reservoir of tourists coming to our area each year.

So we are very much in favor and we are very much concerned about preserving our area as it is. We do not want to lose this. Eighty to 85 percent of our economy is dependent on tourists, either directly or indirectly. So I think this fact should be pointed out rather strongly.

Secondly, as far as the Tule elk, we are very much in favor of the outstanding management program carried on by the California Department of Fish and Game.

We feel they have done an outstanding job: that steps have been taken in recent years to assure the preservation of the Tule elk, not only within Owens Valley, but within the State of California.

I know the question has been asked several times today as to why would not we also want the authority controls of the Federal Government brought into the picture in helping us to carry out this program.

I think basically it is a matter of a philosophy. It is the fact that we feel that we very much would like to manage our area there on a local and State basis.

We have a very excellent communication line with each of the agencies, not only locally, but in the State of California. We have a matter that we would like to be put into the management program as to contacting these people, and it does not present a great problem.

Whereas, when you are stepping up to the Federal level, we have—first of all, it took us about 3,000 miles of travel to get back to this hearing. If, in the event that we do not have a fine program, then I say fine.

This is when the Federal Government should step in and assure that we have this management program properly done.

I think, further too, that, we would very definitely like to state that certainly we are vastly concerned about the possible loss of tax revenues. And this certainly is, according to the language of this bill, a potential danger which we are very concerned about. It is kind of like taking off one shoe and waiting for the other one to drop. It may not happen for 10 or 20 years, but there is still always that danger.

We would like to be assured that this will not happen. I think, too, in talking to the cattle—once again, there is the possibility that this industry may be phased out of Inyo County.

First, it is a part of our county, speaking financially.

Secondly, traveling up the valley, this cattle industry is very much a scenic part of our valley, and people just enjoy being out in the clean blue skies that we do have. They enjoy the green fields that we do have. And they enjoy seeing the cattle grazing out there.

It is a part of the scenic attraction that we have, and certainly we would like to maintain this part of it.

So, basically, these are the objections that we have to it. We would like to keep it as a State program, particularly since we feel definitely assured that this fine program will be continued on into the future.

So, with that in mind, we very definitely are against the House Joint Resolution 204.

Thank you very much for your time.

Mr. DE LA GARZA. Thank you very much, sir.

Is yours a city chamber or an area chamber?

Mr. SONKE. Ours is a city chamber.

I might mention, too, that I also represent too, the Inyo Associates, which is made up of the chambers of commerce and civic clubs of Inyo County.

Mr. DE LA GARZA. Of an area group?

Mr. SONKE. Yes, that is correct.

Mr. DE LA GARZA. So you are speaking for the area chambers and the city chambers, is that right?

Mr. SONKE. Yes, this is correct. We also have another representative here of our second largest city in the county that will be speaking shortly, too.

Mr. DE LA GAZA. Thank you very much.

We will now hear from Mr. Pearce, is that right?

Mr. PEARCE. Yes, sir.

I would like to have my written testimony entered into the record, which I believe you have a copy of.

Mr. DE LA GAZA. Yes.

Your full statement will appear in the record at this time, sir.

[The statement follows:]

STATEMENT OF CARL A. PEARCE, REPRESENTING INYO MONO CATTLEMENS ASSOCIATION AND DIRECTOR, CALIFORNIA CATTLEMENS ASSOCIATION

Gentlemen, I am a resident of Inyo County, and represent myself and the Livestock Producers of the Owens Valley.

We do not believe the present plan for the Tule Elk and the Multiple Use Concept of the Valley can be overstated. To completely destroy the efforts of developing the area for the many varied interest groups, covering the broad spectrum from livestock to the preservation of the Tule Elk, and in its place turn over the entire Valley to only one use, is definitely a diametric concept.

Modern agriculture of which the beef cattle industry as the largest segment employs a sizable work force, and the loss of tax revenues associated with these businesses, plus the diminished community purchasing power, will have a sobering effect far outstripping the implied results of this legislation.

The average number of livestock maintained in the Valley for the year 1973 is 17,000. Gross income from livestock using only a 75% calf crop will approximate $2,600,000, while the alfalfa hay crop is 15,000 tons and has a minimal value of $750,000. Well over three million dollars ($3,000,000) in agriculture loans are made in this area each year. However, I have not appeared here today to attempt to justify the existence of the livestock industry in the Owens Valley. It has been present since the middle of the eighteen hundreds and long before the Elk were transplanted to our area.

The concept which is being continually emphasized at all levels of government, to go back to local control, is certainly adverse to the legislation proposed. To displace the livestock community, not only removes an aesthetic element from our valley, but when demands upon the industry to supply beef at a more palatable price level is so apparent, this type of proposal is taking another step towards compounding the problems already in existence.

Without the present irrigation practices of the livestock producers in the Valley, what will happen to the forage areas utilized by most of the Elk during the growing season? Not to mention the many other species of wildlife dependent on the spreading of water on the land. Our association is in full accord with the California Fish and Game Department on its present management plan and we bear the main burden willingly to perpetuate the Tule Elk.

The idea of going against the stated management plans already implemented at the local and state level is not feasible, as all the studies and experience of the biologists involved, warns against having large numbers of Elk competing among themselves for the forages they utilize, as well as the impact on the deer herds and Big Horn Sheep, and the very real possibility of disease depredation among large numbers of Elk in one contiguous area rather than the ideally suited concept being utilized at present.

Anyone who wants to observe the Tule Elk need do no more than get out of their car and move out into the land of our Valley. This is a beautiful animal, but wildlife is not particularly compatible with highways and noise. The tranquility and grandeur of the Owens Valley cannot be appreciated fully by the sixty-five mile per hour conservationist.

To wholly ignore the desires of people in a local area to decide their own destiny, with no recourse, surely is not the intent of this committee. However, it is impossible for me to conceive that the members of Congress proposing these resolutions have an adequate picture of what their actions involve and the anguish and concern it has brought to bear in this County.

Mr. PEARCE. Thank you.

I am listed on the witness list as director of the California Cattlemen's Association. I would like to clarify this title. I am elected by the livestock producers in Inyo County to represent them at the California Cattlemen's Association meetings. I live and hope to live in the Owens Valley for a long time.

In fact, this particular issue is important enough to me that I have foregone the pleasure of accompanying my oldest son to his first year in college, the University of Washington.

I hope if you have children, I know what you probably feel toward your children, and there is five generations of my family buried in Bishop.

We deal with the U.S. Government every day, have for years gone by. In fact, the family came to the valley in 1872.

I think that you will agree with me, Mr. Chairman, if you come from an area like ours, frustrating as it might be to deal with a range management expert with your livestock and forest lands, basically this boils down to this point with me today; that is, if you pass this legislation, or any legislation from the Federal level which would give control to the Department of the Interior and its subsidiary type organizations, we are going to be dealing with the grass roots level with their management people.

Today, the way we exist in the valley with the multiple-use concept, we do deal with the local government.

We have to deal with the State government. And to put the additional burden on us, dealing with the Federal Government as well, actually removes our potential for growth and our potential for the future of our own children.

I have a 17-year-old son that spends all his time on the ranch, and if these hearings go the way that I honestly have an impression right now, then I had better talk the boy into auto mechanics.

The livestock industry, in many people's opinion, is short lived. But we have a feeling for it far beyond the dollar value. And I hope you can appreciate that. And I certainly appreciate the opportunity to be here.

One other small point I would like to make, and that is what would you do with all the water in the county if we turned it back to you?

Well, I am sure we all know that is not going to happen. But, if it did, who would it belong to?

But, if it did not, and you took over the lands of the city of Los Angeles, who is going to spread the water? Who is going to develop and grow the basic forages which are the grasses that are there?

Thank you very much.

Mr. DE LA GARZA. We thank you very much, Mr. Pearce.

You have made a most valuable contribution.

Now, do we have the Big Pine representative with your group?

Mr. CONNOR. Yes, sir.

Mr. DE LA GAZA. We are happy to hear from you at this time, sir.

Mr. CONNOR. I would like to submit my written statement for the record.

Mr. DE LA GARZA. Without objection, it will appear in the record at this point.

[The statement follows:]

STATEMENT OF MICHAEL CONNOR, PRESIDENT, BOARD OF TRUSTEES, BIG PINE UNIFIED SCHOOL DISTRICT

Chairman Dingell and Members of the Subcommittee, I am Michael Connor, President of the Board of Trustees of the Big Pine Unified School District. I am offering testimony on behalf of that school district concerning H. J. Resolution 204.

Our school district is located approximately in the center of the proposed Tule Elk Refuge. We, along with the other school districts within the proposed refuge area, oppose H. J. Resolution 204. Our reasons are economic.

Some proponents of this legislation state that the bill would not lead to acquisition of land by the Federal government. However, H. J. Resolution 204 very clearly and specifically authorizes the acquisition of land considered necessary to achieve the purpose of the Resolution. Since the City of Los Angeles owns virtually all available land in the proposed refuge area, any land acquired would necessarily be part of that presently owned by the City of Los Angeles.

Our concern with the proposed legislation is this: City of Los Angeles land and the surface water rights thereon make up 75% of the tax base of our school district. While the Resolution exempts acquisition of surface water rights, these rights are often difficult to completely separate legally and physically from other property rights in land. The proposed legislation would seem to jeopardize, therefor, 75% of our tax base.

Even excluding surface water rights, over 40% ($4,095,111 of a total A. V. of $10,057,933) of the assessed valuation of Big Pine Unified School District would be affected. If this land or a part of this land is acquired for a Tule Elk Refuge and removed from the tax rolls it could result in a disastrous loss of revenue to our school district which if we were to continue to operate our school would have to be made up by a shift of the tax burden to the owners of homes and small businesses in the district. This would be especially difficult for people in our community because: (1) our area has an unusually large percentage of retired persons living on fixed and in many cases relatively small incomes; (2) our district contains little industry; and (3) as is shown in other testimony before this Subcommittee ,part of what industry we do have, especially the cattle industry, can be substantially harmed by the proposed legislation thus further reducing school tax revenue.

All school districts in the proposed refuge area will be affected similarly, although their loss of assessed valuation would in most cases be less drastic than ours. All schools in the refuge area face a potential loss in total assessed valuation of, on the average, 25%.

The people of our school district and county would be willing to try to bear the financial burden of such a proposal if it appeared worthy and necessary. By this statement I do not mean that we are not aware of the need to protect the Tule Elk, because we are. We support the present active Tule Elk Management Plan of the California State Department of Fish and Game because we have seen it work. Under this policy the Tule Elk have been kept healthy and are increasing in number. This is testified to by Dale R. McCullough in his University of California publication of 1969, by G. Ray Arnett of the California Department of Fish and Game, and by Lynn A. Greenwall of the Federal Bureau of Sport Fisheries and Wildlife, among others.

I urge the members of this Subcommittee to support the present proven successful Tule Elk Management Plan and to reject the proposed legislation which endangers the public school districts of the Owens Valley without benefitting the future of the Tule Elk.

Mr. CONNOR. As I read it, I will try to delete a few paragraphs to speed this up.

As representative of the Big Pine Unified School District, my main concern is this, if lands were to be acquired for this elk refuge, the land available is virtually all city of Los Angeles land.

In fact, it is just a guess, but I would say land in large tracts in Inyo County, privately owned land in large tracts, excluding city of Los Angeles land, would be less than 500 acres.

In other words, if all that land were developed, it would not make a good deal of difference in the complexion of the county.

In our school district, the city of Los Angeles land and the surface water rights thereon make up 75 percent of the tax base of our school district.

While the resolution exempts acquisition of surface water rights, these rights are often difficult to completely separate legally and physically from other property rights in land.

The proposed legislation would seem to jeopardize, therefore, 75 percent of our tax base; even excluding surface water rights, over 40 percent, $4,095,111 of a total AV of $10,057,933 of the assessed evaluation of Big Pine Unified School District would be affected.

If this land, or a part of this land, is acquired for a Tule elk refuge and removed from the tax rolls, it could result in a disastrous loss of revenue to our school district which, if we were to continue to operate our school, would have to be made up by a shift of the tax burden to the owners of homes and small businesses in the district.

This would be especially difficult for people in our community because, No. 1, our area has an unusually large percentage of retired persons living on fixed and, in many cases, relatively small incomes.

No. 2, our district contains little industry and, No. 3, as is shown in other testimony before this subcommittee, part of what industry we do have, especially the cattle industry, can be substantially harmed by the proposed legislation thus far reducing school tax revenues.

The people of our school district and county would be willing to try to bear the financial burden of such a proposal if it appeared worthy and necessary.

By this statement, I do not mean that we are not aware of the need to protect the Tule elk because we are. We support the present active Tule elk management plan of the California State Department of Fish and Game, because we have seen it work.

Under this policy, the Tule elk have been kept healthy and are increasing in number.

This is testified to by Dale R. McCullough in his University of California publication of 1969, by G. Ray Arnett of the California Department of Fish and Game, and by Lynn A. Greenwall of the Federal Bureau of Sport Fisheries and Wildlife, among others.

I urge the members of this subcommittee to support the present proven successful Tule Elk management plan and to reject the proposed legislation which endangers the public school districts of the Owens Valley without benefitting the future of the Tule elk.

There are a couple of other points I would like to make if I could against this easement proposal as a means of implementing this refuge.

One is, as I just stated, personally I, and I think you will hear from many others, do not feel that a refuge is necessary in the area because of the good work done by the California State Department of Fish and Game.

Number two, if there did have to be some easement type program, we would certainly want to see some strong protection for the cattle industry in the Valley.

Now, this is a small industry, but this is in an area where all our industries are small, small businesses.

That is all I have.

Thank you for the opportunity, Mr. Chairman.

Mr. DE LA GARZA. Thank you very much, Mr. Connor.

Now, we have the Lone Pine Chamber of Commerce, Mr. Hanenkrat.

Mr. HANENKRAT. With your permission, I will read my testimony and with a few modifications as I go along.

Mr. DE LA GARZA. Very well, sir, you may proceed.

Mr. HANENKRAT. If the charge should be made that the Inyo County delegation opposing House Joint Resolution 204 represents special interests, we will accede the point to this extent—if representing the cattlemen who pioneered our county, the educators charged with the future of our young, the county and city administrators elected to serve the will of the people, and the chambers of commerce responsible to the entire community, is contrued to mean special interests, then we are properly so classified.

The vocal proponents of the Tule Elk Refuge will claim they are acting in the public interest, but it is an interesting fact that they totally ignore the public interest of the people most directly concerned, the citizens of Inyo County.

We know of no service club, lodge, church group, business, political or civic organization, office, branch of government, agency or elected official in all of Inyo County that supports the proposed bill, and in this there is common cause. This, in part, is evidenced by the 26 official statements, including eight resolutions opposing the bill, which we have submitted to the committee.

Now, the fact that we are opposed to this legislation most positively does not mean that we are opposed to the Tule elk or to the preservation of the species.

The Tule elk herds are, to the citizens of Inyo County, good neighbors as we presently coexist. We regard the elk with a protective fondness, probably a great deal more personally than do the vociferous proponents of the bill, who almost, without exception, are nonresidents of our county.

We can understand how this bill has reached its present stage, considering the emotional appeal that has been its driving force and made it an issue almost equal to Mom and apple pie.

But, on looking below the emotional charisma so popularly accepted under the banners of conservation and/or ecology, we discover grass root realities that considerably alter the issue.

We believe that Senator Alan Cranston, sometime after authoring the bill, did indeed come to have serious second thoughts about the language of his bill.

In replying to the Inyo County Board of Supervisors' resolution opposing the bill, Senator Cranston explained that while the number of elk were stipulated to be at 2,000 head, or whatever the preserve would support, he felt that the Interior Department would probably come up with the same maximum herd level that the valley will support, as determined by Dr. McCullough, and that this would be at 500 head.

Senator Cranston, referring to the eminent domain clause, stated, "It is intended as standby authority which should never need to be used."

Senator Cranston wrote that in the context of his understanding

of applications of the bill's provisions that the bill would "clearly not necessitate a decrease in grazing permits."

If we understand Senator Cranston correctly, we find that he is in agreement with the present management policies of the State of California Department of Fish and Game, and we must logically conclude that the language and provisions of the bill are therefore totally redundant.

The expert testimony of Ray Arnett of Fish and Game clearly proves that a most complete and efficient preservation program is now California law and Federal intervention is not necessary.

In conclusion, I would remind the subcommittee that if the bill is passed, the potential loss of city of Los Angeles land taxes at $1,640,000, representing 25 percent of our tax receipts, would mean the necessity of increasing taxes on our citizens by from 25 percent to 33 percent.

If the herd is maintained at 500 head under Federal control, and this tax loss is experienced, the average cost can be calculated at $3,281.20 per elk per year from now on.

This would be a munificent gift from the people of Inyo County to the United States, one that we quite simply cannot afford.

I repeat, we want to preserve and protect our elk. In considering the needs of the elk, we urge you to give equal consideration to our human needs in Inyo County.

We ask that you add your vote of confidence in us and in the State of California by recommending against this unneeded, unwanted and unnecessary legislation.

Mr. DE LA GARZA. We thank you very much, sir, and if you gentlemen would kindly remain to see if the other members of the subcommittee have any questions of you.

Mr. Goodling?

Mr. GOODLING. No questions at this time, Mr. Chairman.

Mr. DE LA GARZA. Mr. McCloskey?

Mr. MCCLOSKEY. Mr. Chairman, thank you.

Gentlemen, I have appreciated your testimony, and several of you indicated your dismay that this matter reached the Federal Government for regulations.

I would like to inform you of a similar situation. Some hearings were held back in 1970 by the Congress about shooting from aircraft, because of well-intentioned local and county governments did not regulate at that time.

The reason for our concern is that local governments might not do the job. You gentlemen have persuasively argued that you are prepared to do the necessary regulation, and the State is currently involved. If you have any question about our concerns about the city of Los Angels that controls this land, you need only look back to 1960, to the good intentions of the city of Los Angeles and what has been referred to in the testimony "rape your valley."

All the land concerned in your testimony is owned by the city of Los Angeles. The city's land, and reclamation development record in southern California is not very good, as I am sure you understand.

I would hope that we retain a little control over, now that they have fully developed southern California, what they might have planned for Inyo County.

But we look forward to hearing from the city of Los Angeles tomorrow, from the Department of Water and Power.

I might say, Mr. Chairman, I feel a little more obligation than most of us. My father-in-law was one of the great attorneys of the city of Los Angeles. He practiced law there for some 50 years. Yet it was his everlasting shame that he was one of the agents of the city of Los Angeles, who served surreptitiously, to acquire the water rights that are in yellow on that map.

I am sure that representatives of Inyo County have sought beter assistance to the local governments. These gentlemen would be one of the foremost advocates to protect the Valley from the likes of the city of Los Angeles.

I say that particularly to Mr. Pearce, because of your background in the valley.

I just wanted to say, on hearing this testimony, I appreciate that all of you have come 3,000 miles to press this point.

In several of your statements, there was reference, I gathered, to unhealthy experiences with the Bureau of Land Management, and other matters, and I just hope you will be as meticulous in communicating with Congress whenever we can be of help to preserve these goals that you have universally stated.

This committee in particular, which passed the National Environmental Act, is dedicated to preserving areas such as yours. Consideration of this legislation, serious consideration, is precisely for that purpose, and I think I would explain that we have achieved the results by these hearings which were envisioned by the legislation itself.

I did not mean to comment in such length, but I did want to thank you, and to congratulate you for the deliberations of the Federal Government.

Is there any other comments?

Mr. PEARCE. I would like to make one comment, as far as the city is concerned, I have talked with you for several minutes, and I respect your opinion, I believe I can be as forthright with you as you are with me.

The people behind me cannot see my face, but I can see the smirks on their faces, because I lease land from the city of Los Angeles, and therefore I am their whipping boy.

I want to assure you that I am no man's whipping boy. I pay my lease money and my taxes to the county, but I do not jump on the county's string, either.

But keeping that in mind, I would say that today the Owens Valley would not be a point of conversation in this hearing, if it was not for the city of Los Angeles, because our Valley would be a junkpile. It would be full of houses. It would be full of urban sprawl.

Because of the geographical location of the valley, we would be in a serious smog situation, that you would not believe today, and I would certainly have to speak in defense to the city of Los Angeles right at this point.

There is a lot of other things that we can talk about that were unsavory.

But then there is a lot of things as far as the Federal Government that may be unsavory.

However, I think the very position that we are in today, we would not be there if it were not for the city of Los Angeles. So there is a little bit to both sides of that coin.

Mr. DE LA GARZA. Thank you, I appreciate that.

Mr. Goodling?

Mr. GOODLING. Mr. Chairman, one question, please.

I would like to ask Mr. Pearce a question.

You speak of cattle grazing—I do not know who Mr. Pearce is—

Mr. MCCLOSKEY. He is the cattleman.

Mr. GOODLING. The grazing you speak of, is it being done on public or private lands?

Mr. PEARCE. It is being done on lands leased from the city of Los Angeles.

Mr. GOODLING. Belongs to the city of Los Angeles?

Mr. PEARCE. Yes, sir.

Mr. GOODLING. The cattlemen pay a fee to the city, I assume?

Mr. PEARCE. Yes, sir.

Mr. GOODLING. What is that fee?

Mr. PEARCE. That fee varies with the type of land. As an example to you, we have 43 acres of alfalfa, I think it is $20, $23 an acre for that, and the third crop is not too good because of sand burns.

We have approximately 163 acres of irrigated pasture. It runs $16 or $18 an acre.

And the rest is insignificant. I do not believe, Congressman, you were here when we showed the slides, but we have a lot of sagebrush that has very little significance, but our lands are almost totally open, by almost total, I mean if I have a bunch of first calf heifers next to the corral, I do not want people fooling around there.

Other than that, our lands are open to all of the people of the United States, if they care to come to utilize those lands for fishing, or walking, or cameras, or whatever they want to use.

And, to be very honest with you, I am sure that a lot of people think that we get that land dirt cheap, and I do not know if the city will address itself to that point, but our lease prices are commensurate with the leases on private lands in other parts of the State. Places that do not have some of the intrinsic problems that we have as far as water management.

Naturally, we are a little bit on the limited side. We have a problem of financing, because banks do not lend you money unless they know that you are going to be there, or if you sell the land, you will get something back from it.

We also had a problem with anthrax 3 years ago—well, 4 years ago now—and anthrax started on our ranch, and we lost 98 cattle before the State veterinarians even knew what we had.

There is a lot of these problems going on there that the average citizen is not aware of.

We do lease from the city, and we pay more than a commensurate fee. It is on a sliding scale, with a base fee of what the price of cattle are, so this year it will be a little higher.

Mr. GOODLING. You do restrict the amount of cattle that are allowed to graze?

Mr. PEARCE. Do we restrict the number of cattle?

Mr. GOODLING. Yes.

Mr. PEARCE. As a matter of economic practicality, you have to, because if you are going to run cows next year, this year you better watch what you are doing.

This summer we are going to have to sell our calves rather than waiting until the market has gone up, because we had 60 head of elk on pasture all summer. You cannot run cattle in the valley all year long. You have to get your cattle out and give that grass a chance to grow back.

Mr. GOODLING. Did you say you had anthrax?

Mr. PEARCE. Four years ago.

Mr. GOODLING. Is the Tule elk subject to anthrax?

Mr. PEARCE. It has got to be subject to anthrax—even a man is subject to anthrax under proper conditions.

Mr. DE LA GARZA. Mr. McCloskey, do you have further questions?

Mr. MCCLOSKEY. Just one.

Mr. Pearce, in testimony that was alluded to this morning, this biologist that spent 2 years, he apparently indicated in his report that the Tule elk did not meet the cattle in the meadows. Did I understand your testimony?

Mr. PEARCE. The amount of competition is minimal depending on whose pocketbook you are using.

For instance, yes, I could run more cattle if it were not for the Tule elk. I could spend less money on labor if it was not for the Tule elk. But the Association and I agree that it is good for the valley, and we are willing to accept that responsibility, as in my prepared statement, we have accepted that responsibility, but the elk uses a lot of places that the cattle do not utilize.

There are certain times of the year—who eats grits if they can have cream of wheat with sugar and butter on it? Those elk are the same way, they have other things to eat. But they like that grass, as well.

Mr. MCCLOSKEY. I was just trying to translate it. If you have 60 head of elk grazing in that meadow, does that eliminate your ability to have 60 head of cattle grazing?

Mr. PEARCE. I would equate it very close to the same, because of the fact that in bedding down, and their movement in the country, it would be quite similar.

I believe that I am not qualified, from a biological standpoint, to testify to that, because the range biologist knows from stomach samplings what those animals eat. I do not. I have never seen the stomach of an elk, but I am sure they could indicate that better to you than I.

Mr. MCCLOSKEY. I will try to sum this up for the record.

From your testimony, it appears that the local people, State people, and the Federal people agree that 17,000 head of cattle, and up to 500 Tule elk can be raised in this area, without the need of Federal assistance.

Mr. PEARCE. Right.

Mr. MCCLOSKEY. Thank you.

Mr. DE LA GARZA. Mr. Pearce, you mentioned that the people are welcome, that your lands are open.

You have no fencing, on your leased lands or you have fencing, but you have a lot of open gates.

Mr. CONNOR. According to our leases with the city of Los Angeles, we are required to lease 75 percent of the land open to hunters, fisheries, whatever. In practicality, it is over 75 percent. I would say probably 90 percent.

Mr. DE LA GARZA. I guess what you do, you fence your pasturelands, is that it, and the rest of the range is open?

Mr. PEARCE. The pastureland has gates for the people to traverse through, also; there is no restriction there.

Mr. DE LA GARZA. Do you use cattle guards in that country?

Mr. PEARCE. Where you can afford to, yes.

Mr. CONNOR. Either that, or unlock the gates, where the people can get through.

Mr. DE LA GARZA. Nowadays they have been stealing the locks—some, the gates.

Mr. PEARCE. Or, they will cut it off at the other end and take it with them.

I might mention one other point, Mr. Chairman, we have—our leases with the city of Los Angeles—it is stated right in the written lease, that we will concur with the State of California in the game management plan of the Tule elk. So we are cooperating along that point.

Mr. DE LA GARZA. Is there any other kind of game in that valley?

Mr. PEARCE. Oh, we have kind of a broad spectrum of game. Of course, the animal that we are talking about today, you have deer on the river in the wintertime, you have quail, doves, they are not a game—pupfish.

In fact, on our ranch operation we have Tule elk, doves, quail, pupfish. This does not pertain, but we have some large electronic microscopic units out there. There is quite a bit of game type things. Not really game—snakes, lizards.

Mr. DE LA GARZA. Do you have jackrabbits?

Mr. PEARCE. Jackrabbits, magpies, and blackbirds.

Mr. DE LA GARZA. You do not have any problems with any of that other game, or wildlife?

Mr. PEARCE. No, more so, No. But those types of wildlife, most of them are found near those meadows, and that water which spread over our leases.

So you eliminate the spreading of that water, you might have a problem.

Mr. DE LA GARZA. Well, we thank you very much, sir, Mr. Pearce, for your contribution, and the rest of you gentlemen.

We appreciate your coming, and taking your time, and I assure you that the chairman of the committee, and the other members will be most appreciative of your contribution and hopefully we might be able to work out something to satisfy all of the people concerned to the best extent possible, and yet do what has to be done for the preservation of environment and wildlife.

Hopefully we might be able to reach a middle ground. We appreciate your contributions.

Our next witness is the conservation editor of Field and Stream, Mr. Michael Frome.

We would be happy to hear from you at this time, sir.

STATEMENT OF MICHAEL FROME, CONSERVATION EDITOR, FIELD AND STREAM

Mr. FROME. Thank you, Mr. Chairman.

Do you have copies of my statement?

Mr. DE LA GARZA. Yes, sir.

We will afford you the same privilege, sir. If you would like to insert your statement in the record, and speak, or go ahead and read your statement——

Mr. FROME. While I know it is deathless prose, Mr. Chairman, since it will be inserted in the record, we can forego the first page and I will summarize the remainder. If you have any questions, I will be glad to answer them.

Mr. DE LA GARZA. Very well, sir.

Mr. FROME. I would like to defend, and serve as a proponent of, the national wildlife refuge system.

One of the gentlemen from Inyo County referred to the—if I heard him correctly—"stigma" of a refuge.

I consider the national wildlife refuge system one of the hallmarks of an enlightened civilization, particularly at this juncture in our history.

In the face of the frightening pace at which wildlife species and wildlife habitat continue to vanish, we need more emphasis on national wildlife refuges.

Whether or not one for Tule elk in the valley, and that question is open, there can be no question but that we need more refuges.

We need a greater designation of wildlife protection on public lands.

If I am not mistaken, a representative of the National Wildlife Federation spoke this morning in behalf of an organic act for the Bureau of Land Management.

I would endorse that wholeheartedly. But in addition. I feel we must designate large areas, particularly in the West, for wildlife protection, such as in the oil shale area of Colorado, and in the area of eastern Montana that is now threatened by strip mining.

It grieves me that despite the best intentions of the agency people at Interior, and Assistant Secretary Reed, wildlife should be assigned such a low priority by the present administration.

The reduction in funds is creating serious operational hardships throughout the refuge system. Moreover, new opportunities are being missed.

I received a letter from a leading conservationist in New Mexico, regarding a potential grant of some 250,000 acres on both sides of the Rio Grande for wildlife protection.

The Secretary of the Interior said he could not accept this gift because he cannot figure out whether it can raise $30,000 to merely keep track of it.

I have written to the Department to ask for the facts of the case. If they are as stated, if the United States cannot afford to accept a gift of 250,000 acres to protect wildlife and its habitat, the Nation is in very serious trouble.

Now, for the Tule elk. Over the weekend I talked with a friend of mine in California, a native of Owens Valley, a man of 84, who now

lives in Sherman Oaks, and who played a key role in rescuing the Tule elk many years ago, when the transplant from Yosemite was made. It was Horace Albright, whose wisdom I sought in shaping my statement. "Everybody is proud of the elk", he said. "Everybody wants the elk to come back." This is plainly the case.

California declared itself in 1971, providing for a moratorium on its hunting of the Tule elk until the statewide population exceeds 2,000.

The legislation added to the fish and game codes directing the department of fish and game to relocate elk in suitable areas, and to cooperate to that end to the maximum extent possible with Federal and State agencies.

Insofar as the California Department of Fish and Game is concerned, Mr. Albright reminded me of the part it played in moving it to the valley.

Since then the department has come a long way in advancement of a positive program.

In 1952, for example, in order to avoid competition with livestock, a decision was made to hold the herd at between 125 and 275, and to reduce it whenever it exceeded 275.

In 1971, however, the fish and game commission adopted a new policy to maintain a maximum of 290 animals, in addition to 100 animals each for the upland Goodale and Whitney herds.

You heard a report on the census taken last month, showing 340 elk, with perhaps as many as 380.

More important yet, according to the department's statement of September 1, its biologists now believe that Owens Valley could support as many as 490 elk in good condition. This is almost twice as many as it allowed for in 1952.

The Federal agencies have recorded significant progress, as well. And I think you have heard the reports on that.

We can be pleased with the actions of the Forest Service, even though it does not embrace much of the elk's principal range. In its Tule elk habitat adjacent to Owens Valley, it has given the elk first priority, eliminating livestock competition in key tracts, and substantially reducing competition in other areas.

The Bureau of Land Management has also taken positive action, with biologists at Ukiah and Bishop concentrating on Tule elk studies, with considerations for elimination of domestic stock competition on BLM lands in Owens Valley to the extent of 5,000 AUM's, and with efforts for a management plan to insure the Cache Creek herd on BLM land north of San Francisco.

The interagency committee, composed of Los Angeles, California State and Federal agencies, has been instrumental in these steps.

Establishment of an Owens Valley Refuge may or may not be the basic question. My hope is that we can see continuation of the momentum of the interagency committee, with an ongoing program of Federal-State-local cooperation to insure viable, healthy herds of Tule elk for the foreseeable and distant future.

The elk may never go off the rare list, but let us be sure that it is never endangered.

We need a Federal policy to increase the Tule elk herds to at least

2,000. The Federal Government should cooperate with the State of California in attaining that goal.

The Interagency Committee has no legislative authorization. Perhaps, somehow, it could receive such authorization with a provision for citizen involvement and input.

The focus of attention has been on Owens Valley, where Los Angeles holds the critical grazing areas in the bottom-lands. As a matter of public policy, in response to the temper of the times, recognition should be given to the needs of the Tule elk in these key areas.

But it is just as imperative to look beyond Owens Valley. To quote the California fish and game release of September 1, "it appears almost certain that other sites will have to be found if the 2,000 elk population figure is to be reached and safely maintained."

Point Reyes National Seashore, outside of San Francisco, has been cited as one of the potential transplant areas—a beautiful park, but I do not see how you could have much of a wild, free-roaming hered in such a heavily used and roaded setting.

The San Luis Refuge, north of Los Banos, has also been identified as suitable. The unfortunate fact is that a couple of years ago an opportunity to acquire a large ranch adjacent to the refuge, and expand the elk habitat, was missed.

Somewhere in this picture serious consideration should be given to potentials for land acquisition through purchase. The Cache Creek herd of 110 to 125 elk is free-roaming at present. But what will be the impact if the substantial adjacent ranch should be subdivided, as I believe may be in the offing?

Furthermore, I wonder about the potential for acquisition in the original elk habitat, the grasslands and foothills of the Great Central Valley. Years ago it was lost to farming and ranching, but in the process of change are any large tracts becoming available? No doubt 10,000 acres or more would be costly, but cost is only relative over the long run.

If the objective is to sustain a herd of free-roaming elk in its native habitat, a good chunk of country would be worth the price.

In the June issue of one of my favorite periodicals, West-ways, I read a report on the current status of the Tule elk. It described the controversy and disputation, then concluded as follows:

> Meanwhile, the elk browse contentedly, their distinctive tawny rump patches bright in the Sierra sun. They do not have to worry about whether they have their own home on the range. People are doing that for them.

Or as Horace Albright said, "Everybody is proud of the elk."

I feel sure that only good will come from this congressional review.

I think those of us who are interested in wildlife conservation are proud of this subcommittee and what it has done to insure national wildlife refuges throughout the country.

Therefore, I feel that only good will come from this congressional review, and whatever legislation may follow.

Thank you very much.

Mr. DE LA GARZA. We thank you very much, sir.

Any questions?

Mr. Goodling?

Mr. GOODLING. Just this one question, or this one observation, Mr. Chairman.

Mr. DE LA GARZA. You may observe.

Mr. GOODLING. I am not certain if you are for or against H.R. 203.

Mr. FROME. We have had some healthy discussion pointing up the urgency to provide for the Tule elk.

In view of the fact that some of my colleagues in the conservation establishment have raised questions, I think I will stick to the needs of the preservation of the Tule elk.

Mr. GOODLING. I assume an editor of a sporting magazine must be somewhat like a politician, you have to be on both sides of the question in order to sell magazines.

Mr. FROME. Well, I would not say that is exactly so, Mr. Goodling. Sometimes we sell more magazines by not being on both sides of the question.

The issue is the elk. The legislation should be designed to preserve the elk and its habitat.

I feel sure, though, with the give and take of congressional review, and the expression of viewpoint of the people and the viewpoints that the chairman so eminently expressed before that, you are going to find a way of providing Federal expressions of concern and responsibility. I would say that, after all, we are dealing in a large manner with Federal land administered by the BLM and the Forest Service.

Mr. GOODLING. Do you think the various agencies that are cooperating are doing a good job?

Mr. FROME. The agencies have been spurred to do a much better job than they had done in the past as a result of public desire and public pressure.

We must sustain that interest and activity. On the whole, I would say that both the Forest Service and the Bureau of Land Management have a long, long way to go throughout the Nation in recognizing wildlife as part of their responsibility.

Mr. GOODLING. That is all.

Mr. DE LA GARZA. Thank you, Mr. Goodling.

I take exception to your statement about politicians being on both sides of an issue.

Mr. McCloskey?

Mr. MCCLOSKEY. I was pleased to see the reference.

Is this a sporting magazine you operate?

Mr. FROME. I would like to say a word that it is not that kind of sporting. I plead innocent, in fact.

I am talking about outdoor recreation of all types, something to be encouraged, pursuits that are beneficial and desirable.

That is why we want public lands and open space.

A word about hunting and refuges. The question of legality was resolved in Washington. Recently, the Bureau of Sport Fisheries and Wildlife issued a policy on this subject, declaring that hunting and refuges can and must be exemplary in every respect, and this is the kind of sport that we expect to see if and when there should be a refuge in the Owens Valley.

Mr. McCLOSKEY. Thank you.

No questions.

Mr. DE LA GARZA. Counsel?

Mr. EVEETT. No questions.

Mr. DE LA GARZA. Thank you, sir.

You made a very valuable contribution, and you do have a very good magazine.

Mr. FOME. Thank you very much.

[Mr. Frome's prepared statement follows:]

STATEMENT OF MICHAEL FROME CONSERVATION EDITOR, FIELD & STREAM

It is a pleasure to appear before this distinguished Subcommittee to discuss legislation designed to protect the beautiful tule elk through establishment of a new national wildlife refuge in Owens Valley, California, and through other means.

First, a few thoughts about national wildlife refuges in general. In 1903, President Theodore Roosevelt established Pelican Island in Florida as a sanctuary for sea birds threatened by plume hunters and fishermen. It was the first of its kind in America. As one reviews the history of the network of wildlife refuges, wherever they may be, each and every one came into being to save a wild species from extinction by the onrush of civilization.

Each refuge has proven valid. For example, about 40 years ago the trumpeter swan, the largest North American waterfowl, was on the verge of extinction. A census indicated less than 70 birds remaining. As part of the effort to save the swan, the Red Rock Lakes National Wildlife Refuge was established in the Centennial Valley of Montana—then the swan's last remaining stronghold in the United States. Today the trumpeter swan has recovered. With an estimated 1,000 birds in the lower 48 states and about 4,000 in Canada and Alaska, the trumpeter is no longer an endangered species.

A refuge never fills a single purpose. While Red Rock Lakes continues to serve the swan, it provides many other benefits. It is a central link in a magnificent expanse of federal lands possessing and protecting outstanding wildlife, watershed and wilderness values. Incidentally, cattle graze on the refuge under lease from mid-July to October.

A word about hunting in refuges. The question of legality was resolved in Washington, D. C., District Court early this year by Judge Charles Richey. More recently I received a document from the Fish and Wildlife Service, dated July 23, 1973, titled "Policy on Public Hunting on Lands and Waters within the National Refuge System." It declares as follows:

"Public hunting on units of the National Wildlife Refuge System is an acceptable and desirable form of wildlife-oriented public recreation which may be permitted, provided it is compatible with the objectives for which the refuge was established and is administered."

This important policy statement notes further that public hunting on refuges can and must be exemplary in every respect. If not on refuges, where else can it be exemplary? I would like to quote in detail, but for the moment suffice to say the type of hunt the agency is striving for is one in which "the elements of challenge, a minimum of crowding with maximum opportunity to use decoys, calls, hunting and stalking skills, and the reasonable expectation of success are combined to provide a wholesome, memorable, spiritually refreshing and ethically acceptable outdoor recreation experience."

In the face of the frightening pace at which wildlife species and wildlife habitat continue to vanish, we need more emphasis on national wildlife refuges. Whether or not one for tule elk in Owens Valley, there is no question but that we need more refuges. It grieves me that, despite the best intentions of the agency people and Assistant Secretary Nathaniel Reed, of the Interior Department, wildlife should be assigned such a low priority by the present Administration. The reduction in funds is creating serious operational hardships throughout the refuge system. Moreover, new opportunities are being missed. To quote from a leading conservationist in New Mexico:

"We have in this state a land grant of some 250,000 acres which lies on both sides of the Rio Grande south of Albuquerque. I know that the owners of the grant have approached the Secretary of the Interior with the idea of donating

it to the Federal Government so that it could become a wildlife refuge. The Department of the Interior has not accepted the property, although the offer was made back in January and the reason cited is that they don't know if they can raise the money that it would take to patrol the property. This means that a piece of property which is on the books for $6,000,000 and is certainly worth more is being held in the jeopardy of a purchase by the Horizon Land Corporation because the Secretary of the Interior can't figure out whether he can raise $30,000 to merely keep track of it."

I have written to the Department to ask for the facts of the case. If they are as stated above, if the United States cannot afford to accept a gift of 250,000 acres to protect wildlife and its habitat, the nation is in serious trouble indeed.

Now for the tule elk legislation. Over the weekend I talked with a friend in California, a native of Owens Valley, a man of 84 who now lives in Sherman Oaks and who played a key role in rescuing the tule elk many years ago when the transplant from Yosemite was made. It was Horace Albright, of course, whose wisdom I sought in shaping my statement for this hearing. "Everybody is proud of the elk," he said. "Everybody wants the elk to come back."

This is plainly the case. California declared itself with the passage of SB 722 in 1971, providing for a moratorium on hunting of tule elk until the total statewide population exceeds 2,000. The legislature added Section 3951 to the Fish and Game Code, directing the Department of Fish and Game to relocate elk in suitable areas and to cooperate toward that end to the maximum extent possible with federal and local agencies.

Insofar as the California Department of Fish and Game is concerned, Mr. Albright reminded me of the part it played in the '30's in moving the tule elk to their new sanctuary in Owens Valley. Since then the Department has come a long way in advancement of a positive program to secure the future of the elk. In 1952, for example, in order to avoid competition with livestock, a decision was made to hold the herd at between 125 and 275, and to reduce it whenever it exceeded 275. In 1971, however, the Fish and Game Commission adopted a new policy to maintain a maximum of 290 animals, in addition to 100 animals each for the upland Goodale and Whitney herds. Last month, in August, a census by the Department showed a minimum of 340 elk actually counted, and perhaps there were as many as 380 animals. This is encouraging, but more important yet, according to the Department's statement of September 1, its biologists now believe that Owens Valley could support as many as 490 elk in good condition.

The federal agencies have recorded significant progress as well. We can be pleased with the actions of the Forest Service, even though it does not embrace much of the elk's principal range. In its Tule Elk Habitat adjacent to Owens Valley, it has given the elk first priority, eliminating livestock competition in key tracts and substantially reducing competition in other areas. The Bureau of Land Management has also taken positive action, with biologists at Ukiah and Bishop concentrating on tule elk studies; with considerations for elimination of domestic stock competition on BLM lands in Owens Valley to the extent of 5000 AUMs, and with efforts for a management plan to insure the Cache Creek herd on BLM land north of San Francisco. Likewise, on the San Luis National Wildlife Refuge in Merced County, a domestic livestock lease was not renewed; this is a small area, of about 2800 acres, but it demonstrates genuine concern by the agencies involved.

The Interagency Committee, composed of Los Angeles, California State and Federal agencies, has been instrumental in these steps. Establishment of an Owens Valley refuge may or may not be the basic question. My hope is that we can see continuation of the momentum of the Interagency Committee, with an on-going program of federal-state-local cooperation to insure viable, healthy herds of tule elk for the foreseeable and distant future. The elk may never go off the rare list, but let us be sure it is never endangered.

We need a federal policy to increase the tule elk herds to at least 2,000. The federal government should cooperate with the State of California in attaining that goal. The Interagency Committee has no legislative authorization. Perhaps, somehow, it could receive such authorization with a provision for citizen involvement and input.

The focus of attention has been on Owens Valley, where Los Angeles holds the critical grazing areas in the bottom lands. As a matter of public policy, in

response to the temper of the times, recognition should be given to the needs of tule elk in these key areas. But it's just as imperative to look beyond Owens Valley. To quote the California Fish and Game release of September 1, "It appears almost certain other sites will have to be found if the 2,000 elk population figure is to be reached and safely maintained."

Point Reyes National Seashore, outside San Francisco, has been cited as one of the potential transplant areas—a beautiful park, but I don't see how you could have much of a wild, free-roaming herd in such a heavily used and roaded setting. The San Luis Refuge, north of Los Banos, has also been identified as suitable. The unfortunate fact is that a couple of years ago an opportunity to acquire a large ranch adjacent to the refuge and expand the elk habitat was missed.

Somewhere in this picture serious consideration should be given to potentials for land acquisition through purchase. The Cache Creek herd of 110 to 125 elk is free-roaming at present. But what will be the impact if the substantial adjacent ranch should be subdivided, as I believe may be in the offing?

Furthermore, I wonder about the potential for acquisition in the original elk habitat, the grasslands and foothills of the Great Central Valley. Years ago it was lost to farming and ranching, but in the process of change are any large tracts becoming available? No doubt 10,000 acres or more would be costly, but cost is only relative over the long run. If the objective is to sustain a herd of free-roaming elk in its native range, a good chunk of country would be worth the price.

In the June issue of one of my favorite periodicals, Westways, I read a report on the current status of the tule elk. It described the controversy and disputation, then concluded as follows:

"Meanwhile, the elk browse contentedly, their distinctive tawny rump patches bright in the Sierra sun. They don't have to worry about whether they have their own home on the range. People are doing that for them."

Or as Horace Albright said, "Everybody is proud of the elk." I feel sure that only good will come from this Congressional review.

Mr. DE LA GARZA. Our next witness is Mr. Larry Moss, Southern California representative for the Sierra Club.

We would be happy to hear from you.

STATEMENT OF LARRY E. MOSS, SOUTHERN CALIFORNIA, SIERRA CLUB

Mr. Moss. Yes. Thank you.

The first thing I would like to do, I have been asked by Mr. Harry Crandell, representing the Wilderness Society, that he had a statement to be entered in the record, and I have some copies that I would like to put in, along with my prepared statement.

Mr. DE LA GARZA. We would be happy to insert both statements in the record at this point, sir.

[The statements follow:]

STATEMENT OF HARRY B. CRANDELL, THE WILDERNESS SOCIETY

Mr. Chairman, I am Harry Crandell, Director of Wilderness Reviews, The Wilderness Society, 1901 Pennsylvania Avenue N. W., Washington, D. C. The Wilderness Society is a national conservation organization primarily interested in assuring that an enduring resource of wilderness is preserved for the benefit of this and future generations. We are equally concerned with the proper management of public lands and, particularly the wildlife resources found thereon. I suppose our credo could best be summarized by a Gifford Pinchot statement of long ago—"A nation deprived of liberty may win it, a nation divided may unite, but a nation whose natural resources are destroyed must inevitably pay the penalty of poverty, degradation and decay." This statement has special significance concerning the subject under discussion today—the dedication of public lands as the Tule Elk National Wildlife Refuge in order

to assure the perpetuation and continued existence of this unique and important animal.

Last year the Department of the Interior recommended against enactment of similar legislation because it would not provide new authorities to the Secretary of the Interior. The Department also stated that while the Tule Elk can be considered rare, the species is not in danger of extinction. I presume that the attitude and position of the Department has not changed significantly in the past year. The following remarks are based on that assumption.

The Wilderness Society believes that by taking these positions the Department of the Interior is not living up to its responsibilities to the American people. Further, we believe that the Department has adopted a negative attitude regarding dedications of public lands for wildlife purposes (such as the case being discussed today) simply because it has been playing a kind of "which comes first the chicken or the egg" game in this regard.

Let me explain. The Department has stated (in its May 10, 1972 report on this subject) that the Tule Elk, while rare, is not in danger of extinction; the Tule Elk is a "resident species"; and plans to provide space for the elk in a zoo-like setting at San Luis National Wildlife Refuge, Point Reyes National Seashore, and a couple of other places in California is sufficient. What the Department has forgotten (or is ignoring) is a basic principal of wildlife management—*habitat is the key to survival of any species* and once it is gone, or depleted or changed due to incompatible practices, the wildlife requiring that habitat is likely to go too. The point Im' trying to make here is: *Habitat preservation is the single most important ingredient in the fight for survival of all life forms, including man.* Where the Department has gone astray in its thinking is documented in the above statement (that while the Tule Elk is rare, it is not endangered). What the Department really is saying is that no concerted action to protect its habitat is necessary because the elk is not endangered. Our question is why wait to act until the elk is endangered? The time to act is *now*, while there are still enough animals left to assure its survival, not later when we have to try to do something to save the elk on a crash basis with much less chance for success.

Now a word about the "resident species" syndrome of the Department. Citizens are very familiar with this syndrome because of the Department's attempt earlier this year to divest itself of several wildlife refuges because of the presence of "resident species" of wildlife. There has been, as you know, a continuing argument the past several years between various states and the Federal Government about who "owns" resident wildlife. The Wilderness Society believes that the argument is valid only if the Federal Government should attempt to dictate how and by what means resident wildlife would be reduced to the bag. What is often forgotten in the rhetoric evolving around the issue is that the lands involved are Federal lands, owned and supported by the tax dollars of all American citizens. As public lands, people have a right to expect proper management of them, including all forms of wildlife dependent on the lands for survival. In other words, what is proposed in the resolution under discussion today is the dedication of certain *public lands*, to be administered in the national interest primarily as *habitat* of the Tule Elk. Thus, when the Department washes its hands of the matter through the "resident species" excuse it is not in the public interest and certainly not in the best interest of the Tule Elk. The Department forgets that its function is to assure that wildlife habitat is protected, regardless of the critters involved, on all the lands it administers in trust for all citizens. (If the land were privately owned and has to be acquired, that is another matter.)

Still, the future outlook for wildlife on some of our public lands is bleak, in our opinion. Especially, if the present attitude of the Department remains unchanged and lands are not specifically dedicated for wildlife conservation purposes before a "crisis" occurs. For example, the proposed oil shale program of the Department in Colorado threatens the very existence of the Piceance Creek mule deer herd, one of the world's largest. The plan is a destructive *dominant use* that will, in the long run, raise havoc with the habitat of this splendid and economically important animal as well as other wildlife indigenous to the area. The program certainly *is not multiple-use* which the Department professes to practice in its management of the public lands. Do we wait until these mule deer are nearly gone before acting, or do we dedicate criti-

cally important lands to wildlife conservation purposes *before* they are destroyed? That is the question. (I'm not advocating creation of a national wildlife refuge in all cases like this example, but certainly innovative approaches to dedications of public lands for wildlife purposes must be implemented and soon! In the absence of strong leadership from the Department, carving units of the National Wildlife Refuge System from Federal lands via the legislative process, may be the only answer.)

We understand that livestock operators may oppose the resolution to establish the Tule Elk National Wildlife Refuge because of a fear of interference with their grazing leases. Certainly their livestock grazing is going to be interfered with, and that fact is recognized. But, grazing is a compatible operation on a number of national wildlife refuges throughout the country. There is no reason, to my knowledge, that grazing cannot continue on the Tule Elk National Wildlife Refuge *providing* such use does not interfere with habitat requirements at the Tule Elk, the principal management concern.

In summary, Mr. Chairman, we say let's get on with the job of assuring that our wildlife heritage is passed on to generations yet unborn through more dedications of public lands for wildlife conservation purposes, not less. The Wilderness Society strongly supports this measure and appreciates very much the opportunity to appear here today. We also appreciate the leadership being exerted by this committee through measures such as this one. Thank you!

STATEMENT OF LARRY E. MOSS, SOUTHERN CALIFORNIA REPRESENTATIVE, SIERRA CLUB

I am Larry E. Moss, Southern California Representative of the Sierra Club with my office at 2410 W. Beverly Blvd., Suite 2, Los Angeles, California 90057. I am testifying here today on behalf of the Sierra Club, a national environmental organization of approximately 140,000 members founded in 1892 with an abiding interest in the conservation and protection of America's wildlife and natural and scenic resources. The Sierra Club has always had a particular interest in the resplendent Owens Valley which shelters in the rain shadow of the Sierra Nevada and we are most pleased that hearings are being held on HJR 204 and companion bills.

The Sierra Club is completely in support of HJR 204 and urges that the resolution be promptly passed out of committee and onto the floor for consideration by the full House of Representatives. The merits of the legislation are quite clear and should certainly attract the support of Congress.

The Tule Elk has had a most precarious existence since the white man drove the beautiful elk out of its range in the central valley of California during the latter part of the 19th Century by usurpation of habitat for agriculture and the depredations of market hunters. A small remnant herd of 30 elk was left on the Miller and Lux cattle kingdom in the San Joaquin Valley where the remaining animals were given protection.

From that time until now, the existence of the Tule Elk has hung by a slender thread. Several transplants of Elk were unsuccessful, but a few head were successfully moved to the Owens Valley in the 1930's and the herd grew to the present size of approximately 300 animals. However the story of the Tule Elk in the Owens Valley has been one of continual adversity despite the obvious suitability of the Valley as habitat for the Elk.

The City of Los Angeles, which owns approximately 183,000 acres of land within the boundaries of the proposed Tule Elk National Wildlife Refuge, leases substantial portions of its holdings for livestock grazing, and vocal cattlemen there have always viewed a few hundred Elk as competition for livestock forage. The California Department of Fish and Game consistently paid more attention to the cries of ranchers than to the welfare of the Elk and authorized the "hunts" in the 1960's sanctioned by the Department of Water and Power of the City of Los Angeles, which aroused the conscience of the nation and resulted in the passage of California Senate Bill 722 in 1971.

This legislation, principally authored by State Senator Peter Behr, basically prevents hunting of the Tule Elk until their numbers reach 2,000 in the State. No longer will inaccurate assesments of "carrying capacity" as determined by political judgements of appointees to the California Department of Fish and

Game undermine the professionalism and excellent work of the Department staff in the field. However one element is still missing in this story of protection for the Tule Elk and other wildlife in the Owens Valley—assurance of adequate habitat in the future. As the members of the Subcommittee are most aware, habitat is the key to existence for all forms of life and habitat for the Tule Elk is exactly what the passage of HJR 204 will assure for today and for the future.

Establishment of National Wildlife Refuges have played a key role in every successful restoration of wildlife in America. There is now a clear need for establishment of a permanent sanctuary for the Tule Elk and other wildlife in the Owens Valley to assure that conflicting interests and activities will not endanger the Elk now or at some time in the future. I think that a very clear parallel can be drawn between the Tule Elk and the Bison. The endangered buffalo was given a permanent and assured home in the early 20th Century by the establishment of the National Bison Range and the Wichita Mountains National Wildlife Refuge. The restoration of bison in America has been a success story. And the assurance of a permanent range by the passage of HJR 204 will enable us to tell the same responsible story for the Tule Elk.

HJR 204 is an excellent piece of legislation which can be strongly supported by all those with an interest in the Owens Valley. The resolution, simply stated, would establish a wildlife refuge on approximately 197,000 acres of public lands, lands which already belong to the people, and assure that the City of Los Angeles lands are adequately managed so as to provide habitat for the Elk. The Secretary of the Interior is merely given the authority to acquire "any land and any easements, grazing rights, and other interests" which are needed in order to carry out the purposes of the Act. If the Department of Water and Power of the City manages their land in a sound manner, there will be no need for the Secretary to acquire one acre of the Departments' land. Water rights held by any State or local agency are protected in the legislation. "Local agency" clearly refers to the Department or Inyo County. If the Department feels further clarification is needed, we would have no objection.

The resolution clearly protects the Tule Elk by providing habitat and allows for transfer of Elk to other areas if the carrying capacity of the Tule Elk National Wildlife Refuge is being exceeded. HJR 204 also clearly dovetails with the present California policy of building up up the number of free-roaming Tule Elk to at least 2,000 and provides for co-operation between local, State and Federal agencies to implement this legislation. We applaud the concept of building up free-roaming Tule Elk herds at Point Reyes National Seashore and San Luis National Wildlife Refuge. The carrying capacity of the Owens Valley for Tule Elk is not clearly established at this time but it is quite clear that the Valley can accomodate at least approximately 500 Elk. It will be many years before the Elk population in the Valley reaches that figure. We will have a much better idea of the carrying capacity of the area by the time the Elk population reaches 500.

The Resolution also properly mandates that the Secretary of Agriculture limit grazing on the small portion of the Inyo National Forest which is used as range by the Tule Elk. The question of competition between the Tule Elk and the Sierra Nevada Bighorn Sheep has been raised but there doesn't seem to be any evidence of harm to the sheep range by the Elk. If any deleterious competition should develop, the rights of the Bighorn Sheep would be very clearly protected under the terms of the Bighorn Sheep Zoological Area which has been established to protect the sheep range on the Inyo National Forest.

HJR 204 is clearly a reasonable measure which protects the rights of all parties and yet provides for permanent habitat for the Tule Elk. If the Department of Water and Power of the City of Los Angeles co-operates with the Refuge, there will be no diminution of the land holdings of the Agency in the Valley.

Some may be so short-sighted as to oppose this legislation but measures which protect the scenic resources, the wildlife, and the life support systems of this country have always been opposed by those who fear (often mistakenly) some decrease in their sovereignty or revenue. Yet how often has the passage of legislation such as this shown them to be wrong. One example would be the National Elk Refuge in Jackson Hole, Wyoming which has been an economic

benefit to the area. We ask that you look beyond any carping, parochial views and assure the future of the Tule Elk by passing HJR 204 and adding a refuge for the Tule Elk to our great sytem of National Wildlife Refuges.

Mr. Moss. As indicated in my statement, I am Larry E. Moss, southern California representative of the Sierra Club, with responsibility in the Owens Valley area.

The Sierra Club, as you know, is a national environmental organization of approximately 140,000 members. We have substantial membership in the Owens Valley.

What was stated earlier, that there is no organization with membership in the Owens Valley supporting the Owens Tule wildlife, is inaccurate because we do support the establishment of the refuge and support the joint resolution which is before you here today.

If I may paraphrase some of my testimony, the city of Los Angeles, which owns approximately 183,000 acres of land within the boundaries of the proposed Tule Elk National Wildlife Refuge, leases substantial portions of its holdings for livestock grazing, and vocal cattlemen there have always viewed a few hundred elk as competition for livestock forage.

If you view the history in the Owens Valley, I do not think you will find it is quite as rosy as represented by the representatives of Inyo County and representatives of the Department of Interior.

There have been attempts on the part of Inyo County to wipe out the Tule elk from the Owens Valley. There has been a continual change in the "biological carrying capacity" for the Tule elk in the Valley, but it has been politically determined carrying capacity rather than biologically determined carrying capacity.

The number has ranged from 125 to the present carrying capacity figure of 490. It was actually the final hunt in the 1960's with resultant nationwide publicity that resulted in the pressure that created the present State policy that was embodied in California State Senator Peter Behr's bill SB 722.

When Behr's SB 722 was introduced at the urging of conservation groups, (among which the Sierra Club was one) the people who testified so forthrightly here today of their love for the Tule elk opposed that bill, and I think it was the effectiveness of certain citizen organizations that passed it, and not the good will of the people of Inyo County or the Department of Fish & Game.

Mr. Frome's remarks, I felt, were very good about the national wildlife refuge system.

I think there is a clear parallel between the bison, which the national refuges have done so much for, and what can be done for the Tule elk by the establishment of this refuge.

Habitat is the key, as you are well aware, to the welfare of any species of wildlife regardless of which form it takes, and habitat is something that is not assured for the Tule elk at this point in time.

There is no statutory legislation which provides one acre, with the exception of the State Tupman reserve on which you have approximately 30 animals. That is the only acreage that is specifically set up to assure habitat for the Tule elk.

House Joint Resolution 204 is an excellent piece of legislation

which can be strongly supported by all those with an interest in the Owens Valley.

The resolution, simply stated, would establish a wildlife refuge on approximately 197,000 acres of public lands, lands which already belong to the people, and assure that the city of Los Angeles lands are adequately managed so as to provide habitat for the elk.

The Secretary of the Interior is merely given the authority to acquire "any land and any easements, grazing rights, and other interests" which are needed in order to carry out the purposes of the act.

If the Department of Water and Power of the city manages their land in a sound manner, there will be no need for the Secretary to acquire 1 acre of the Department's land. Water rights held by any State or local agency are protected in the legislation. "Local agency" clearly refers to the Department for Inyo County.

If the Department feels further clarification is needed, we would have no objection.

One question that has been raised today is the competition between bighorn sheep and the Tule elk.

I would like to address that.

The question of competition between the Tule elk and the Sierra-Nevada bighorn sheep has been raised, but there does not seem to be any evidence of harm to the sheep range by the elk.

If any deleterious competition should develop, the rights of the bighorn sheep would be very clearly protected under the terms of the bighorn sheep zoological area, which has been established to protect the sheep range on the Inyo National Forest.

The issue of elk and sheep competition is a strawman that has been put up before you today, and I feel that the bighorn sheep rights are very clearly protected.

Some may be so shortsighted as to oppose this legislation, but measures which protect the scenic resources, the wildlife, and the life support systems of this country have always been opposed by those who fear, often mistakenly, some decrease in their sovereignty or revenue.

Yet, how often has the passage of legislation, such as this, shown them to be wrong?

One example would be the National Elk Refuge in Jackson Hole, Wyo., which has been an economic benefit to the area.

We ask that you look beyond any carping, parochial views, and assure the future of the Tule elk by passing House Joint Resolution 204, and adding a refuge for the Tule elk to our great system of national wildlife refuges.

I do have a few remarks that I would like to clarify some of the statements made here today, if the Subcommittee would provide that opportunity to me.

Mr. DE LA GARZA. Go right ahead, sir.

Mr. Moss. One is a potential amendment which has been put forth.

The question is, does the bill mandate 2,000 elk in the Owens Valley?

I feel that the bill is very clear in its present form, and a careful

reading will show that it does not mandate 2,000 elk in the valley. At the present time, we have only a rather sketchy idea of the carrying capacity in the valley, 490, 500.

But if that figure is used—it should be established as a floor, not a ceiling, in which we operate within.

I would suggest the following language as an amendment be considered by the committee:

The number of Tule elk in the Owens Valley shall not be permitted to increase beyond 490 or any greater number hereafter determined by the Bureau of Sport Fisheries and Wildlife in cooperation with the State of California to be the Owens Valley holding capacity in accordance with game management principles.

I think that is very clear language. I do not wish to take credit for it, because it is right out of the State legislation of 1971. It is the same language. With the exception of adding Bureau of Sport Fisheries and Wildlife. Those concerned with protection of the State rights, I think, can support this language.

I think the real issue here today is the Department of Water and Power of the city of Los Angeles.

We have seen an increase in cooperation, the interagency committee, which I would agree has been forced by very good and beneficial activity by certain citizens in the State of California.

However, at the present time, there is no legislative authority for the interagency committee. There is no legislative assurance of habitats for the Tule elk in the Owens Valley. There is no assurance that this cooperation is going to occur in the future.

I feel very sure it will continue for at least the next four years because of the present city administration which we have just elected the city of Los Angeles.

But elections change politicians, as all of you are very well aware, and who is going to be there next? There is no assurance of that.

The establishment of the Federal wildlife refuge is the best way to accomplish protection of habitat. It would not take lands unless it became necessary, and if the Department of Water and Power accommodated the refuge, cooperated with it, there would be utterly no need to acquire those lands.

But it would be provision that would, in my view, assure that the Department would cooperate. I have no charge against the people of the Department of Water and Power whom, I am sure, will testify tomorrow that they will cooperate with the refuge fully.

But those gentlemen are not in a position to carry that mandate without legislative help. They have not done it in the past. That is up to the city council and the board of water and power commissioners of the city of Los Angeles. And we would like this Federal refuge to assure this for the future, a beneficial move for all interests concerned, although some of them cannot see it at this time.

Those are all the remarks I have. Thank you.

Mr. DE LA GARZA. Thank you very much.

Are there any questions of Mr. Moss?

Mr. MCCLOSKEY. I would like to ask him one.

Mr. DE LA GARZA. One question from Mr. McCloskey, if you may, sir.

Mr. McCLOSKEY. There is difficulty, Mr. Moss, with all the priorities for the acquisition of land by the Federal Government, $38 million for a refuge here, is almost impossible.

I could not give you any indication whatsoever if we push this bill through, that we could fund this proposal for ten years.

Mr. Moss. In my view, there would not be a need to spend $38 million for acquisition of property.

In my view, the passage would assure that the city of Los Angeles would maintain their lands in the environmentally sound manner as asked for in the bill, and would not provide any reason whatsoever for the Department of the Interior or the sport and wildlife and acquire these lands.

Mr. McCLOSKEY. My question is, your testimony assumes that the county would change its zone, and the Department of Power and Water would change its use.

Nobody objects to the way the land is presently——

Mr. Moss. I would take exception to that.

I think some of my testimony does relate that in the past it has only been because of strong citizen effort that has brought us to this point.

Mr. McCLOSKEY. That may be, but after the passage of the 1971 law by the State of California, I have heard not one word of concern of anything that has occurred since 1971, that would justify Federal intervention.

Mr. Moss. I think there is a real concern, as I tried to make the main point, is that we do not have assurance of habitats in the State of California to carry out that policy at the present time.

Mr. McCLOSKEY. What indication is there that the Federal Government should move until there is some showing of threat?

What is the threat right now? Is it from the county?

Mr. Moss. Let me just delineate two lines of that.

It could be from the county and it could be from the Department of Water and Power, from the city of Los Angeles.

Mr. McCLOSKEY. It could be, but it isn't?

Mr. Moss. Let me give you some examples from the county.

We heard today a fine presentation of the views and so forth of the officials of Inyo County. Yet, if we look at some of the—if I may use the word, "schemes," that are up in the county—

Mr. McCLOSKEY. Wait a minute.

They said they have not had a proposal for zoning change in the last two years.

Mr. Moss. That is inaccurate because they presently have a proposal for zoning change—it is within Inyo County.

They said they had no requests for zoning change but they presently have a very large case before them.

Several residents of the county of Inyo have expressed to me great fears about that particular development.

Another example——

Mr. McCLOSKEY. Well, their planning procedure requires several months of presentation of a proposal, passage through there, and we have ample warning of any suggested change of use, would we not?

Mr. Moss. I believe that we, by our——

Mr. McCloskey. I have never known the Sierra Club to fail.

Mr. Moss. No. I was going to say that we do have some active members in the area. We would be alerted of specific large proposed developments of this sort, that is true.

Again, there is one other instance in the Owens Valley. There is presently movement underway to attempt to take the Mount Whitney trail out of the wilderness preservation system in order to accommodate later development. Certain interests in Inyo County have indicated they would like to see a tramway up to Mount Whitney, and so forth.

So I think that this more accurately reflects the attitude of the County than does the testimony you heard today as regards the actual feelings of at least certain elements of the community in Inyo County as to their protection of the open space of values and so forth in the county.

Mr. McCloskey. Mr. Moss, let us take the wildlife refuge that we have authorized and appropriated money.

We have one in the San Francisco Bay area authorized 2 years ago for which not one dime has yet been spent.

We are creating a refuge that we can never put the money in. That is one of the reasons that it attracts proper disfavor.

Mr. Moss. Yes, and I share your view on the San Francisco Bay refuge.

However, you will recall that over half of the lands in the proposed refuge are Federal lands at the present time and we feel that gives you a very large land base from which to operate your refuge at the present time. And it would be wise to establish the refuge on those particular lands as written in the bill, with the authority to use under Department of Water and Power lands, if necessary.

If I made reference to politics in the city of Los Angeles. You have had city councilmen in the city of Los Angeles with political ambitions and, who suggested substantial development schemes in the Owens Valley. They see large development potential, and they do not see why the city of Los Angeles is not utilizing it.

I am not saying that is the majority of the view in the city of Los Angeles at the present time because, as I indicated, by our election of Mayor Tom Bradley, I do not feel this is a real possibility. But, in 4 years, some other gentleman, may well be the mayor of Los Angeles, with an ability to put into force his policy of development in the valley. And I feel the prevention of this development would be a very strong benefit of the passage of the national wildlife refuge legislation.

Mr. McCloskey. I have nothing further.

Mr. de la Garza. Thank you very much.

Mr. Moss. Thank you, and I have the copies of the Wilderness Society material.

Mr. de la Garza. Our next witness is Ms. Jane Risk, director, Washington Information Services, Animal Protection Institute of America.

We will be happy to hear from you at this time.

STATEMENT OF JANE RISK, DIRECTOR, WASHINGTON INFORMATION SERVICES, ANIMAL PROTECTION INSTITUTE OF AMERICA

Ms. RISK. Thank you, Mr. Chairman.

I will excerpt comments from my statement, and ask that my entire statement be included in the record.

Mr. DE LA GARZA. Without objection, we will include your entire statement in the record.

[The statement follows:]

STATEMENT OF JANE RISK, DIRECTOR, WASHINGTON INFORMATION SERVICES, ANIMAL PROTECTION INSTITUTE OF AMERICA

Mr. Chairman, I am Jane Risk, Director of Washington Information Services for the Animal Protection Institute of America. The Animal Protection Institute is a non-profit humane education organization dedicated to the welfare of all animals and to the protection and preservation of wildlife and its habitat. Our national membership numbers 40,000, and our Washington Office is located at 620 C St. S. E. I appreciate very much this opportunity to testify before your committee.

The Animal Protection Institute strongly endorses the provisions of H. J. Res. 203, 204, 270 and other identical resolutions designed to establish the Tule Elk National Wildlife Refuge, and we urge speedy passage.

Tens of thousands of the dwarf valley elk once ranged freely over the entire state of California. Then, because of mushrooming development and enormous increases in human population, the great herds dwindled almost to the vanishing point. California rancher Henry Miller found a pitifully small portion of the remaining herd hiding in the tules and subsequently created on his ranch a sanctuary for the Tule Elk, giving the species both its common name and another opportumity to thwart almost certain extinction.

As the Tule Elk population increased, attempts were made to relocate the elk in various parts of the state. These efforts were, for the most part, unsuccessful, except for a few elk located in a paddock in Yosemite Valley.

Because scientists believed that survival of the species depended upon larger numbers of the animals being able to roam freely, it was finally decided, after some years of study, to transfer the 27 Tule Elk to Owens Valley in eastern California. This was accomplished in 1933, and all but one elk survived the move.

The herd flourished in their new habitat, and it appeared that there would finally be a happy ending to the saga of the Tule Elk. Unfortunately, this euphoric assessment was short-lived.

Ranchers holding grazing permits on the public lands and the lands owned by the City of Los Angeles insisted that the herd be thinned. The California Fish and Game Commission, in an action that made a mockery of the term "management," acceded to the ranchers' demands, and authorized a series of sport hunts to "cull" the herd in 1961, 1962, 1964, and 1969. The entire herd now numbers about 290.

With a new awareness of man's changing role in relation to his total environment, citizens of this country are loathe to see public lands, which lawfully belong to us all, be used to subsidize certain interests at the cost of displacing wildlife and limiting or destroying its habitat. Creation of the Tule Elk National Wildlife Refuge would ensure that this is not allowed to happen. As the name of the proposed refuge implies, this is truly a national concern, and we hope that this committee and the Congress will view the issue in that light.

In 1971 the California Legislature unanimously enacted legislation that prohibits hunting of this rare and threatened species until the herd increases to 2,000. Conservationists and wildlife biologists believe that any species of less than this number may very well become extinct, especially in the event of an epidemic. However, since the state cannot set aside Federal lands for habitat, enactment of this legislation is urgently needed in order to make that restoration of the species possible. If it is determined that the carrying capacity of

the Refuge is less than 2,000, the measure provides for additional habitat acquisition in California to sustain a total of at least 2,000 Tule Elk in the state.

Aside from providing habitat for the Tule Elk, the proposed refuge will also supply habitat for all resident wildlife, including 22 additional rare and endangered species. Also, it will have enormous esthetic value for the millions of people of the area in need of open spaces and places of natural beauty.

Mr. Chairman, our organization commends you and your committee for your work in the past on behalf of wildlife and the environment. We hope that you will see fit to respond favorably to this proposed legislation and, by your efforts, save the Tule Elk.

Thank you very much for allowing me to testify.

Mr. DE LA GARZA. You may proceed.

Ms. RISK. I am Jane Risk, director of Washington information services for the Animal Protection Institute of America.

The Animal Protection Institute strongly endorses the provisions of H.J. Res. 203, 204, 270, and other identical resolutions designed to establish the Tule Elk National Wildlife Refuge, and we urge speedy passage.

With the new awareness of man's changing role in relation to this total environment, citizens of this country are loath to see public lands, of which half of this refuge consists, and which rightfully belong to all citizens, be used to subsidize certain interests at the cost of displacing wildlife and limiting or eliminating habitats.

Creation of the Tule Elk National Wildlife Refuge would insure that this is not allowed to happen. As the name of the proposed legislation implies, this is truly a national concern, and we know this committee and the Congress will view it in that light.

In 1971, the California Legislature passed an act that would prohibit hunting of this rare species until it reaches a level of 2,000. This is a figure which most scientists and biologists believe must be sustained in order to insure that a species does not become extinct. However, since the State cannot act to set aside Federal land for habitats, we feel enactment of this legislation is urgently needed.

If it is determined the carrying capacity of the refuge is less than 2,000, we note that the measure provides for additional habitat in California to sustain a total of at least 2,000 animals in the State.

Aside from providing habitat for the Tule elk, the proposed refuge will also supply habitat for all resident species of wildlife, including 22 additional and rare species such as the kit fox, the golden eagle, the mountain lion, and the bighorn sheep.

Also, it will have esthetic value for the millions of people of the area in need of open spaces and places of natural beauty.

We are not asking for the land of Owens Valley owned by the city of Los Angeles as long as the Tule elk are allowed to roam freely. We are not asking for the tax base of Inyo County at the expense of loss of education for their schoolchildren. We are not asking for 2,000 elk in the valley if it is determined that the carrying capacity is less. What we are asking for is permanent legislative protection of the habitat.

This legislation and the proposed amendment would accomplish that goal.

Thank you very much.

Mr. DE LA GARZA. Thank you very much.

There being no questions—one question from counsel.

Mr. Everett?

Mr. EVERETT. Miss Risk, you mentioned there were 22 rare and endangered species.

If you have that information, I wish you would supply it for the record.

Miss RISK. I do, indeed.

Mr. EVERETT. Also, if you have a list of other species in the area that would benefit from the refuge, it would be helpful.

Miss RISK. I do have a list, Mr. Everett, prepared by Dr. Glenn Stewart, biology department of California Polytechnic College of Pomona, that lists the rare or threatened vertebrates in the Owens Valley watershed.

I do not have with me at this time a list of other resident wildlife, but I would be glad to supply it.

[The information referred to follows:]

ENDANGERED, RARE, OR THREATENED VERTEBRATES OF THE OWENS RIVER WATERSHED

Fish:

Piute Cutthroat Trout[1] [2]—*Salmo clarki seleniris.*
Owens River Pupfish[1] [2]—*Cyprinodon radiosus.*

Amphibians:

Mount Lyell Salamander[3] [4]—*Hydromantes platycephalus.*
Yosemite Toad[4] —*Bufo canorus.*

Reptiles:

Desert Tortoise[1] [3]—*Gopherus agassizi.*
Leopard Lizard—*Crotaphytus wislizenii.*
Collared Lizard[5] —*Crotaphytus collaris.*
Gilbert's Skink[4] —*Eumeces gilberti.*
Chuckwalla[5] —*Sauromalus obesus.*

Birds:

Prairie Falcon[1] [2]—*Falco mexicanus.*
American Peregrine Falcon[1] [2]—*Falcon peregrinus anatum.*
American Osprey[1] —*Pandion haliaetus carolinensis.*
Trumpeter Swan[1] [3]—*Cygnus buccinator.*
Mountain Plover[1] [3]—*Eupoda montana.*
Greater Sandhill Crane[1] [3]—*Grus canadensis tabida.*
Yakutat Fox Sparrow[1] —*Passerella iliaca annectens.*

Mammals:

Timber Wolf[1] [2] [3]—*Canis lupus.*
Pine Marten[1] —*Martes americana.*
Fisher[1] —*Martes pennanti.*
Wolverine[1] —*Gulo luscus.*
Mountain Lion[5] —*Felis concolor.*
Tule Elk[1] [2]—*Cervus nannodes.*
California Bighorn Sheep[1] [2]—*Ovis canadensis californiana.*
Desert Bighorn Sheep[1] —*Ovis canadensis nelsoni.*

[1] Rare in California.
[2] Currently on U.S. Fish and Wildlife Service's list of rare and endangered wildlife.
[3] Occurrence in Owens River watershed uncertain.
[4] Restricted in geographic range and could be easily depleted by commercial exploitation or habitat destruction.
[5] Depleted and becoming rare in California.

Source: Dr. Glenn R. Stewart, Biology Dept., California Polytechnic College, Pomona.

Mr. EVERETT. Thank you.

Mr. DE LA GARZA. We thank you very much for your contribution.

The next witness is the Wildlife Management Institute president, Mr. Daniel Poole.

STATEMENT OF DANIEL A. POOLE, PRESIDENT, WILDLIFE MANAGEMENT INSTITUTE

Mr. POOLE. Thank you, Mr. Chairman.

I am Daniel A. Poole, president of the Wildlife Management Institute, with headquarters in Washington, D.C. The institute's program has been devoted to the restoration and improved management or renewable natural resources in the public interest for more than 60 years.

I realize the hour is late, and I am sure that you are surfeited with all kinds of information about Tule elk, their range, and so forth, so with your permission, I will excerpt a few paragraphs of my statement in the hope that the whole statement will appear in the hearing record.

Mr. DE LA GARZA. Without objection, your statement will appear in the record at this point, and you may proceed briefly, or at length, as you desire.

[The statement referred to follows:]

STATEMENT OF DANIEL A. POOLE, WILDLIFE MANAGEMENT INSTITUTE

Mr. Chairman, I am Daniel A. Poole, president of the Wildlife Management Institute with headquarters in Washington, D.C. The Institutes' program has been devoted to the restoration and improved management of renewable natural resources in the public interest for more than sixty years.

The Institute strongly endorses improved management to protect and perpetuate tule elk. The several opportunities to accomplish this are outlined in this statement. And for reasons also discussed in our statement, we do not believe that the establishment of a tule elk national wildlife refuge in the Owens Valley would accomplish any particular good. It may, in fact, be detrimental to the animals and to the public interest in them. Our statement emphasizes the several steps that can be taken to increase the elk and expand their distribution. We commend them to your attention.

With respect to Owens Valley, only about half of the elk habitat there is in federal ownership. Studies show that 2,000 elk cannot be accommodated on these public lands. Even if the other half of the range is acquired 2,000 elk should not be carried in the valley because of disease threats, habitat deterioration from overuse, and unacceptable damage to crops on adjoining private lands. Biologists intimately familiar with the situation have strong doubts that 2,000 free-ranging elk can be carried under optimum conditions on all the remaining tule elk habitat in the entire state of California.

California already has passed a law forbidding the taking of tule elk until the populations total 2,000 head or more. This action resulted from earlier inquiries by this Committee.

The national wildlife refuge system, already hobbled by a lack of congressional and Administration support, certainly does not need an unnecessary burden in the form of a tule elk refuge, Solution of the tule elk's problem is more basic than simply creating another refuge or shifting agency responsibilities. If action is to be taken, let's be sure it is beneficial. Most of the elk's original range is now intensively-farmed agricultural land in private ownership. Thus, the problem is one of declining habitat due to man's alienation of the land.

An extensive survey was conducted in early 1971 by representatives from the California Department of Fish and Game, the U.S. Bureau of Land Manage-

ment, the U.S. Forest Service and the U.S. Bureau of Sport Fisheries and Wildlife to locate all possible areas where viable populations of free-roaming tule elk may be established. Members of the survey team comprised knowledgeable biologists and range managers familiar with the tule elk and the type of habitat it requires. The search was conducted throughout California and into neighboring states. Other states understandably were not interested in introducing tule elk because of the detrimental effects they could have on native elk and possibly other animals. It is obvious that even California must be very selective in transplanting tule elk because its association with other subspecies of elk in that state would probably result in interbreeding. This would pose a danger to the perpetuation of tule elk as a distinct subspecies.

They survey found that there are only four suitable areas in California which can accommodate free-roaming populations of tule elk. These are; Owens Valley, Cache Creek, San Luis National Wildlife Refuge, and Point Reyes National Seashore. Both Owens Valley and Cache Creek contain herds of tule elk at present.

There presently are six distinct populations in Owens Valley totaling more than 380 animals. Biologists report that the populations are reaching the upper limits of the valley's available elk habitat. Further, research indicates that competition with domestic livestock for forage on federal public lands in Owens Valley is not as serious a problem as has been alleged by some lay observers. This is simply because cattle and tule elk normally prefer different plants. However, there appears to be some competition for less desirable plants during frequent droughts when all forage is scarce. This is some indication that elk populations possibly could be increased slightly if cattle were removed altogether. The U.S. Forest Service already has canceled the grazing leases on its elk range which is at higher elevations. The Bureau of Land Management still permits about 2,000 animal units months of grazing on its portion of the Owens Valley range each year. Cattle are on the range only during the summer months, however, when elk are at higher altitudes, mainly on Forest Service land. Cattle are removed before the elk return each fall. In Owens Valley, therefore, there may be forage on public lands to supply more than 380 elk if all cattle are removed. But there are constraints other than food to consider.

Enlarging the herd in Owens Valley means accepting responsibility for creating possible wildlife and livestock disease problems and for increasing elk damage to fences, crops, and other property on private adjoining lands. This is important to remember because the Federal Government owns only about one half of the tule elk habitat in Owens Valley. The city of Los Angeles and private land owners control the remainder. Their cooperation is vital in managing the tule elk. Thus their interest must be considered as well as solicited.

Aside from reprisals resulting from crop depredation, the threat of disease to discrete animal populations such as the tule elk is generally underemphasized. It is very important that the six Owens Valley populations remain separate and distinct. They should not be allowed to expand to where their populations overlap. If they should grow to that extent, the possiblity of disease destroying the entire herd would be greatly enhanced. In the past, several outbreaks of a disease believed to be anthrax have occurred in Owens Valley elk. Because the populations were separate, however, the disease did not spread. And the consequences of anthrax, as foreboding as they are, are minor indeed compared to the potential destruction caused by an even more virulent exotic malady such as foot and mouth disease.

California has had sobering experience with this dreaded virus in wild and domestic animal populations. In 1924, an outbreak of foot and mouth disease necessitated destruction of 22,000 deer in the Stanislaus National Forest. Within the past two years, exotic Newcastle disease skipped through domestic poultry flocks in southern California causing more than $40 million in damage and seriously threatening the endangered California condor.

Disease implications of stockpiling tule elk on limited range is not based on idle speculation. The threat is very real and is increasing yearly as swifter world-wide transportation systems provide more and more opportunities for exotic diseases to enter our borders. Therefore, while we believe that the total number of tule elk should be maintained at the highest level practical, the maintenance of separate populations is even more important. The elk would be much safer from disease attack with six separate and distinct populations of

100 animals each than it would be with one population of 600 animals or 6,000 for that matter.

Another free-roaming herd of tule elk is located at Cache Creek north of San Francisco. The habitat in that area includes about 30,000 acres of private and about 12,500 acres of BLM lands. The BLM property is marginal habitat at best. The private land contains much better oak-grassland habitat and supplys most of the elk's requirements in the area. There are approximately 125 animals in the Cache Creek herd at present. The private land now used by the elk is in danger of being subdivided and sold. Surveying has already been completed. Biologists have recommended that BLM acquire about 15,000 acres of the private land to protect the elk's habitat. There is no evidence, however, that the acquisition would allow the herd size to be increased significantly. However, without this land, the herd will be imperiled over the near term. That land should be acquired by BLM before it is too late. Congress can facilitate this acquisition.

There is another existing herd of 43 tule elk at the Tule Elk Reserve State Park at Tupman. These are enclosed in a pen and are not free-roaming animals.

Another area that lies within the tule elk's original range but that does not have elk at present is the 7,422-acre San Luis National Wildlife Refuge. A small herd of animals can be accommodated there by the erection of 14 miles of fencing at a cost of about $75,000. Great care would have to be taken to control the herd size on that area so that the animals will not conflict with the surrounding private agricultural lands and with waterfowl and other wildlife management activities on the refuge.

Another possible transplant site is the Point Reyes National Seashore which is at the western extreme of the tule elk's original range. Much of the habitat within the seashores boundary, however, is private inholdings. There are about 16,5000 acres of habitat available at Point Reyes, but fences would have to be constructed and the population controlled to keep the animals off adjoining private land to prevent depredation problems. Erection of necessary fences may be incompatible with other purposes of the seashore.

The opportunities to help tule elk at these several areas are discussed at length in the interagency report, which offers a professional evaluation of the problem. Implementation of the report will require cooperative effort among the California Department of Fish and Game, BLM, Forest Service, Bureau of Sport Fisheries and Wildlife, private land owners and the city of Los Angeles. We are hopeful that the good cooperation that presently exists among these agencies will continue.

The Institute recommends that the Owens Valley herd be maintained in at least six separate populations and that BLM further investigate the possibility of reducing the number of cattle using its land to see if the elk can be increased significantly. The city of Los Angeles should be encouraged to do the same.

We recommend that BLM acquire the approximately 15,000 acres of privately owned habitat at Cache Creek to protect the herd there.

Also, we recommend that attempts be made to establish tule elk on the San Luis refuge in numbers compatible with other refuge functions and with adjoining private lands. And we recommend that attempts be made to introduce and maintain a reasonable number of tule elk on the Point Reyes National Seashore.

Mr. Chairman, the actions we have outlined are biologically sound and workable. We realize that doing these several things may not be as glamorous as authorizing a national widlife refuge. But they are readily attainable and, more important, they will be beneficial to the tule elk in both the short and long term. Any expansion of elk numbers beyond the level described on the currently available natural range only can be done by acquiring and developing private land in the elk's original riverine range. It is not likely that either the federal or state governments will be willing to appropriate that kind of money in the foreseeable future. We remain hopeful, however, that priorities will shift to where wildlife and other natural resources will receive more adequate funding and attention.

Mr. POOLE. The Institute strongly endorses improved management to protect and perpetuate Tule elk. The several opportunities to

accomplish this are outlined in our statement. And for reasons also discussed in our statement, we do not believe that the establishment of a Tule Elk National Wildlife Refuge in the Owens Valley would accomplish any particular good.

It may, in fact, be detrimental to the animals and to the public interest in them.

The National Wildlife Refuge System throughout the United States is already hobbled by the lack of congressional and administration support, and we do not believe that it needs an unnecessary burden in the form of a Tule elk refuge.

In fact the solution of the elk problem is more basic than simply creating another refuge of shifting agency responsibilities.

We would hope that if any action is taken at all, it would be beneficial. You have had repeated reference, I am sure, today, to the interagency study and report of 1971 by representatives of the California Department of Fish and Game, and the various Federal agencies. These men are knowledgeable biologists and range managers, familiar with the Tule elk, and the type of habitat that the animals require. We commend their recommendations and their report to your attention.

The survey team found that there are only four suitable areas in California which can accommodate free-roaming populations of Tule elk. These are Owens Valley, Cache Creek, San Luis National Wildlife Refuge, and Point Reyes National Seashore.

Both Owens Valley and Cache Creek contain herds of Tule elk at present.

There presently are six distinct populations in Owens Valley, totaling more than 380 animals.

In Owens Valley there may be sufficient forage on public lands to supply more than 380 elk if all the cattle are removed. But there are constraints other than food to consider.

And among the contraints are the potential for creating possible wildlife and livestock disease problems, and for increasing elk damage to fences, crops, and other property on private adjoining lands.

Aside from the difficulties resulting from crop depredation, the danger of disease to discreet animal populations such as the Tule elk, is generally underemphasized. It is very important that the six Owens Valley populations remain separate and distinct. They should not be allowed to expand to where their populations overlap because it will increase their susceptibility to disease.

This is a real threat. In the past, several outbreaks of a disease, believed to be anthrax, have occurred in Owens Valley elk. Because the populations were separate, however, the disease did not spread.

Of course, in the earlier years, in the 1920's, California suffered an outbreak of foot and mouth disease, which necessitated the destruction of 22,000 deer on the Stanislaus National Forest.

Even within the past 2 years, exotic Newcastle disease skipped through domestic poultry flocks in Southern California, causing more than $40 million in damage, and seriously threatening the endangered California condor.

The Cache Creek herd is based on 12,500 acres of BLM lands and 30,000 of private lands. The latter have more utility to the elk than the BLM lands. The private lands, as has been said, are in danger of being subdivided and sold.

We believe that the Congress could be very helpful in this regard in instructing the BLM to investigate and take steps to acquire the significant areas of the private holdings. This, of course, could be done by exercise of BLM's exchange authority.

You have heard about the fencing opportunity at the San Luis National Wildlife Refuge to get a herd stated there in the original range of the Tule elk. The fencing cost at one time was in the neighborhood of $50,000 or so. I notice now that the Bureau of Sport Fisheries and Wildlife has estimated the cost at $108,000. Unfortunately, the Bureau has not seen fit to include this item in its budget.

We favor this appropriation.

Now, the opportunities to help elk at these various places are discussed at length in the interagency reports.

I would like to point out, while there is some habitat at Point Reyes, this should be approached with great caution, because the erection of fences and other things to accommodate the elk may be incompatible with the other purposes of the seashore.

Finally, Mr. Chairman, we believe that the actions we have outlined are biologically sound and workable. We realize that doing these several things may not be as glamorous as authorizing a national wildlife refuge. But they are readily attainable, and more important, they will be beneficial to the Tule elk in both the short and long term.

I thank you.

Mr. DE LA GARZA. Thank you very much, sir.

Any questions?

[No response.]

Mr. DE LA GARZA. In the absence of any questions, we appreciate your appearance and testimony, and the subcommittee will stand recessed until 10 tomorrow morning.

[Whereupon, at 4:20 p.m., the subcommittee recessed, to reconvene at 10 a.m., Tuesday, September 25, 1973.]

TULE ELK REFUGE

TUESDAY, SEPTEMBER 25, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
Washington, D.C.

The subcommittee reconvened, pursuant to recess, at 10:12 a.m., in room 1334, Longworth Office Building, Hon. John D. Dingell, chairman of the subcommittee, presiding.

Mr. DINGELL. The subcommittee will come to order.

This is a continuation of the hearing on legislation to create a Tule Elk National Wildlife Refuge.

The committee is pleased to have an old friend of the chairman, a distinguished conservationist, Hon. G. Ray Arnett, Director, California Department of Fish and Game.

Mr. Arnett, we are pleased to have you with us, and the Chair notes that you have some of your associates here with you.

The Chair also notes that if you would like to have your associates present with you at the committee table, you may do so.

Identify yourself fully for purposes of the record, and we will be pleased to hear your statement.

Please proceed.

STATEMENT OF G. RAY ARNETT, DIRECTOR, CALIFORNIA DEPARTMENT OF FISH AND GAME

Mr. ARNETT. Thank you, Mr. Chairman.

My name is Ray Arnett, Director of the Department of Fish and Game, State of California, and the associates that you referred to will be giving prepared testimony following me, according to your agenda, so we will just follow your agenda as you have outlined it.

The Resources Agency of California feels that it must oppose the present proposed legislation: Senate Joint Resolutions 6, House Joint Resolutions 20, 203, 204, 270, 297, 336, 369, 436, 449, and 507. These are to establish a Federal refuge for Tule elk in the Owens Valley.

We do not believe this legislation is needed. It would preempt the State's right to manage elk, a resident species, as well as other wildlife in the Owens Valley.

This legislation has little support from the residents of the area and is being opposed by the Inyo County Board of Supervisors, the

County Supervisors Association of California, the city of Los Angeles, the Western Association of Game and Fish Commissioners, the California Wildlife Federation, and the California Cattlemen's Association, and the Interagency Committee on Owens Valley Land and Wildlife—comprised of representatives of the U.S. Forest Service, U.S. Bureau of Land Management, U.S. Fish and Wildlife Service, California Department of Fish and Game, California Division of Forestry, University of California, Inyo County, Mono County, City of Los Angeles Department of Water and Power, and others.

Most of these individuals were here yesterday, Mr. Chairman, and I regret you were not here to hear them.

Current State law and management programs provide specifically for the protection and enhancement of expansion of elk herds in California. The California Legislature, in 1971, added section 3951 to the fish and game code. This section provides that the department shall relocate elk in areas suitable to the animals and shall cooperate to the maximum extent possible with Federal and local agencies when relocating elk in areas under Federal or local jurisdiction or ownership.

The legislature also modified section 332 of the California Fish and Game Code to provide that the fish and game commission may not authorize the taking of Tule elk until the total statewide population of such mammals exceeds 2,000, or it is hereafter determined by the legislature that suitable areas cannot be found in California to accommodate such a population in a healthy condition.

These provisions are ample to assure the perpetuation of this animal.

There will be two Federal refuges supporting elk when they are placed on the San Luis National Wildlife Refuge and the Point Reyes National Seashore. In short, the elk are not endangered or threatened with extinction, and the establishment of a Federal refuge in the Owens Valley cannot be justified from the standpoint of preservation of this species.

The first game laws enacted by the California Legislature in 1852, 121 years ago, protected elk and several other species for 6 months of each year.

In spite of this, Tule elk numbers continue to decrease, probably because of very limited enforcement, expanding agriculture, and increased man's activities.

In the early 1870's, one report was that only a single paid of Tule elk were left in the State.

In 1873, 100 years ago, the legislature passed a law making the killing of an elk a felony. They were strictly protected on the Miller and Lux Ranch, and by 1914 the herd had increased to an estimated 400 animals, and were causing extensive damage to crops.

In 1905, the first Tule elk were transplanted to Sequoia National Park.

In 1914 and 1915, 146 Tule elk were captured and released at various locations in California.

In 1922, the California Fish and Game Commission moved Tule elk from Del Monte Park, Monterey County, to the Swanson Ranch

in Colusa County, the progency of that which is now known as the Cache Creek herd.

Crop damage in the San Joaquin Valley by Tule elk was becoming a major problem in the 1930's. With the support of Kern County sportmen and the local Elks Club, a tract of land was purchased near Tupman by the State in 1932. The area was fenced, and about 140 elk were rounded up and driven into it. It was named the Kern County Tule Elk Refuge.

The official status was that of State park land administered by the California Division of Fish and Game, forerunner of the California Department of Fish and Game.

In 1953, the area was put under the full jurisdiction of the State division of beaches and parks—now known as the department of parks and recreation—and was renamed the Tule Elk Reserve State Park.

Our largest herd, which is totally a result of transplants, resides in Owens Valley. Most of the land in the floor of the valley belongs to the city of Los Angeles.

In cooperation with others, the former California Division of Fish and Game transplated 27 Tule elk from Yosemite National Park to Owens Valley in 1933. In 1934, an additional 29 elk were developed between agriculture and wildlife, and some of the ranch-moved to the Owens Valley from the Kern County Elk Refuge by the division of fish and game.

As the numbers of elk in Owens Valley grew, a bitter conflict developed between agriculture and wildlife, and some of the ranchers demanded that the elk be removed from the valley. The Department of Fish and Game agreed to try to control the numbers of elk so that damage would not be so severe.

In 1943, the department of fish and game made a census of the elk in Owens Valley from the ground and from the air. There were too many old bulls for a herd of this size, and the Department of Fish and Game conducted a hunt in which 43 bulls were taken by licensed hunters who had been selected by a drawing.

For the next few years, the herd was observed by wardens, game managers and ranchers. The elk increased rapidly, so another hunt was conducted in 1949. On this hunt, 107 more elk were taken, 61 of which were male and 46 female.

In 1952, after years of controversy between the ranchers, sportsmen and the department of fish and game, a series of meetings was held between land administrators, ranchers, sportsmen and other interested organizations and individuals.

It was mutually agreed that an attempt would be made to hold the herd between 125 and 275 animals, and whenever the herd exceeded 275 animals, the department would recommend to the fish and game commission that the herd be reduced in accordance with the agreed-upon management recommendation.

This was the first unified attempt we know of to fit wildlife into the economic plan with as little serious conflict as possible.

In 1955, the third hunt was conducted in which 40 bulls and 104 cows were taken from a herd estimated at 300.

In 1959, the department proposed another hunt. Differences of opinion again cropped up and a hearing was held by the fish and

game commission at Independence—a small town in Inyo County—at which all parties expressed views on the Owens Valley elk herd.

As a result of these hearings, the fish and game commission turned down the recommendation for a 1959 hunt; and after many months of deliberations, in which all groups and individuals were given a chance to voice their opinions, in January 1961 the fish and game commission adopted an elk policy and management plan. This plan, at the time of its adoption, was hailed by all the various interests concerned with Tule elk.

However, the spokeswoman for the Committee for the Preservation of the Tule Elk indicated that they would like to see a larger number of animals set for the Owens Valley. The plan at the time of its adoption called for maintaining the elk herd between 250 and 300 animals.

An independent scientific study of the Owens Valley elk herds was proposed by the Committee for the Preservation of the Tule Elk. Such a study was initiated and funded by Resources for the Future, Inc.

This study was supervised by Dr. A. Starker Leopold, chairman of the wildlife and fisheries department of the University of California at Berkeley. Dale McCullough, a graduate student, was selected to conduct this study.

Mr. McCullough studied the elk herds and their habitat for over 2 years. This work earned McCullough his doctorate and culminated in the publication of "The Tule Elk: Its History, Behavior and Ecology," by the University of California Press in 1969.

This publication gives the results of McCullough's scientific study and an evaluation of the Tule elk situation, along with the management recommendations for the Owens Valley Tule elk herds.

The department of fish and game reviewed McCullough's work and modified its management procedures and practices accordingly.

McCullough concluded that the elk would build up to destructive levels if allowed to increase without check, and that it was important that the elk be held to a level that would not endanger the habitat.

McCullough also concluded that "On the basis of biology of the Tule elk, there is little justification for creating an inviolate sanctuary in the Owens Valley."

Although this study was called for by the Committee for the Preservation of the Tule Elk, and their former chairman, Dr. Horace Albright, was instrumental in securing funding for the project, after it was conducted, the committee refused to accept many of the conclusions.

In March 1971, the fish and game commission's elk policy was amended, and it now reads:

1. Maintain the present elk herds primarily for aesthetic enjoyment consistent with the land uses of other big game species, agriculture and forestry. To that end elk habitat shall be protected in cooperation with public and private agencies, the herds shall be managed on the basis of natural forage without recourse to artificial feeding, andt he animals shall be removed selectively when it is necessary to control numbers or alleviate damage.

2. Owens Valley Herd. (a) This herd shall be kept in a safe and healthy condition by maintaining the bottomland herds at a maximum of 290 animals. In addition, the Goodale and Whitney herds (upland herds) will be limited to

100 animals for each herd. (b) The herds shall be counted and their condition ascertained at least once a year. Whenever necessary, the removal of animals on a cull basis shall be considered.

Later, in 1971, the legislature enacted a measure which removed from the fish and game commission the authority for the taking of Tule elk until the population exceeds 2,000 animals.

There are several aspects of the Federal resolutions being considered that I would like to comment on so that you may more fully be aware and understand our concern.

In these resolutions reference is made to the past and current status of the Tule elk. It is true that the elk were crowded out of the Central Valley by agricltural development, and that a herd was established in the Owens Valley 40 years ago by the department of fish and game, in cooperation with others.

It is also true that there is a herd confined by fence in the Central Valley at Tupman, and there is also a free-roaming herd in Colusa County.

In addition, as mentioned before, plans are being finalized for establishment of herds on the Federal San Luis Refuge, and at Point Reyes National Seashore. It is anticipated that both of these herds will have to be fenced.

At present, about 16 calves are produced and survive annually at the Tupman State Reserve. These surplus animals are distributed to zoos and other sites whenever possible.

For example, five animals from Tupman were used in a successful establishment of a new herd in Owens Valley in 1971.

There are surplus males presently available for transfer at te Tupman Reserve. We have also distributed Tule elk to 10 zoos. The elk have been reproducing well in zoos. In fact, some zoos have an elk surplus problem at the present time.

The Tule elk have increased in numbers since they were introduced into the Owens Valley. Scientific studies to date show that under existing conditions there is little competition between cattle and elk on the Owens Valley floor.

On the alluvial fans, where there has been competition, the Forest Service has canceled cattle grazing allotments.

There is no scientific basis for the statement "that any species of less than 2,000 in number is a vanishing one that is highly subject to extinction, particularly if an epidemic should occur."

Actually, if there were 2,000 elk in the Owens Valley area, it would increase the likelihood of an epidemic wiping out the entire Owens Valley elk population.

At present, there are six separate herds within Owens Valley. The cow and calves of these herds do not intermingle.

Should a disease outbreak occur, it probably could be confined to one herd. If there were 2,000 elk in the valley, there would be no gaps between herds, and if a disease were introduced, it could wipe out the entire population.

The sixth herd is the newly created Mount Whitney herd. This was created in January of 1971 when the department transferred five elk from the Tupman area into the Alabama Hills which appeared to be good elk habitat but which was previously unoccupied by elk.

Present State legislation states that the number of Tule elk in the Owens Valley, presently the major habitat of such mammals, shall not be permitted to increase beyond 490 or any greater number determined hereafter by the department to be the Owens Valley's holding capacity in accordance with game management principles.

The Tule elk have increased in numbers under the department's protection and management. The department has been cooperating on various interagency committees concerning Tule elk with the Federal Government. The Tule elk is a resident game species and properly should be managed by the State of California without Federal interference.

An aerial census of the Owens Valley herds conducted in August of this year resulted in a minimum total count of 340 elk. Because of problems involved in making a complete aerial count, we estimate the population in the Owens Valley to be closer to 300 animals.

Extensive scientific studies of Tule elk in California have been conducted by personnel of the department of fish and game, the U.S. Forest Service, the University of California, and the Bureau of Land Management.

None of these studies have indicated that the Tule elk is threatened or would benefit from the establishment of a Federal refuge.

There are certainly no problems with the reproduction of the Tule elk that would support their being classified as endangered.

Tule elk reproduce well in captivity and in the wild. Overpopulation, in terms of animal numbers in relation to their food supply and other legitimate but conflicting land uses, can and has been a limiting factor in reproduction in wild populations.

Excessive crowding in the past limited reproduction at Tupman. These limiting factors can be corrected with proper management. And proper management does not, in the case of the Tule elk, mean complete protection.

In addition to the proposals for new herds on Federal land, our field people are looking for transplant sites for new herds on private lands. The main consideration in developing new herds on either Federal or private lands, having suitable habitat for Tule elk, is depredation on adjoining property.

It is our opinion that we can have many elk in many places as long as provisions are made to contain these animals on selected sites.

In summary, I would like to point out that: (1) We are currently working with Federal and local agencies in establishing new Tule elk herds in suitable areas, (2) these efforts will provide for the establishment of Tule elk in new locations, (3) optimum numbers of elk will be maintained on all areas, (4) current location of herds in widely separated areas and the demonstrated reproductive capacity of managed herds gives adequate assurance that Tule elk are not now or will not in the future be threatened with extinction, and (5) Tule elk is a resident species and, as such, should be managed by the State, particularly since the State, for over 120 years, has conducted active programs for the protection and enhancement of this species, both in terms of administrative commitments and by statute enacted by our State Legislature.

Thank you, Mr. Chairman, for the opportunity to appear before you. And I see we have a new Mr. Chairman, Mr. Leggett, and I will be glad to try to answer any questions he may have.

Mr. LEGGETT (presiding). Thank you very much for your very comprehensive statement.

I have not had an opportunity to peruse it all, but perhaps we can highlight some of it by a few questions.

I want to thank you very much for coming here and giving us the views of a very enlightened Fish and Game Department of the State of California.

We have clarified, I think, some of the general intentions of this legislation, that is Federal emphasis on the development of the herd in the Owens Valley area of about 500 and not 2,000.

And we also have in mind encouragement of other Federal agencies at San Luis and some of the other national parks to participate in the development and breeding of these animals.

You have indicated that you do not consider the Tule elk an endangered or a threatened species.

Would correlative Federal actions be helpful to the State in your management program?

Mr. ARNETT. Well, Mr. Congressman, to answer specifically, no, they would not be helpful to us in our management program.

They would probably be deleterious because the main purpose that we have is not to play a numbers game, whether it is 2,000, 500, 50 or 350.

Our concern is not the numbers of elk we have.

The main concern that the department of fish and game has is the fact that the State of California, as long ago as I indicated in my earlier remarks, recognized the value of the Tule elk for the people of California, its aesthetic value, not as a game animal, and not as a source of protein for ranchers or hunters, or anything else. And we have continually, for 120 years, been very cognizant of the fact that these elk are an important species to the people of California and the United States.

And we have taken positive action with many transplants throughout the United States, without the help or need of Federal intervention of taking over a completely resident game species.

Mr. LEGGETT. Well, I appreciate what the State has done, but the fact remains that the State is taking this game, or at least allowing the elk to be taken as game for years.

Mr. ARNETT. It was a management tool. It was a way of reducing the animals on an area when they were becoming too great in numbers to support themselves in a healthy condition.

Where you take them by the sportman, or go out there, like they did in Yosemite where they had to reduce the huge number and made such a mess of that in Yellowstone, I should say, a public mess, when the Federal Park Service had to go out and make that kind of reduction, we would not like to see that.

They did biologically what was correct. But, public relations wise, it was wrong.

Mr. LEGGETT. What is your current estimate of the herd in California?

Mr. ARNETT. We estimate at least 300. We know there is 340 in Owens Valley.

When we say 340, that is how many we see and how many we count. We know we do not count every last elk in the valley. One is hiding under a tree somethere, and it is probably closer to 380 or 400.

There is some 120, 115 in the Cache Creek herd. There is 46 to 50 that maintain an annual reproduction capacity with 16 calves coming off at Tupman every year at the State preserve. And then what you have in State parks, there is probably approaching 500 plus or minus, and I would say on the plus side a total annual of Tule elk in the State.

They are widely dispersed. They are under management by either zoos or the State park or in the Owens Valley or in the Cache Creek herd. And there is ample room for additional animals if the Federal would take their responsibility in the Reyes National Seashore and the San Luis area.

There could be additional animals there under fenced conditions.

Mr. LEGGETT. The State Legislature has indicated they think 2,000 should be an optimum target.

We have talked in this legislation about 2,000.

Do you still think the target numbers overall statewide are immaterial?

Mr. ARNETT. I do, sir.

We disagreed with that legislation. We will enforce the legislation. We do not believe Tule elk should be maintained and available, but we do disagree, biologically speaking, not from an emotional standpoint, to hang a number on some group of animals that may not be able to support themselves.

And the legislation in California said that 2,000 is the target number we would like to see, but if it is determined that this cannot be maintained, then other corrective actions can be taken.

This is a goal to shoot for, and we have objection to shooting for that goal. You can have 2,000 and many more of elk in California if other agricultural practices were changed and other land made available.

Under current conditions, the land is either in private ownership or will not support the elk. If you could buy additional land, you could have more elk in California, but whether we can or cannot have 2,000 elk is a matter of suspect, and that is our main objection to hang a number on any game species and say that that number makes that the protected species if one reaches that number.

There is no biological evidence for that kind of statement.

Mr. LEGGETT. The Bureau, Sport Fisheries and Wildlife has indicated that the State of California received, over a period of time, and I do not know whether it was 10, 15 or 20 years, a total of $150,000.

Mr. ARNETT. Yes, sir, I heard that testimony yesterday. And that was in regard to the Pitman-Robertson matching funds that the Federal Government has turned back to the State from the sale of sporting arms and ammunition.

Mr. LEGGETT. Was that used for propagation of Tule elk?

Mr. ARNETT. Sir, it was used for management, and with management propagations, one of the tools of management, and, yes, it was used for propagation. It was used for food habitat studies.

The State itself, since my term of director, going on 5 years now, we have probably spent annually, I would say—and I have written some figures down for myself yesterday as I did not have my budgets before me, but our annual census in the last 4 or five years has cost us $10,000 a year just to count the elk.

The 1949 hunt, even though as reprehensible to people who do not believe in hunting, call it anything you want, it was a management tool to reduce the number of animals we felt were getting too large in number, so we conducted a public hunt.

Mr. LEGGETT. Pardon me, that was in 1969.

Mr. ANNETT. Yes, sir, 1969, excuse me.

That hunt cost us, or the management procedures cost us around $24,000 or $25,000. And the annual biological programs that we conduct, or the people that we have in the field, the man-day use on the Tule elk is probably another $50,000, and the wildlife protection activities and enforcement of the elk regulations for the Owens Valley and other areas throughout the State run in the neighborhood of $23,000.

I estimate at least 1½ years of warden time on this kind of work.

Then we are doing specific other studies like our telemetry study, and that is running around $6,000 a year.

The telemetry study is trapping and tranquilizing elk and putting powder on them, to follow them as they migrate back and forth. We are spending in the neighborhood of $100,000 to $115,000 a year ourselves on the management of the Tule elk.

Mr. LEGGETT. That is just on the Tule elk?

Mr. ARNETT. Yes.

Mr. LEGGETT. How have the numbers changed, say, over the past 5 years, by herd?

Mr. ARNETT. The Cache Creek herd has stayed fairly stable and that is common with any game herd. It will meet the capacity of its habitat and will not get any bigger.

For instance, this room can hold perhaps 200 people at the very maximum. One guy will go out and another guy will come in.

The Cache Creek herd has remained relatively stable, indicating a good managed herd.

The Owens Valley herd would have increased significantly had we not set a target date of what we consider the total number of elk that should be in Owens Valley to have it competing with the other legitimate land uses, so we cropped the herd back on four different occasions, and took specific numbers each time we cropped it back. primarily to manage the elk and hold them at a level established to be the safest scientific level.

The elk, if nothing has been done to them, except leave them alone, would have been back in the 1930's, when the elk were roaming over the valley, and the conflict between our interests and the agricultural interest would have flared up again.

We have stayed within a management program that was agreed upon by all interests, and we have held the elk in that number, real-

izing that is a safe number to maintain the elk for that specific habitat in which it is located.

Mr. LEGGETT. Then it is depredating?

Mr. ARNETT. One that eats on another man's crops and moves in on the alfalfa fields, and the man is growing that alfalfa for other reasons than feeding Tule elk, yes.

Mr. LEGGETT. Considering the concern elicited over this elk, and the fact you spent $25,000 every few years to conduct a hunt, why would it not be more pragmatic, let us say, to use that $50,000 to build a fence and build up the herd in some kind of a location that would support its propagation?

Mr. ARNETT. Well, sir, there are many other species that we have to maintain in the State. And there are many hundreds of species of animals that we direct our attention to.

Mr. LEGGETT. I know that, but I am just taking $50,000 for the use of Tule elk, and using it for Tule elk some place else.

Mr. ARNETT. I think you saw in the testimony yesterday that there was a committee of Federal and State agencies that made a comprehensive scientific survey of the State of California and adjoining States over in Arizona to try to locate suitable habitat on Federal lands where these elk could be moved to.

After an intensive study by the Forest Service, BLM, the California Department of Fish and Game, the California Forestry Service looking at these State and public lands that are available, there were only two places that seemed to be adequate areas to transplant these elk other than building another zoo and fencing it off, and feeding the animals.

And this is not proper management.

You could always build an enclosure of as many acres as you want and grow as much alfalfa as you want to, and drop it in and feed these animals like we are doing at Tupman.

I do not think the people, people for the preservation of the Tule elk, they want better conditions than just a fenced in herd just for the sake of having larger numbers of animals.

The two places that were found to be suitable in the State was the Point Reyes National Seashore and the area we talked about, San Luis.

Mr. LEGGETT. Are they not both fenced in enclosures?

Mr. ARNETT. They will have to be fenced to keep them from depredating and going off on other private lands.

When that happens, the person who moves the elk there in the first place is the responsible individual. You have to be able to maintain the animals that you are responsible for.

If you put them on San Luis or Point Reyes, you are going to have, in some manner, to keep those animals in the area where you want them to be confined; otherwise, they start to roam, reproduce and move out in other conflicting land uses. And that is when the problem starts again.

The problem starts, not because we cannot grow more elk. We cannot have elk reproduced under wild or under domesticated conditions. They will reproduce that way, but the matter is trying to find places in which to put these animals.

Mr. Chairman, you are going to have to change land use practices, have some rancher give up his land so the elk can take over where now he is farming alfalfa for his cows.

We have a very intensive study to try to find places to move these animals, and we have not been able to do so.

I pointed out in my testimony even the zoos, who have the elk, find they produce well in captivity. They are trying to get rid of some of their suprlus.

Mr. LEGGETT. What is the deer population in the State of California?

Mr. ARNETT. The deer population, I would have to take a guess at, but I would guess it is in the neighborhood of several hundred thousand.

Mr. LEGGETT. How many deer do you take every year in the State of California?

Mr. ARNETT. Oh, sir, I would guess in the neighborhood of 45,000, which is low.

Mr. Goodling's area would be much higher than that.

Mr. LEGGETT. Do we have other elk in the State of California?

Mr. ARNETT. Yes, sir, the Roosevelt elk, but they are not a successfully hunted species. And we have antelope in the northern part of the State, and that is a hunted species on a very limited drawing basis.

And we have an excellent record of management there where we can show, since the hunting has been going on in the last 11 or 12 years, and different range practices in the antelope areas, we have been able to increase that herd right now to where it is at the maximum where it has ever been in the State of California, and has been hunted very successfully for the last 9 to 11 years.

Mr. LEGGETT. What is the volume of that herd?

Mr. ARNETT. Probably in the neighborhood of 3,000 to 4,000 animals. And we have a very limited take.

This year, we had 385 permits that were drawn, and there will probably be around 85-percent successful take on that number, so there will be some 300 animals removed from the herd this year.

Mr. LEGGETT. Well, I guess the question that I have is how is it that we can have a 200,000 deer population spread all over the coast ranges and Sierras and flatlands and highlands, and the medium lands, and where these animals are depredators, according to my farmers, and we take on the order of 45,000 of those, and they continue to multiply.

Why is it that we cannot get this Tule elk in some kind of a volume like that?

Why is it we have to restrict the Tule elk numbers to 400 or 500, unless they become ungodly depredators, while we have all of the other animals running around the State?

Mr. ARNETT. Sir, these animals do not use the same habitat. They are not like people who accommodate themselves to live in New York, California of Washington. They do not accommodate themselves in that way.

The area that is a habitat for deer is not good habitat necessarily for the Tule elk.

We have looked at those areas where we have good deer populations, particularly on our coast ranges. And the elk could not do well, but they are much wider ranges, and we do have deer depredators. We take many thousands of deer by shooting them, because there is no other way to relieve the pressures, let us say, that we have in the Napa Valley, where they are depredating the very important grape crop to the State of California.

We try to use deer scent, deer fences, other than by taking the animal by gun. But it finally reaches the point where the numbers have to be lessened and removed from the competition of other uses of that land.

Mr. LEGGETT. Mr. de la Garza?

Mr. DE LA GARZA. No questions.

Mr. LEGGETT. Mr. Goodling?

Mr. GOODLING. No questions.

Mr. LEGGETT. Mr. McCloskey?

Mr. MCCLOSKEY. Thank you, Mr. Chairman.

Mr. Arnett, you have heard the testimony of yesterday?

Mr. ARNETT. I was what?

Mr. MCCLOSKEY. Did you hear the testimony of yesterday?

Mr. ARNETT. Yes, sir, I did.

Mr. MCCLOSKEY. Somewhat, I think, the difference of approach that the committee has been moving into as a result of the evidence has been really almost unanimous as to the deer in the Owens Valley compared to the precise language of the bill.

You say, on page 7 of your statement, there is no scientific basis for the statement "that any species of less than 2,000 in number is a vanishing one that is highly subject to extinction, particularly if an epidemic should occur."

This is a rule of thumb that we have been using in this committee when we get down to 2,000, and I assume it is used in the State of California.

You are not suggesting that that legislation is improper when they use the figure 2,000, are you?

Mr. ARNETT. Sir, I tried to explain to the chairman, I do not agree with the number 2,000.

Mr. MCCLOSKEY. What number would you use?

Mr. ARNETT. No number.

I think the number I would use would be the ability or the carrying capacity of the specific range needed by that specific animals, whether a deer, antelope or jackrabbit.

When you hang it on a number, you are trying to force an artificial condition that may not be true in the available habitat that you may have in an area.

Mr. MCCLOSKEY. I do not think I disagree with that statement.

But, later on, in your testimony you suggest the benefit of having separate roaming herd is that one disease would not wipe them out. And I gather that the State of California's legislation really contemplates perhaps as many as 8 or 10 herds spread out, several hundred animals.

You have located 22 potential ranges for these elk. Thus far, you are using four, is that correct?

Mr. ARNETT. No, sir, I do not think I follow you.

I do not recall us identifying 22 potential ranges for these animals.

Mr. MCCLOSKEY. The testimony yesterday was that there had been 23 identified, 22, which were in California.

Mr. ARNETT. Sir, I think what they said was these 22 sites were the sites that were on an eyeball, you know, looking on a map, before they went out and made a survey, that there were some 22 or 23 sites that seems to be potential elk habitat. And of those 22 or 23 sites, that were examined as potential elk habitat, there were 3 that were identified as potential ones that would be used, and that was the San Luis area, the Point Reyes National Seashore, and in addition, to the Cache Creek herd where you would have to buy private property.

There were 3 of the 22 that were identified as original potential areas, and it dwindled down to three as being usable areas.

Mr. MCCLOSKEY. You say two could be fenced to prevent depredation?

Mr. ARNETT. And the third one would have to be purchased, private land, and let the elk roam on the private land where they are now restricted from those lands because they are in private ownership.

Mr. MCCLOSKEY. Do you have some rule of thumb that causes the elk to be rated as the greater depredator?

Mr. ARNETT. I would prefer to have Mr. McCullough testify on that, who is next. He is a much better scientist than I.

Mr. MCCLOSKEY. If I understand your situation from your testimony and your desires, the department opposes this legislation.

Now, you are stuck on your California law that you cannot cut back on any of the herd until they reach the level of 2,000.

Mr. ARNETT. Or until it is shown that that level cannot be maintained or attained.

Mr. MCCLOSKEY. And as to the Owens Valley, those six herds reach a total of 490, then the additions to the herd, which you have indicated, occur steadily and readily, you are going to have to relocate those animals in additional range somewhere?

Mr. ARNETT. Yes.

Mr. MCCLOSKEY. And if it is Federal policy, if we should in this legislation declare it Federal policy to assist the States in this legislation to maintain 2,000 animals, or as many herds as you deem appropriate to maximize the protection against disease, and yet meet the State goals, what are you going to need from us?

What can the Federal Government do to assist the State of California as you start relocating these animals?

You have the land, as I understand it, for 1,000 to 1,200 animals.

What beyond that, in your judgment, should we be thinking about to assist you to meet this obligation of the California Legislature as imposed upon you against your will?

Mr. ARNETT. Let me modify that.

It is not necessarily against our will or against our better judgment, and our better judgment was that the 2,000 number was not the proper number. That was the only thing.

Perhaps the only thing that I would think of right off the cuff here would be money. And the Federal Government has been derelict in that up to this point in even supplying the amount of funds necessary to build the fencing on San Luis.

For the present, at least, it is the State's responsibility so far as it is State law, and when the time comes that additional habitat is going to have to be found, and it can be found, and it can be found by purchasing private land, that is good private lands that the elk can be put on. And the State, it appears to me, is going to have to make the first overture to acquire the funds to implement the legislation they have established for themselves.

It is the State's responsibility through general funds, or some other manner, in the State to, purchase these lands necessary once we have run out of available habitat known to us today.

Mr. McCLOSKEY. My final question relates to this land in the Owens Valley that is currently necessary to at least four of the six herds contemplated there.

Do you have any concern, Mr. Arnett, that that land might be devoted to different uses if the Federal Government did not do anything?

Mr. ARNETT. My concern is, no, it will not.

I believe the city of Los Angeles, on more than one occasion, has shown the good faith that they have that this area is important to the Tule elk. It is through their auspices back in the 1930's that we were even allowed to plant the elk there in the first place.

They could have said no in 1933 or 1934, when the first elk were brought in.

They saw the importance of trying to save the elk. They were transported there. We move them around, trying to find good places.

We attempted in some 19 counties to put elk, and they just did not do well in other areas.

The only areas we found where they did well was in Monterey County, and they became such depredators that the whole herd had to be moved. And they were raising so much mischief in that area that we moved them to Cache Creek.

The State, for 120 years, has been trying to find places to put these elk so they do not conflict with other uses.

Los Angeles has indicated that they will let us use that void land they have, and they should be given accolades for keeping the land in pristine condition, as it was.

If it had been private ownership, in retrospect that would have been one of our most intensely developed areas of suburban Los Angeles.

Mr. McCLOSKEY. The area that I represent used to be a prime agricultural area.

Farmers tell me now that crops are no longer possible because of the property tax. There are so few farms, it is not economical to get the service to those farms.

In that kind of an area, where agriculture is no longer economical for a combination of reasons, can you put Tule elk in San Mateo County?

Mr. ARNETT. I would venture to say yes, we could, if the homeowners had their backyard begonias and/or the kids did not mind them being eaten up by the elk, and we run into this problem in Hollywood Hills with the deer. That is one of the problems—to keep the deer out of the backyard of the people in Hollywood Hills.

Mr. MCCLOSKEY. Do you find the conservation groups pushing for this?

Mr. ARNETT. To answer your question whether they could be put there, if we gave each one of our legislators a deer, we could get rid of 320 of them right now.

Mr. MCCLOSKEY. I appreciate your testimony very much. I commend your willingness to comply with this law that has been pressed on you against your best judgment.

I think as California grows, we find increasing pressures for conservation by others who are privileged to get out into the country.

I thank you for your willingness again to express forthrightly and candidly your judgment on this matter.

Thank you, Mr. Chairman.

Mr. LEGGETT. Mr. Everett?

Mr. EVERETT. Mr. Arnett, should the committee decide to report legislation, would you recommend that the State language with respect to the Owens Valley area of 490 be included as an amendment to the legislation?

Mr. ARNETT. If it was going to be reported, yes. I think it should be consistent.

Mr. EVERETT. I realize you are opposed to the legislation.

Mr. ARNETT. It should be consistent, Mr. Everett.

Mr. EVERETT. One question with respect to the city of Los Angeles and Owens Valley.

This legislation exempts the acquiring of water rights, and it is also possible, I think, to work out an agreement with the city of Los Angeles whereby the Federal Government would get an easement or lease, to utilize those lands in lieu of acquiring them and taking them off the tax rolls, which seems to be the concern of many local people in the area.

Do you think it would be appropriate, should the committee decide to report the legislation, to make this clear, that there would be no acquisition of those lands but in lieu thereof the Secretary of the Interior would be authorized to acquire some title less than fee in order to assist in protecting the Tule elk?

Mr. ARNETT. I am not sure I could comment on that.

The city of Los Angeles should properly comment on that. They will be following me, sir.

Mr. EVERETT. One other question.

I note that you say Tule elk are actually a resident species and should be managed by the State. And you do not see any need for Federal intervention in this area, yet when it comes to the transplanting of the Tule elk, you are recommending that they be put on Federal lands at Point Reyes and San Luis. And the Interior Department told us yesterday that they lacked funds to put fencing on the area. And since Tule elk are primarily a State responsibility,

is the State willing to furnish some funding for the fencing of these two areas?

Mr. ARNETT. I do not think so, sir.

This is a responsibility of the owner of those lands. And, in this particular case, it is the National Park Service or the Bureau of Reclamation. And I believe that is their primary responsibility.

We would certainly cooperate with the Federal in helping them relocate and transport the elk to that area. That is our responsibility, to help locate them on suitable areas, whether Federal or private.

If we would find a private rancher willing to take some elk, we would cooperate with him in moving the elk to that area, but it is not our responsibility or proper charge to build a fence for a private individual to hold the elk.

Mr. EVERETT. Mr. Chairman, I have no further questions.

Mr. LEGGETT. Mr. Rountree?

Mr. ROUNTREE. Back in 1970, if I recollect correctly, the State Fish and Game Department entered into a cooperative agreement with the Federal Government or the city of Los Angeles.

Mr. ARNETT. For the food and habitat studies. That was the city of Los Angeles, about a $7,000 study.

Mr. ROUNTREE. Have you updated a cooperative management plan with Interior, Agriculture or BLM, or with the city of Los Angeles since 1970?

Mr. ARNETT. We have no contractural arrangements, but we do have a continuing study committee with these groups, and we meet at least on a semi-annual basis, if not more. And the staff meets much more frequently than that.

The administrators review the work done by the staff of this interagency group, consisting of the University of California, BLM, Bureau of Sport Fisheries and Wildlife, Fish and Game.

Mr. ROUNTREE. You have indicated the Tule elk was a resident species under the State Fish and Game Department, and we have a hodgepodge of Federal lands, State lands, county lands, city of Los Angeles land, and I guess private land, all interacting within the scope of the Tule elk range.

In view of the questions of proper habitat acquisition or location for purposes of expansion in this "patch-work" situation, I was just wondering why you do not have a formalized cooperative agreement with all Federal, State and local county segments of government.

Is this the case, or do we have such an arrangement?

Mr. ARNETT. We do have a formalized agrement. There is no mandate by any one of them, but it is very close and good cooperation between the Federal agencies you see involved, the private agencies, the public landowners, is what we have been working on for the past 100 years to bring around this cooperation.

And to feel that that cooperation would be any more sound in a single Bureau of Sport Fisheries and Wildlife refuge, the Department of Interior refuge, makes little sense.

Even the Department of Interior, Bureau of Sport Fisheries and Wildlife, who the refuges would go to, are not in favor of a refuge. They recognize it is not purposeful or have any great meaning to

draw a line around it and to say it is now a refuge, and the elk does not know any differently whether it is in a refuge or not.

This precludes the State of California from conducting the plan that we already have. We have to get permission from the refuge owners, the Department of Interior, to conduct the plan that is already going ahead in a very good manner with the cooperation of these people.

Mr. ROUNTREE. One of the points that we have to look at in considering the need for the legislation is if the State of California and other segments concerned are actually doing the job that they say they are in the context of agreements, allocation of funds for habitat acquisition by the State, by the county, by the city.

That would point directly to the need or lack of need for the establishment of a refuge.

I would like to see some data and facts in the record to substantiate the results of your efforts and those of others, thus showing that all this has been and is being done since our hearings in 1971, when this problem got a little bit more exposure than it has had in the past. I am sure the committee would appreciate it. And, if there is a problem with Interior's cooperative agreement, let us know about it.

Mr. ARNETT. I think my report pretty well summarizes the activities we have been taking, but if there is something more in numbers you would like, I will try to acquire it for you.

Mr. LEGGETT. Thank you very much.

Our next witness is Mr. Dale McCullough, School of Natural Resources, University of Michigan.

Mr. McCullough, we already have the benefit of the appendage, the portion of your earlier report attached to the Department of Agriculture, Bureau of Enforcement, filed with this committee yesterday.

Do you have a copy of your statement?

STATEMENT OF DR. DALE R. McCULLOUGH, ASSOCIATE PROFESSOR OF RESOURCE ECOLOGY, SCHOOL OF NATURAL RESOURCES, UNIVERSITY OF MICHIGAN, ANN ARBOR, MICH.

Mr. MCCULLOUGH. I have sent copies in.

Mr. LEGGETT. Is that the only copy in the room?

Mr. MCCULLOUGH. I am sorry, but I sent copies in.

Mr. Chairman, members of the subcommittee, I appreciate the opportunity to make known my views on the resolutions concerning Tule Elk Refuge in Owens Vallwy. I feel qualified to comment on measures involving the Tule elk because of the intensive 2-year study I conducted on the species. The results of this study were published by the University of California Press under the title "The Tule Elk: Its History, Behavior, and Ecology." I have maintained an involvement with management of the Tule elk since that time, including a summer of research (1970) in Owens Valley during which time I could review my earlier conclusions.

I oppose the resolutions on establishing a National Tule Elk Refuge in Owens Valley for two basic reasons.

First, I do not believe that establishment of such a refuge would significantly improve the status of the Tule elk. Although the results

of my study are much too detailed to include in this statement, a fundamental conclusion is that the present population is near or at the natural carrying capacity of Owens Valley.

This conclusion is based upon extensive studies of both the vegetation of the valley and its use by Tule elk, cattle, and horses, as well as the general physical condition and reproductive success of the elk population.

It is true that the applied sciences of range and wildlife management are not precise, and the response of the populations are the best measures of the capacity of the environment to support that species.

I would point out that the last public hunt of Tule elk occurred in the fall of 1969. In spite of protection since that time, the population has not grown continuously. A review of the annual aerial censuses conducted by the California Department of Fish and Game will show a history of recovery from reduced levels following periodic hunts up to approximately 300 animals. I believe this repeated pattern is telling us something.

Owens Valley is a desert area with an average of appximately 5 inches of rainfall per annum. In the intense heat of summer, suitable forage is found only in a few pockets of favorable habitat. The distribution of the elk population into herds is a reflection of the locations of these favorable areas.

I believe that approximately 300 Tule elk is the number that can be supported on a long term basis by the constraints set by the climate and vegetation.[1] In years of high rainfall the number will be somewhat higher; in years of low rainfall, somewhat lower.

This limitation in carrying capacity occurs at a time of the year when domestic cattle and horses are out of the valley. Thus, removal of domestic livestock will not substantially improve the status of the Tule elk, because the problem occurs at a time of year when domestic stock is absent.

Studies of the impact of grazing by domestic stock on the Tule elk population must take into account four important considerations: (1) The overlap in consumption of important plant species: (2) total availability of given plant species; (3) the seasonality of use by the different grazing animals, and (4) the seasonal changes in the numbers of grazing animals using the range.

Basing conclusions on only a few of these factors can lead to serious errors. Consider overlap in food habits. Many plant species are consumed by both domestic stock and Tule elk.

Greasewood, for example, is consumed in quantity by both cattle and elk. But greasewood is a species which is only palatable during the early spring when the new green foliage is coming out. During this period, both cattle and elk move out onto the alkali flats to feed where greasewood grows in great abundance.

By early summer greasewood foliage becomes course and laden with toxic chemicals, and consumption by all herbivorous mammals ceases. Greasewood is so widespread and abundant that the supply of forage (which can be removed without damage to the vigor of the plants) greatly exceeds the combined consumption of cattle and elk.

[1] This figure does not include elk which may be established in a new herd area, the "Whitney" herd.

Therefore elimination of cattle would not result in improvement of the forage situation for Tule elk with this plant species. But basing a judgment simply on overlap in food habits would have lead to an erroneous conclusion.

One has to know something about the season of use and overall supply of the forage to reach a valid conclusion. Consider another species, but this time one in limited supply. Bassia is a plant that is highly palatable to cattle and elk. It is an annual plant which germinates, grows, seeds, and dies during the summertime. It occurs on disturbed soils in alkaline areas on the valley floor.

However, cattle are taken out of the valley before significant growth by this plant occurs. It reaches its peak in mid to late summer, and becomes heavily grazed by the Tule elk. In high rainfall years, bassia is widespread and abundant, and the elk cannot consume all of it.

In most years, bassia is very heavily hedged, and there is not enough to meet the demands of the elk. By early fall, bassia dries up and dies, and by the time cattle are put back on the range it is unpalatable. If cattle were present in the summertime significant competition would occur for this plant species. But competition between cattle and elk does not occur because of the seasonal removal of the domestic species.

It is detailed studies of this nature on all important forage plants which have led me to the conclusion that elimination of domestic stock from Owens Valley would not substantially increase the number of Tule elk. The details are to be found in the published monograph.

I see a potential hazard in establishment of a refuge. If my analysis is correct, establishment of a refuge would not result in a significant natural increase in the size of the Tule elk population. The benefits achieved by the establishment of a refuge would be minuscule.

A public frustrated by the effort and skill required to locate and observe Tule elk and a pressured administrative are the ideal circumstances to force an undesirable move—a program to increase the elk population by an artifical feeding program. I an unalterably opposed to such a program.

The reason for preserving Tule elk is on esthetic grounds, rather than on production grounds. Public hunting of Tule elk is a thing of the past. Case after case around the world has demonstrated that esthetics and artificial feeding are incompatible.

One need only review the Yellowstone grizzly bear situation, or ride the hay wagon at the National Elk Refuge in Jackson Hole to be convinced. The value we are trying to preserve is the Tule elk as a free-roaming, wild and natural animal.

If an artificial feeding program were the only way to save the Tule elk from extinction I would support such a program. But the status of the Tule elk is not so dire as that, notwithstanding the alarmists, who would have us believe otherwise.

Certainly, much remains to be done, and this is not the time to rest on laurels, but let us not move in some unconsidered direction without weighing the alternatives, and considering the options. We do have that much breathing time. And in a period of tight budgets

it seems wise to invest the limited funds where we get the greatest return for the cost.

My second objection to the present resolutions is that it seems unwise to me to establish a major refuge for a species in a location which is outside of the native range and contains habitat which is marginal for the species.

There is no evidence that Tule elk ever occurred in Owens Valley prior to their introduction by man in 1933. The native range occurred west of the Sierra, and the prime habitat was in the Sacramento and San Joaquin Valleys.

If there were no alternatives to Owens Valley as a refuge, the resolutions being considered at present would seem more reasonable.

Nevertheless, there are possible refuge sites in the native range, including a prime area in the San Joaquin Valley near the town of Los Banos. Part of this area is already in a Federal refuge, the San Luis Island Refuge. There are large blocks of unplowed grasslands adjacent to the existing refuge. The habitat is that originally occupied by Tule elk.

With adequate finances, a fabulous Tule elk refuge could be established which would recreate the pristine state. Most of the native species still occupy the site, including such persecuted animals as the coyote.

The San Luis Island Refuge has attempted a reintroduction of the rare San Joaquin kit fox. Water birds occupy the streams and marshes, and waterfowl winter in the area. The grazing lands are fertile, and a large herd of Tule elk could be maintained without recourse to artificial feeding.

Legislation to create a Tule elk refuge in that area would receive my wholehearted and enthusiastic support. This refuge would be a genuine gain in the status of the Tule elk, since it would be in addition to the Owens Valley herd, which would continue as at present.

In summary, I oppose the resolutions on the grounds that a refuge in Owens Valley will not result in a significant improvement in the status of Tule elk in Owens Valley; that a refuge may create pressure for an artificial feeding program which will lower the esthetic quality of the elk herd; that it is undesirable to establish a refuge outside the native distribution and in marginal habitat for a species; and that there is a viable alternative site for a refuge which is within the original range, and is superior habitat.

Thank you.

Mr. LEGGETT. Thank you very much, Mr. McCullough.

How did you happen to make a study at the Owens Valley area? Was it part of your natural study program, or your natural research program?

Mr. MCCULLOUGH. Do you mean the field studies that I did?

Mr. LEGGETT. Yes, the field studies, and the study of this proposal.

Mr. MCCULLOUGH. The field studies were prompted by Dr. Leopold at Berkeley approaching me, and asking me if I was interested in the study. I went to Owens Valley and looked at the land and decided yes, I was interested. We prepared a grant proposal to Resources for the Future, which was funded, and I spent the 2 years working on this as a Ph. D. study.

I am interested in the fate of the elk. I have no other constituency for which to advocate, so my motivation is the benefit of the Tule elk.

Mr. LEGGETT. Did it cause you any concern at all that we have in the order of 200,000 deer and we slaughter at the rate of 40,000 a year, and they continue to propagate, as Mr. Arnett has indicated, while on the other hand, the Tule elk, along with probably other elk in California, seem to be at a rather low level.

I have never seen the Tule elk in my own congressional district, and have never heard a complaint from any of the local farmers.

Does it cause you any concern, that perhaps there might be stimulated a better balance in other parts of the State where these animals are perhaps more indigenous and might be maintained in larger numbers in a pristine state within or without refuges?

Mr. MCCULLOUGH. I very definitely would support that in terms of in contrast with the deer. Deer are not in low numbers, and populations are very high. I would advocate allocating funds to the Tule elk from some of these other species.

Now, I can say things because I am not under the constraints of a management agency, so I can be a rather free-wheeling advocate. I would very much like to see the status of the Tule elk improved.

Mr. LEGGETT. Would you say a State that has an $800 million surplus that does not know what to do with it, other than perhaps turn it back to the taxpayers, might be able to allocate or loan the Federal Government $150,000 for fences on Federal lands if they were given the representation that the loan would be repaid to the State so that they can return the money to the taxpayer at a later time might be a reasonable type of compromise that could be worked out?

Mr. MCCULLOUGH. I would advocate a reordering of many of the priorities of our society, but I do not know how to accomplish those objectives.

Mr. LEGGETT. I do not think you are in argument with many of the members of the committee, and I do not know, as a practical matter, whether it is needed, or is it wise to create a great number of refuges on Federal or State lands to stimulate the Tule elk.

I think whenever we see a herd as small as this, it causes some concern, particularly when we have had control measures in effect which lead to the shooting of the animals in areas.

I would hope that through the pioneering of this legislation that we could get a restimulus in the appropriate State agency so that they could seek proper funds to develop this breed of animal, either with or without the legislation.

Mr. MCCULLOUGH. I have consulted with both the San Luis Island Refuge and the Point Reyes National Seashore. I have helped them develop the proposals for the reintroduction of animals there.

I have also helped them make estimates of budget, and things like that, but the appropriation has not been made by Congress, I presume.

Mr. LEGGETT. Of course, the problem is here. We find now that the appropriation bill for 1974, which unfortunately has already passed the House, does not contain any funds for the Federal agency to build the fences to enclose the refuge and we also find that the Fed-

eral agency does not even have clearly in mind whether or not they are going to ask for money in fiscal 1975.

Now, considering that background, and that lack of attention by the Federal agency to perhaps cooperate with the State agency, would you not feel that perhaps some kind of Federal legislative intervention might be required giving some stimulus to the redevelopment of these herds?

Mr. McCULLOUGH. Well, I would favor anything that would substantially improve the status of the Tule elk, and I think that appropriations for fencing on San Luis Island and Point Reyes would be such a substantial improvement in the status of the elk. My position about San Luis is that it is approximately 7,000 acres, when there are something like 21,000 acres in that area that are in private hands, but could be acquired, and it takes some aggressive program to put together something like that.

The potential is there, Mr. Chairman.

Mr. LEGGETT. That is why we are in these hearings, to develop an aggressive program.

I do appreciate your remarks.

Mr. de la Garza, any questions?

Mr. DE LA GARZA. What is the origin of the Tule elk? Where did it originate?

Mr. McCULLOUGH. Well, it evolved from the Rocky Mountain elk, which occupies most of the northern part of the country in the West, and this elk originally crossed the Bering Straits from Asia. So the original elk came from Asia, moved across the Bering Straits during the pleistocene period, 10 or 12,000 years ago. Then in the area in California this particular elk, because of the changing conditions, the recession of the glacier—originally the Central Valley was a big lake, and the elk were in this vicinity—the Tule elk became adapted to the fairly arid dry conditions of that following the drying of that lake.

Mr. DE LA GARZA. What is the normal difference in size between the regular elk and the Tule elk?

Mr. McCULLOUGH. The Tule elk is approximately one-third smaller.

The size of all these animals depends very much on the quality of the food, and if you look at the largest Tule elk and the smallest Rocky Mountain elk, they will be close to the same size. But if you look at the averages, then it is approximately two-thirds the size of the Rocky Mountain elk.

Mr. DE LA GARZA. Is the Rocky Mountain elk what they call the Roosevelt Elk?

Mr. McCULLOUGH. No, that is the one along the northwest coast, from northern California to Vancouver Island in British Columbia.

Mr. DE LA GARZA. Is that different from the Tule elk?

Mr. McCULLOUGH. Yes, sir, it is.

Mr. DE LA GARZA. And different from the Rocky Mountain Elk?

Mr. McCULLOUGH. Yes, sir.

Mr. DE LA GARZA. What is the size of that animal?

Mr. McCULLOUGH. It is approximately the size of the Rocky Mountain Elk. The record individuals of a Roosevelt elk are larger than the record individuals of a Rocky Mountain elk.

Mr. DE LA GARZA. Is there any other difference besides size of the Tule and the Rocky Mountain Elks?

Mr. MCCULLOUGH. Yes, sir, there are a number of differences in the anatomy. It takes a specialist to determine them, but the differences are there.

Mr. DE LA GARZA. Genetic differences?

Mr. MCCULLOUGH. Genetically controlled differences, yes, sir.

Mr. DE LA GARZA. Thank you very much.

Mr. LEGGETT. Mr. Goodling?

Mr. GOODLING. No questions.

Mr. LEGGETT. Mr. McCloskey?

Mr. MCCLOSKEY. Mr. McCullough, do you have any estimate of the actual number of Tule elk that can be sustained on the 7,000 acres at San Luis?

Mr. MCCULLOUGH. It is difficult to make that estimate, because I have not done detailed studies on the vegetation.

I have made a list of plants on the area, but have not done a detailed study to make that judgment.

Let me say that in the past cattle grazed on that area, and at least 800 head on the average were grazed the year round without any supplemental feeding. So I would say that there is substantial capacity to support the elk there.

Mr. MCCLOSKEY. Do you have any data that 800 elk can graze on the same lands in their native habitat, as 800 cattle?

Mr. MCCULLOUGH. There are other hazards. Just from a feeding point of view, I would say you should be able to graze 800 elk there, but there may be other conflicts with other species of wildlife in the area.

In other words, if the elk disturbed marsh vegetation it would have a big impact on waterfowl habitat, and it may be undesirable to maintain 800 even though it is possible.

If you are looking simply at available food, I would certainly think you should be able to replace a cow with an elk.

Mr. MCCLOSKEY. Do you know any reason why the Tule elk did not expand around the Sierra?

Mr. MCCULLOUGH. I do not think they could survive in the Mojave, and that would be the obvious way they would get out of that area, because they are a valley animal. They live in the open lands, and they do go into the foothill areas seasonally, but they do not go into the high mountains. They are not going to cross over the top of the Sierra, which would mean they would have to cross through the Tehachapi Mountains and through the Mojave Desert to get to Owens Valley.

In other words, it is unsuitable habitat.

To answer you more broadly, I do not know why they have evolved so specifically to be a valley animal.

Mr. MCCLOSKEY. Any record of them getting down into southern California?

Mr. MCCULLOUGH. Only when transported by man. There were animals put in Southern California. In fact, one of them invaded the city of Los Angeles, and was roped by a policeman on a motorcycle. But no, the southernmost record along the coast is approximately in Santa Barbara.

Mr. McCloskey. Where in the coast range?

Mr. McCullough. They occuppied the favorable valleys from adjacent to Santa Barbara—draw a line from there to Bakersfield —north to approximately the Russian River.

There were Tule elk any place you found big grassy valleys, like around Monterey and Caramel Valley.

Mr. McCloskey. Thank you.

No other questions.

Mr. McCullough. May I just add to that, that I was on the task force that went around and looked at the various areas that were proposed for the transplant of elk. In most of the places that we looked at along the south coast, the areas were too small, and would require fencing, so that it would be essentially an outdoor zoo.

In other words, I do not object to fencing, per se, but if the enclosure is not very large, then I think it creates an undesirable esthetic situation.

Mr. McCloskey. What about the Hat Creek Valley, for example?

Mr. McCullough. I do not know that area, and we did not visit it, so I cannot answer your question.

Mr. McCloskey. I have no further questions.

Mr. Leggett. How about some of the areas like around Montezuma and the delta area, headwaters of the Sacramento River, where we already have bird refuges? You indicated that bird refuges and Tule elk refuges are not inconsistent, is that right?

Mr. McCullough. Provided that there is a substantial amount of upland area.

I mean the elk cannot live literally in the marshes, but they can live in marshy country.

If there is a substantial amount of upland area, that is, not totally inundated, and I assume much of that area is no longer inundated because of the water control structures that have been built further up in the stream, I would think it is a possibility, and I did look at one area there with personnel of the California State Parks.

It was an area that they were interested in, and one Commissioner, a Park Commissioner, is interested in Tule elk. We did take an overflight of an area in the delta on the San Joaquin side.

Mr. Leggett. Mr. Steele?

Mr. Steele. Mr. Chairman, I have no questions.

Mr. Leggett. Mr. Everett?

Mr. Everett. Just one question.

I notice you are opposing the creation of a refuge to protect the status of the Tule elk.

Are you against the legislation with respect to its trying to protect the habitat of the Tule elk?

Mr. McCullough. No, I am not opposed to that.

Mr. Everett. This legislation would authorize the refuge to be operated in an ecologically and environmentally sound manner and be designed to protect endangered species and other wildlife, including the Tule elk.

You are not opposed to that concept? You are just saying the legislation would not improve the status of the Tule elk?

Mr. McCULLOUGH. No, I am not opposed to it on any other ground than that I do not believe there will be a substantial improvement in the status of the elk.

I am not saying that there will not be any. I am saying the improvement will be small enought that it does not justify it.

Mr. EVERETT. Do you have a fear that the habitat might be diverted to other uses in case something is not done, such as Federal or State intervention?

Mr. McCULLOUGH. Ten years ago I would have worried about that. I do not think I do any more, particularly since the formation of the interagency committee in Owens Valley, so that all of the agencies are moving in the same direction.

Mr. EVERETT. You are aware of proposals to develop the recreational and residential housing in these areas?

Mr. McCULLOUGH. Well, the plans I have seen, the recreation has not been in the bottoms of the valley, only to the extent of development of campgrounds, but these are not going to significantly influence the Tule elk, as long as they are not placed in a prime habitat area.

I am not aware of any housing developments on land that is not already in private ownership.

In other words, there are private lands around Bishop, and a few scattered pockets, particularly adjacent to the towns in Owens Valley, but as I understand the situation, that is the only area where there is going to be housing development.

Mr. EVERETT. Thank you.

Mr. LEGGETT. Mr. Rountree?

Mr. ROUNTREE. Thank you, Mr. Chairman.

Do you still serve on this interagency task force committee, or just in your capacity as consultant for evaluating the 22 or 23 potential habitat areas?

Mr. McCULLOUGH. I serve as a consultant on that basis. I do not know if this interagency committee still exists.

Mr. ROUNTREE. The study was done back in 1971, and I am wondering if there has been any type of an update or reevaluation of the conclusions that were reached in 1970–71.

Mr. McCULLOUGH. Not that I am aware of, but like I say, I thought that committee was probably an ad hoc committee.

Mr. ROUNTREE. For that particular purpose?

Mr. McCULLOUGH. Yes, and I think once the report was submitted it ceased to function. Because I was a consultant, I submitted a separate report, but the substance was the same between the two.

Mr. ROUNTREE. Are there any other individuals inside the community like yourself who have developed this particular expertise concerning elk or the Tule elk, or Owens Valley elk.

Mr. McCULLOUGH. Well, the Fish and Game people have people working on the Tule elk, and the Bureau of Land Management has also, and I have not had contact with those studies. So I do not know the status. But at least potentially there are other people with sound biological information.

Mr. ROUNTREE. Are you aware of any scientific studies, or opin-

ions by experts, such as yourself, who differ in the recommendations or the thoughts that you have given to the committee?

Mr. McCULLOUGH. Not that I know of. People who have gone into the field with me, I think, were fairly well convinced of my viewpoint, but they did not do independent studies, either. In other words, they just reviewed what I was doing.

Mr. ROUNTREE. Let me ask you this.

In your capacity as perhaps an independent third party who has devoted a considerable period of time to the study of the particular species, do you have any opinion at all as to what you feel the conservationists, invironmentalists, other public groups, the State of California, the city of Los Angeles, and the Federal Government should do at this point in time to be of some benefit in insuring the continued conservation and/or increase in Tule elk populations throughout the State of California?

Mr. McCULLOUGH. Well, I will repeat that I think the San Luis Island area has the greatest potential, and I would like to see the effort be concentrated in that area and establish a really first rate refuge for Tule elk.

Mr. ROUNTREE. Are you aware of the BLM, or the Department of the Interior, taking any initiative in this regard, to acquire the private lands adjacent to the existing Federal lands?

Mr. McCULLOUGH. I am told that there is some negotiation between the Bureau of Sport Fisheries and Wildlife on a piece of property outside of the existing refuge, on the other side of Salt Slough on the west side. I know there were negotiations that were entered into, but I do not know how they proceeded.

Mr. ROUNTREE. What do you think the State of California should be doing that perhaps it is not doing at the present time?

Mr. McCULLOUGH. Well, the parks department has considered acquiring further land, and they at least were in the thinking stages of trying to acquire much of the land in the San Luis Island area.

Now again, I am not aware of how those plans have proceeded, and there was this area adjacent to the Delta that was looked at, and there is a proposal of possibly introducing elk to the Mount Diablo State Park. There is a lot of thinking and talk, I guess, that I am becoming frustrated with the thinking and talking.

You see, I can advise on the biological questions, but I am not a politician, and I do not know how to make the political system work, and I am not going to divert myself to that activity.

Hopefully, the professionals will do that.

Mr. ROUNTREE. Thank you very much.

Mr. LEGGETT. Mr. McCloskey?

Mr. McCLOSKEY. I am looking at this list of 22 potential sites that were considered by your task force. I note that the Camp Pendleton Marine Corps Base, which is 400 square miles of Federal reservation, the terrain seems to me almost identical to that of San Luis.

I am wondering why Camp Pendleton Base was not included as one of the potential areas.

Mr. McCULLOUGH. The procedure was that I worked up a set of criteria which were sent out to all of the State and Federal agencies, and from that response there was a list, this first list of possible areas assembled.

The committee then met and considered which of these to visit. We had approximately 1 week to visit the areas, so we had to restrict the number, and we picked te most likely areas, although we visited some rather unlikely ones, as well.

I do not recall specifically why Camp Pendleton was not one of the areas. I have only driven through on Highway 1, I believe, or 101, I have forgotten which. Beyond that, I really do not know that area.

We did visit Vandenberg Air Force Base.

Mr. McCloskey. Mr. Chairman, I wonder if I might direct the same question to Mr. Arnett?

Mr. Arnett, you had representatives from your department participate in the task force study.

Mr. Arnett. Yes, sir, the Camp Pendleton area, as I recall, I would have to refer to the study manual that was put out on each one of the areas, but I believe there is 126,000 acres in the Camp Pendleton Marine Base, and the conflicting uses of artillery fire and type manuevers and infantry landings, and the other conflicting uses of Camp Pendleton, as I recall, dd not appear to be compatible with an elk preserve that would available to the public to view.

There is no sense of having elk just for the purpose of having elk. We have most of our wildlife so the public can benefit from them.

As you know, this is such a restricted area without egress or ingress of the general public, and the conflicting uses of military activity did not seem like a logical place to have them.

There are deer on Camp Pendleton, and the public is, on a limited basis, allowed at certain times of the year to hunt those deer, but as I recall, that was the main consideration in not using Camp Pendleton as a potential site.

Mr. McCloskey. Well, I appreciate all those reasons, but our committee has visited Camp Pendleton fairly recently, and they have made such tremendous efforts. They have even brought in beaver.

Mr. Arnett. Yes, sir, they have done an excellent job. They won the Conservation Military Base of the World Award for that particular year. They have done an outstanding job, but I believe the reasons that I described to you were perhaps the reasons that precluded that from being a satisfactory selection site for an elk preserve.

It is not saying in the future that may not be, but we have two or three that are much more potentially good for Tule elk, rather than taking a less potential one until we have satisfied the better priorities first.

Mr. McCloskey. The reason I raise this point is that it seems to me with the State goal of 2,000 animals, coupled with limitations because of our inability to come up with $79,000 for a fence in one area, $150,000 for a fence in another, that perhaps one of our obligations on the Federal side is to reexamine what seemed to this task force to be valid reasons against considering these areas.

Take Camp Pendleton, for an example. They run 500 tanks across the valley, and I guess the deer have no problem in seeing the tanks coming, and when they fire the artillery there is no reason why they cannot move out of those ranges. The trail comes right through the

Some of these reasons seem to me to militate against the use of middle of Camp Pendleton.

Mr. ARNETT. Again, it would have to be fenced. You have agricultural interests on both sides of the valley, so just by virtue of the fact that the land is available those elk will move off those lands, so the same fencing problem would not be relieved in Camp Pendleton.

Mr. LEGGETT. If you will yield, how about the 100 and some thousand acres?

Mr. ARNETT. They have fences around most of those areas, and they would have to be confined to different types of fencing, rather than just keeping people out.

As far as I know, that would not be a satisfactory area at Camp Pendleton. You have the lettuce crops in the Salinas Valley. The problem is the roaming herds are moving out of an area.

As Mr. McCullough pointed out, the criteria is to have an area large enough where the feeding of he herd is esthetically pleasing, rather than a fenced zoo to put the elk in there, just to have numbers.

All of these areas will have to be fenced to stop the competing with other agricultural practices of the State.

Mr. LEGGETT. All of these areas would support the elk, and I guess it is essentially a question of getting the fences for the Federal land.

Mr. ARNETT. And being sure, as Mr. McCullough pointed out, and I think the committee, for the Tule elk, would agree that a feeding program is not the best way. Just to have a pocket of gound where you raise alfalfa and feed these animals just to sustain life is not a pleasing way to manage the Tule elk.

Mr. LEGGETT. I understand that, but some of these ranges, Federal ranges, that do comprise 100,000 and 200,000 acres, they would support, I guess, some size herd.

Mr. ARNETT. Probably, sir, and it would have to be the constraints of the Federal, or the Army, to allow public ingress and egress to observe these animals.

I do not believe it would be proper to fence them just to have the military to observe them.

The public should have the ingress and egress, and that is sometimes difficult to acquire in the security of a military establishment, to allow free-roaming public over the area.

Mr. LEGETT. Thank you.

That is all the questions I have.

You have been very helpful, Mr. McCullough.

Do we have the benefit of your formal study in this area? Has that been made available to the committee?

Mr. MCCULLOUGH. It can be made available. I assumed the committee probably had it.

Mr. MCCLOSKEY. Excuse me, Mr. Chairman, I would like to send another thanks to the Resources for the Future that funded this 2-year study. I think this is probably the best input that we have had.

Your study was entirely funded by them?

Mr. MCCULLOUGH. Resources for the Future is a screening agency for conservation-related research and I believe their money comes from the Ford Foundation.

Mr. MCCLOSKEY. Where are they located?

Mr. MCCULLOUGH. Washington, D.C. I believe.

Mr. McCloskey. Thank you, Mr. Chairman.

Mr. Leggett. Your opposition to this legislation is essentially the idea of maintaining 2,000 minimum herd in the form of a refuge in Owens Valley, is that correct?

Mr. McCullough. I am opposed to trying to carry more animals in Owens Valley than Owens can, in a natural state.

I certainly do not object to the number 2,000. But it does not mean anything biologically.

Mr. Leggett. It is a question of where you can put them in their natural state.

Mr. McCullough. Two thousand elk might be fine but if you have something like 2,000 dickey birds, that is not enough.

Mr. Leggett. Thank you very much.

Our next witness is Stephen Seater, staff biologist, Defenders of Wildlife.

STATEMENT OF STEPHEN R. SEATER, STAFF BIOLOGIST, DEFENDERS OF WILDLIFE

Mr. Seater, you may proceed in any manner you choose.

Mr. Seater. Thank you, Mr. Chairman.

Mr. Chairman, I am Steve Seater, staff biologist for Defenders of Wildlife. I appreciate the invitation and opportunity to testify on H.J. Res. 203, 204, 270, and companion measures.

Defenders of Wildlife is a national, nonprofit conservation organization with approximately 40,000 members, dedicated to the preservation of our Nation's wildlife and wild places.

Few animals in the United States have been more mercilessly persecuted than California's Tule elk. Once occurring in the central valleys of California in vast herds sometimes described as "darkening the California plains," these small elk were subjected to a carnage of mammoth proportions by market hunters eager to provide meat for the hordes of goldseekers that poured into California during the 1850's. Within a few years after the appearance of settlers from the East, the Tule elk had been reduced almost to the vanishing point. Fortunately, a remnant population managed to survive the relentless onslaught.

From a herd which may have numbered as few as 26 head, the species made a gradual comeback.

In 1933 and 1934, 55 elk were translocated from Yosemite to Los Angeles city owned land in the Owens Valley. Of the 22 early translocations carried out to reestablish this endangered animal, the Owens Valley relocation is the only real success.

All others ultimately failed except for the Cache Creek herd—said to number between 100 and 140 animals, but which may have interbred with Rocky Mountain elk, therey having lost its true identity.

Today, there are some 290 unhybridized Tule elk living wild and free in the Owens Valley. Though not in imminent danger of extinction, they are seriously threatened and could easily fall prey to epidemics or other catastrophies. The elk are in competition with domestic cattle and other uses which have created range conditions not

ideal for the species. Therefore, we believe that every effort should be made to increase the Tule elk herds in California and to ensure them the maximum protection.

We strongly urge the Congress to establish the Tule Elk National Wildlife Refuge in the Owens Valley of California. Moreover, we endorse the concept of allowing the herd to increase its numbers until the full carrying capacity of the valley is reached. Once this is attained, we believe that excess elk should be relocated to other suitable habitat until there is a minimum of 2,000 living in the State. Naturally, it will be necessary to maintain these herds in a healthy state which will inevitably require that their numbers be culled. However, this should be done by competent wildlife biologists, rather than the public, in order to approximate the effect of natural selection.

We are most pleased by the inclusion of language in the House joint resolutions which states that the refuge "Shall be established and maintained in an ecologically and environmentally sound manner."

This will have the effect of halting the excessive pumping of water in the Owens Valley by the Los Angeles Department of Water and Power as well as ending the priority for grazing cattle there.

The creation of this refuge will benefit many other species as well, for the Owens Valley is the home of the Sierra bighorn sheep, cougar, kit fox, coyote, southern pine marten, desert tortoise, and Owens Valley pupfish. Additionally, many of its streams support rainbow, brook, brown, and golden trout. This is truly a great natural area deserving of Federal protection.

Defenders of Wildlife believes that if conservation is to be a successful endeavor, we must pursue a holistic approach that insures the preservation of large natural areas. According to Rene Dubos: "Conservation of natural systems is the best guarantee against irrevocable loss of diversity and the simplest way to minimize ecological disasters."

This principle has become widely accepted among biologists and conservationists.

It is imperative that we have in our landscape natural, unmanaged or virtually unmanaged ecosystems to provide control of water quality, recreation, esthetic needs, preservation of species which effect ecological succession and recovery—and wildlife.

Thank you for this opportunity to make our views known.

Mr. LEGGETT. Thank you very much, Mr. Seater. Your testimony has been very helpful.

We certainly share the stimulus your organization has given to the pioneering of this legislation and it is going to be productive in redevelopment of the herd someplace.

Mr. SEATER. Thank you, Mr. Chairman.

Mr. LEGGETT. Mr. Goodling.

Mr. GOODLING. Mr. Seater, in listening to your testimony on page 2 I am wondering if you are being completely consistent.

You say, though not in imminent danger of extinction, they are seriously threatened and could easily fall prey to epidemics or other catastrophies.

Is it not true any time you get a concentration of any animals they are more subject to disease?

Mr. SEATER. That is true, but I was thinking of establishing other herds throughout the State so that if an epidemic should occur in one large herd or perhaps two, you would still have other herds that would continue to perpetuate the species.

I am not just talking about 2,000 elk in one particular area such as the Owens Valley. I am talking about 2,000 elk throughout the entire State.

Mr. GOODLING. I appreciate that, but you do want more elk in Owens Valley?

Mr. SEATER. I would like to see more; yes, if possible.

Mr. GOODLING. Yesterday someone said that these elk are not in competition with cattle. Is that correct? Here you say they are in competition with domestic cattle.

Mr. SEATER. Well, I am not an expert on the Tule elk, I will admit that; and it may be that they are not in competition with cattle.

However, it just seems to me we have large numbers of cattle here. They do eat some of the same food and there must be some degree of competition and that by establishing a refuge that is managed in an ecologically sound manner it may mean there should be less cattle there than there probably are now.

Mr. GOODLING. I am trying to get some factual information because we sometimes get very conflicting testimony in these hearings.

Mr. SEATER. I certainly understand.

Mr. GOODLING. That is all.

Mr. LEGGETT. Just one question: How do the Tule elk survive the coyotes? Maybe you are not the best one to answer that question.

Mr. SEATER. I do not know how much a predation problem coyotes pose to Tule elk. They may occasionally take a few of the young.

Mr. LEGGETT. I guess they just like lamb.

Thank you very much for your testimony.

Our next two witnesses will go together.

The chairman of our subcommittee, Mr. Dingell, will be back here at 2 o'clock.

Mr. Wilkinson and Mr. Jorgeson, I hope it will be possible for you to be back here at 2 o'clock. I think you have a lengthy statement and I think we can give you better benefit of deliberation on it if you were to present it at that time.

We will stand adjourned until 2 o'clock this afternoon.

[Whereupon, at 12 noon the subcommittee recessed to reconvene at 2 p.m. the same day.]

AFTERNOON SESSION

Mr. DINGELL. The subcommittee will come to order.

The Chair is pleased to recognize, for purposes of introduction of our next witnesses, our friend and colleague, Hon. Barry Goldwater, Jr.

STATEMENT OF HON. BARRY GOLDWATER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. GOLDWATER. Thank you, Mr. Chairman.

It has been said that politics is the arena where ideas or problems come together and are worked out.

There are few among us, I believe, who can claim a tenure in this arena as long as your next witness can.

I am very pleased to introduce to you a constituent of mine, a member of the Los Angeles City Council for over 20 years, a man with great capabilities and insight into problems, councilman Bob Wilkinson.

Accompanying Mr. Wilkinson is Duane Georgeson who is the engineer in charge of the Los Angeles Aqueduct Division, Los Angeles Department of Water and Power.

Thank you, Mr. Chairman.

Mr. DINGELL. Thank you very much, Mr. Goldwater.

Mr. Wilkinson, we are pleased to recognize you and your associate.

STATEMENT OF ROBERT M. WILKINSON, COUNCILMAN, 12TH DISTRICT, CITY OF LOS ANGELES, CALIF., ACCOMPANIED BY DUANE L. GEORGESON, ENGINEER IN CHARGE, LOS ANGELES AQUEDUCT DIVISION

Mr. WILKINSON. I have Mr. Georgeson with me from the department of water and power.

Mr. DINGELL. We are very pleased to have you both here.

You may proceed in your own way.

Mr. WILKINSON. I believe, Mr. Chairman, you have copies of my written testimony. I will go over it, and plus the information that goes with the text, as well, is that correct?

Mr. DINGELL. We have your prepared statement.

Mr. WILKINSON. Mr. Chairman, I would like to read my prepared text.

Mr. DINGELL. You may proceed.

Mr. WILKINSON. The city of Los Angeles, by council action of June 25, 1973, adopted a resolution that I will make part of the record at this point which opposes H.J. Res. 204, and other measures to create a Tule Elk National Wildlife Refuge in the Owens Valley area.

[The resolutions referred to and letter, dated May 25, 1973, from Department of Interior, follow:]

Whereas House Joint Resolution 204 and Senate Joint Resolution 6, introduced to Congress in January 1973, propose the creation of a national wildlife refuge for at least 2,000 Tule Elk in the "Owens River Watershed Area; and

Whereas the Aqueducts from the Owens Valley provide 80 percent of Los Angeles' water supply and valuable hydroelectric power; and

Whereas these resolutions propose immediate designation as an elk refuge, 197,000 acres of Federal lands which were withdrawn from entry by the United States Congress in 1931 for the protection of Los Angeles' water supply; and

Whereas the "Owens River Watershed Area" includes 183,000 acres of land

owned by the City of Los Angeles which the resolutions authorize the Secretary of the Interior to acquire by condemnation, if necessary, to obtain the minimum 2,000 elk in the Owens Valley, and thus implement the Federal refuge; and

Whereas these 183,000 acres of City-owned lands are essential to maintain adequate and reliable water and power supplies to Los Angeles through proper management of the massive ground water basins underlying the City lands that have been an integral part of the City's water and power operations since 1917; and

Whereas newspaper advertisements purchased by organizations supporting the Tule Elk refuge indicate that creation of the elk refuge will prevent the Department of Water and Power from continuing necessary and proper water management activities on City lands in the Owens Valley; and

Whereas State legislation, known as the Behr Bill, passed in 1971 with the support of the City of Los Angeles, provides secure protection for the Tule Elk to achieve and maintain a statewide herd numbering 2,000, with at least 490 maintained in six herds in the Owens Valley thus eliminating any need for establishment of an expensive and unnecessary Federal refuge in the Owens Valley, I, therefore

Move, That the Council of the City of Los Angeles hereby adopt a legislative position opposing the establishment of a Federal Wildlife Refuge for the Tule Elk in the Owens Valley which would be a serious infringement of the City's property rights and a critical threat to reliable water and power supplies to the City of Los Angeles, I further

Move, That following the adoption of this motion by the Council of the City of Los Angeles, copies be sent to Senator Alan Cranston, Senator John Tunney, and all Congressional Representatives from the State of California.

RESOLUTION

Whereas House Joint Resolution 204 and Senate Joint Resolution 6, introduced to Congress in January 1973, propose the creation of a National Wildlife Refuge for 2,000 Tule Elk in the "Owens River Watershed Area; and

Whereas Los Angeles City relies on this area for 80 percent of its water supply; and

Whereas these proposed Federal bills would authorize condemnation by the Secretary of Interior of 183,000 acres of land owned by the City of Los Angeles in the "Owens Valley Watershed"; and

Whereas these 183,000 acres of City-owned land are essential to maintain adequate and reliable water supplies through proper management of these City lands which have been an integral part of the City's water source since 1917; and

Whereas five herds of Tule Elk now have freedom to roam in the "Owens River Watershed Area" which presents no present problem, but if the animals are allowed to multiply unchecked disease could spread, causing harm to them; and

Whereas condemnation of these lands for a game refuge would prevent the Department of Water and Power from necessary and proper water management activities on City lands in the Owens Valley; and

Whereas the California Legislature in 1971 added Section 3951 to the Fish and Game Code, thereby providing that the Resources Agency of California shall relocate Tule Elk in areas suitable to the animals; and

Whereas there will be two Federal refuges supporting elk when San Luis National Wildlife Refuge and the Point Reyes National Seashore are stocked; and

Whereas the Tule Elk is not an endangered species since they reproduce well in zoos and some zoos actually have a surplus; and

Whereas the 1973 Los Angeles County Grand Jury is vitally concerned with any threat to the water supply of the largest City within our County and the third largest City in the United States: Therefore be it

Resolved, That the 1973 Grand Jury of Los Angeles County does hereby oppose the establishment of a Federal Wildlife Refuge for the Tule Elk in the Owens Valley which would result in a serious infringement of the City's property rights and a critical threat to reliable water supplies to the City of Los Angeles; and be it

Resolved further, That the position of this Jury be indicated by sending

copies of this resolution to Senator Alan Cranston, Senator John Tunney and all Congressional Representatives from the State of California.

Adopted this 17th day of July, 1973 by unanimous vote of this Jury.

EARL J. SACHS, Foreman.

U.S. DEPARTMENT OF THE INTERIOR,
FISH AND WILDLIFE SERVICE,
Los Angeles, Calif., May 25, 1973.

MR. PAUL H. LANE,
Chief Engineer of Water Works and Assistant Manager, Department of Water and Power of the City of Los Angeles, Box 111, Los Anglese, Calif.

DEAR MR. LANE: Enclosed are two executed copies of Agreement No. 10652 covering the termination of our responsibilities under the lease of your land at the Sierra Nevada Aquatic Research Lab.

We greatly appreciate your cooperation in this matter and plan to transfer our buildings to the U.S. Department of Health, Education and Welfare for use by the University of California as specified in the agreement and outlined in your May 14 letter.

Sincerely yours,

JOHN D. FINDLAY, *Regional Director.*

Enclosures.

Mr. WILKINSON. We feel that the creation of this refuge is not in accord with the best interests of the city of Los Angeles and its department of water and power or of the people of the Owens Valley, and is not even especially beneficial to the Tule elk.

Our position on this legislation was reached only after extensive consideration by a committee of the council and by the full Council itself.

During this consideration, a number of public hearings were conducted at which testimony was heard from government officials, businessmen, and concerned citizens of the Owens Valley; spokesmen for environmental interests; and representatives of our department of water and power.

The majority of the testimony presented to the committee and the council opposed the creation of the refuge. And, most impressively, representatives of the people of the Owens Valley, the area most directly involved, expressed strong opposition to its establishment.

I wish to emphasize that the city of Los Angeles has been dedicated to the protection of the Tule elk. For example, we supported a bill that was introduced during the 1971 California Legislature by assemblyman Behr, now enacted into law.

We believe that under this law the Tule elk is now being well protected by the good management practices of the California Department of Fish and Game.

It should also be noted that this legislation virtually prohibits the killing of Tule elk.

The city is also an active participant in the Inter-Agency Committee on Owens Valley Land and Wildlife, which is, in part, concerned with the preservation of the Tule elk.

The legislation before you now would, however, remove the primary management responsibility for preservation of the Tule elk from the localized control of the California State Department of Fish and Game, and give this responsibility to the Secretary of the Interior, whose principal offices are here in Washington.

We seriously doubt whether this transfer of responsibility would serve to improve the preservation of the Tule elk; and further

believe it has implications that would be a serious threat to the water supply of the city of Los Angeles. Intervention by a Federal agency in the control and operation of lands affecting the water supply for a city of nearly 3 million people is viewed as a serious infringement on local authority.

As you are probably aware, Los Angeles, the third largest city in the U.S.A., is a semidesert area. We must import virtually all our water, 80 percent of which comes from the Owens Valley through aqueducts and related systems which the city has been developing since the turn of the century.

Mr. Georgeson of our department of water and power will more fully detail the city's investment in this area.

I wish to emphasize, however, that a continuing supply of water from the Owens Valley is essential to the existence of the city of Los Angeles.

The city does not only take from the Owens Valley area, it also gives. The city's land in the Owens Valley is taxable, and represents more than 25 percent of the assessed valuation of all taxable secured property in Inyo County.

Should this land be removed from the tax rolls, it would be a drastic blow to the tax base of Inyo County. Additionally, the city permits agricultural, grazing, and recreational use of its land. The cessation of these uses would be another serious economic setback to the people of the Owens Valley.

The Los Angeles Department of Water and Power has clearly demonstrated its ability to insure the safety of our water supply. At the same time, the department's management policies and coordination with other State and local agencies is evidence of continuing concern for the preservation and enhancement of the many resources of the Owens Valley, including the Tule elk.

Should this Tule elk refuge be established, future Federal funding shortages could threaten its continued existence. It has been reported that some Federal refuges are facing funding shortages and have or will be closed or transferred to State control.

An example of this type of Federal funding shortage is the recent request by the U.S. Bureau of Sport Fisheries and Wildlife to terminate a 25-year lease with the city of Los Angeles and discontinue operation of the Sierra Nevada Aquatic Research Laboratory located on city-owned lands along Convict Creek in Mono County.

Such uncertainty over the future of a Tule elk refuge would also lead to uncertainty about the future of the city's water supply, an uncertainty the city simply cannot afford.

Additionally, this uncertainty is certainly counterproductive to the protection and preservation of the Tule elk.

For these reasons, the city of Los Angeles joins a number of other responsible public entities, including the Los Angeles County Grand Jury and the Board of Supervisors of Inyo County, as well as many private organizations, agencies and individuals who are concerned over the future of the Tule elk but who do not favor this method of addressing that future.

We strongly urge your committee's opposition to H.J. Res. 204 and similar legislation to create a Tule Elk National Wildlife Refuge.

Mr. Chairman, I do want to emphasize that we believe under the law the Tule elk is being well protected by good management practices of the California Department of Fish and Game, and it also should be noted that this legislation prohibits the killing of the Tule elk.

Mr. DINGELL. You mean the California legislation?

Mr. WILKINSON. Yes, the killing of the Tule elk until it reaches 2,000 in number.

Mr. Chairman, this is a very definite protection.

Mr. DINGELL. In California?

Mr. WILKINSON. In California, yes.

I will be glad to answer any questions of the chairman or committee that you may have of me.

Mr. DINGELL. Well, thank you very much, Mr. Wilkinson.

Mr. Georgeson, the Chair recognizes you for your statement, and we will return to ask questions of both of you.

Mr. GEORGESON. Mr. Chairman, again, I am Duane Georgeson, Engineer in Charge of the Los Angeles Aqueduct Division, Department of Water and Power.

I might comment I lived 4 years in the Owens Valley from 1966 until 1970 in charge of the city's land ownership and aqueduct operations in the Owens Valley.

Attached to my statement is a copy of a resolution passed by the board of water and power commissioners, as well as a 9-page opinion by the city attorney assigned to the city department of water and power, analyzing the possible effect of this legislation on the city's land ownership and its water supply operations.

Mr. DINGELL. Without objection, that will be made a part of the record at this point.

[The documents referred to follow:]

RESOLUTION No. 917

Whereas House Joint Resolution 204 and Senate Joint Resolution 6, introduced to Congress in January 1973, propose the creation of a national wildlife refuge for at least 2,000 Tule Elk in the "Owens River Watershed Area;" and

Whereas the Aqueducts from the Owens Valley provide 80 percent of Los Angeles' water supply and valuable hydroelectric power; and

Whereas these resolutions propose immediate designation as an elk refuge, 197,000 acres of Federal lands which were withdrawn from entry by the United States Congress in 1931 for the protection of Los Angeles' water supply; and

Whereas the "Owens River Watershed Area" includes 183,000 acres of land owned by the City of Los Angeles which the resolutions authorize the Secretary of the Interior to acquire by condemnation, if necessary, to obtain the minimum 2,000 elk in the Owens Valley, and thus implement the Federal refuge; and

Whereas these 183,000 acres of City-owned lands are essential to maintain adequate and reliable water and power supplies to Los Angeles through proper management of the massive ground water basins underlying the City lands that have been an integral part of the City's water and power operations since 1917; and

Whereas newspaper advertisements purchased by organizations supporting the Tule Elk refuge indicate that creation of the elk refuge will prevent the Department of Water and Power from continuing necessary and proper water management activities on City lands in the Owens Valley; and

Whereas the Federal and City lands in the Owens Valley are managed on a multiple-use concept which includes watershed protection, enjoyment of fish

and wildlife resources, hiking and camping experiences, compatible agriculture activities, as well as protection of the Tule Elk herds and native species such as the Sierra Big Horn Sheep and the Owens Valley Pupfish; and

Whereas the two Congressional resolutions fail to recognize the scientific fact that the optimum number of Tule Elk that can be supported by natural forage in the "Owens River Watershed Area" is approximately 500 and that a greater population could actually threaten the survival of the species; and

Whereas State legislation known as the Behr Bill, passed in 1971 with the to achieve and maintain a statewide herd numbering 2,000, with at least 490 support of the City of Los Angeles, provides secure protection for the Tule Elk maintained in six herds in the Owens Valley, Now, therefore, be it

Resolved by the Board of Water and Power Commissioners as follows. That the Council of the City of Los Angeles is urged to adopt a legislative position opposing the establishment of a Federal Wildlife Refuge for the Tule Elk in the Owens Valley, which would be a serious infringement of the City's property rights and a critical threat to reliable water and power supplies to the City of Los Angeles.

I hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the Board of Water and Power Commissioners of The City of Los Angeles at its meeting held May 17, 1973.

ELIZABETH HILL,
Assistant Secretary.

DEPARTMENT OF WATER AND POWER,
May 4, 1973.

Re comments on H.J. Res. 204 and S.J. Res. 6, 93d Congress, 1st Session, Joint Resolution to Establish the Tule Elk National Wildlife Refuge

ROBERT V. PHILLIPS,
General Manager and Chief Engineer,
1550 General Office Building.

This is in response to your request for our comments as to the potential legal effect on the water and land rights of The City of Los Angeles if either S.J. Res. 6 or H.J. Res. 204, 93d Congress, 1st Session (1973) is approved.

These joint resolutions, which are substantially identical, would establish the Tule Elk National Wildlife Refuge in the Owens Valley of California. Under the resolutions the Secretary of the Interior would be authorized, among other things, to acquire "any land and any easements, grazing rights, or other interests in land within the Owens River watershed area which he determines to be suitable for carrying out the purposes" of the joint resolutions. The Owens River watershed area is defined as "that area of land in Inyo County, California, which is south of Laws but not south of the northernmost point of Owens Lake and which is bounded on both the east and the west by the Inyo National Forest."

You have informed us that the City owns 183,000 acres within the above described Owens River watershed area; and that this represents approximately 60% of the City's ownership of land, in Inyo County, of 240,000 acres. These lands are used by the City for the purposes of developing and protecting its water supply. An extensive system of aqueducts and facilities have been developed on those lands. Also, the City permits activities whenever it deems compatible on these lands, such as recreation, wildlife preservation, grazing, and

In addition to its own lands, the City also uses federal lands, under permits from the Bureau of Land Management, that have been withdrawn for the purposes of protecting the watersheds that provide a water supply to the City. Such uses include patrol and access roads, diversion channels, diversion structures, electric transmission facilities, hydrologic measuring stations, and water spreading grounds. The City also uses adjacent national forest lands, which are under the jurisdiction of the Secretary of Agriculture; for various purposes relating to the management of its water supply.

SECRETARY OF INTERIOR'S POWER TO ACQUIRE CITY LAND

Under Section 2(a) of the joint resolutions, the withdrawn federal lands would, upon the approval of the resolutions, immediately be included within the Tule Elk National Wildlife Refuge which the Secretary of the Interior is directed to establish and maintain "in an ecologically and environmentally

sound manner in accordance with the laws and regulations relating to the National Wildlife Refuge System'.' Under those laws and regulations, the City's uses could be nonconforming uses and the Secretary could restrict, if not eliminate them.

In expanding the refuge, which would initially be composed of federal lands, the Secretary is given broad discretion in his acquisition of non-federal land or interests in land within the described area for inclusion in the refuge. He could acquire a fee ownership in a part or all of the City's lands. Or he could acquire an easement, grazing right or other interest in a part or all of the City's lands.

The joint resolutions do not set forth any objective standards to limit the Secretary's discretion in his acquisition of land or interests in lands, within the described area, for the refuge. Nor is there any requirement that he consider and minimize the impact on existing uses of the lands that he might acquire. (However, the acquisition may be a major federal action which would require an environmental impact statement under the National Environmental Policy Act.)

The joint resolutions represent a marked departure from the intent of federal laws that now exist as to the acquisition of lands by the Secretary for the National Wildlife Refuge System. For example, Section 3(a), 80 Stat. 926 (1966) provides as follows:

"In carrying out the program [conservation and protection of selected species of native fish and wildlife threatened with extinction] authorized by this Act, the Secretary shall cooperate to the maximum extent practicable with the several states. Such cooperation shall include consultation before the acquisition of any land for the purpose of conserving, protecting, restoring, or propagating any endangered species of native fish and wildlife."

In contrast, the Secretary, under the provisions of the joint resolutions need not meet those minimum requirements; he would have unrestrained authority to acquire lands and interests in land for the Tule Elk National Wildlife Refuge which he determines to be suitable for carrying out the purposes of the joint resolutions.

Although the joint resolutions provide that "nothing in this Act shall be construed as authorizing the Secretary to acquire any rights to water which are held on the date of enactment of this Act or may be acquired after such date by any State or local agency," it is less than crystal clear whether The City of Los Angeles would qualify as a "State or local agency". That term is undefined by the joint resolutions, and a narrow interpretation could subject the City's water rights to condemnation by the Secretary.

Even if the term "State or local agency" does embrace within its meaning The City of Los Angeles' water rights, the limitation upon the power of the Secretary to condemn or otherwise acquire those rights is insufficient to protect those rights. The combination of the Secretary's power to acquire lands or interests in land and the power to manage the refuge for the primary purpose of maintaining tule elk could prevent the City from exercising its water rights. It is clear, however, that private water rights may be acquired. These acquisitions could preclude the City from obtaining water rights that may be necessary to sustain its future water demands.

SECRETARY OF INTERIOR'S POWER TO CONTROL "NON ELK" USES WITHIN THE REFUGE AREA

The extent of the Secretary's discretion in the control and management of the refuge is revealed in the following excerpts from the statutes and regulations relating to the National Wildlife Refuge System. 16 U.S.C. 668dd(c) provides in relevant part the following:

"No person shall knowingly disturb, injure, cut, burn, remove, destroy, or possess any real or personal property of the United States, including natural growth, in any area of the System: . . . . or enter, use, or otherwise occupy any such area for any purpose; unless such activities are performed by persons authorized to manage such area, or unless such activities *are permitted* either under subsection (d) of this section or by express provision of the law, proclamation, Executive order, or public land order establishing the area, or amendment thereof: [Emphasis added]

16 U.S.C. 668dd(d) provides in part the following:

"The Secretary is authorized, under such regulations as he may prescribe, to—

(1) permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established: . . . .

(2) permit the use of, or grant easements in, over, across, upon, through, or under any areas within the System for purposes such as but not necessarily limited to, powerlines, telephone lines, canals, ditches, pipelines, and roads, including the construction, operation, and maintenance thereof, *whenever he determines that such uses are compatible with the purposes* for which these areas are established. [Emphasis added]

The Secretary has published regulations indicating how he interprets and how he will implement those statutory provisions. In 50 CFR §29.3 this is found:

"Nonprogram uses.

Uses of wildlife refuge areas that make no contribution to the primary objective of the program for an individual area or are in no way related to the objectives of the National Wildlife Refuge System are classed as nonprogram uses. Permission for such uses will be granted only when compatible with the major purposes for which such areas are established."

And in 50 CFR §29.21(h), the regulations define "compatible" thusly:

"(h) 'Compatible' means that the requested right-of-way or use will not interfere with or detract from the purposes for which units of the National Wildlife Refuge System are eseablished."

Thus it can be seen that if the Secretary takes land or an interest in land without the acquisition of the City's water rights, those rights alone, without the means or ability to exercise them could be empty rights. The limitation on the authority of the Secretary to acquire rights to water held by any "State or local agency" is inadequate to protect the right because there are no provisions in the joint resolutions to protect against substantial interference with the exercise of a water right.

The same provisions that could render ineffective the exercise of the water rights of the City upon lands acquired for the refuge could also operate to restrict the City's management and control of its aqueduct system facilities. As can be seen, the entire array of the City's operations might well fall within the nonconforming provisions of the regulations. The pattern of acquisition of lands or interests in land by the Secretary, together with his attendant power to manage the land or interests in land for the primary purpose of the refuge, i.e., to maintain tule elk, could result in such inflexibility of the City's operations such that the exercise of its discretion of management and control is largely controlled by the requirements of the Secretary for the use of lands within the refuge. For instance, repairs to City's facilities within the refuge could be subjected to a schedule fixed by the secretary; the inspection of transmission lines, aqueducts, diversion channels, debris basins, storm channels, and other facilities could similarly be controlled by the Secretary. The use of patrol and access roads, its size, its location, its design, and types of vehicle that can be operated also could be controlled by the Secretary. Numerous other examples can be multiplied to show how pervasive the Secretary's control over the City's management of its aqueduct system could be. This right of the Secretary to so control and regulate the City's use of lands within the refuge as a nonconforming use could be the equivalent of transferring the management and control over its aqueduct system from the City to the Secretary without the burden of the responsibility for its operation.

Recreational, agricultural, and grazing uses now permitted by the City on its lands could be eliminated or substantially reduced if these lands are acquired by the Secretary for the refuge.

TAX LIABILITIES

The removal of privately owned lands from the tax rolls and the elimination of grazing rights on city-owned lands could result in loss of tax revenues to Inyo County from these sources. This loss would result in increasing the tax burden on the City's remaining lands and water rights.

It is claimed by proponents of the resolutions that as a result of the creation of the refuge Inyo County would not lose taxes but would enjoy "in lieu" payments under 16 U.S.C. Code 715s(c). This section provides that the County in which the refuge area is located may have an amount equal to 25% of the revenue from the lands in the refuge area or ¾ of 1% of the purchase cost, whichever is higher, returned annually. The revenues returned under this section would not be particularly helpful to Inyo County for the following reasons:

(1) There are large amounts of federal lands in Inyo County exclusive of the proposed refuge area and it would be unlikely that the creation of a tule elk refuge would draw significantly more tourism into the refuge area that is presently enjoyed;

(2) The ¾ of 1% of the purchase cost has been estimated by Inyo County to be not more than ⅜th of the tax revenue presently paid by the City of Los Angeles;

(3) Any payment at all under the provisions of this section is dependent upon the existence of a fund whose income is derived from various permitted activities within the refuge area which include sale and disposition of animals, grass, sand, gravel, other privileges and from leases for public accommodation and etc. If there is insufficient money in the fund, there will be diminished "in lieu" payments; and

(4) Regardless of the sufficiency of the fund any "in lieu" payments may be used for roads and school purposes only and not for general County needs.

Where the Secretary decides only to acquire an interest in City lands other than a fee ownership, the City may still remain liable for the taxes on those lands. This continued tax liability could be inequitable, particularly where the Secretary does not permit any activity to be conducted on those lands such as grazing or agriculture from which the City formerly derived an income for such uses.

OTHER RAMIFICATIONS OF SECRETARY OF INTERIOR'S BROAD POWERS

Another subtlety of the limitation on the Secretary's power to acquire rights to water held by any "State or local agency" is that the Secretary could take the fee ownership of City lands at a greatly reduced price. The value of land without a water right is obviously less than with it. And as we have pointed earlier, the taking of the land without the water right by the Secretary does not necessarily guarantee the exercise of those water rights. And yet the City could nevertheless be taxed on those rights.

The direction in the joint resolutions to the Secretary to limit grazing and other land use rights, to the extent necessary, so as to maintain a minimum of 2000 tule elk could mean the elimination of recreational uses that are now permitted by the City as an incident of its ownership of lands. The Secretary of the Agriculture is also directed to cooperate with the Secretary of the Interior so as to limit grazing or other public uses in the areas of the Inyo National Forest which adjoin the refuge. The legal effect of these directions is to extend the Secretary's control beyond his immediate territorial jurisdiction. Not only could recreational users be affected, but also the City's control and management of its water supply system could be offected since it maintains hydrologic stations in the forest and uses the roads in the forest to service those stations.

In requiring the Secretary of the Interior to maintain a minimum of 2000 head of tule elk, the joint resolutions direct him to take "such action as necessary". This language could be an authorization to the Secretary to exercise the powers provided him by other Federal Acts including the powers of eminent domain in addition to those that would be expressly authorized by the resolution. The exercise of the additional powers pursuant to the phrase "such action as necessary" could result in the additional taking of City lands other than in the area defined as the "Owens River watershed area" with the accompanying potential control over the City's right to operate, manage, and control its water system and lands in the manner it deems best.

Another example of the departure that the joint resolutions would make from existing federal laws is found in Section 2(a) (2) wherein it leaves to the discretion of the Secretary of the Interior whether he will permit the laws and regulations of the State of California to apply to the management of fish and wildlife within the refuge.

Section 4(c) of the Act relating to the administration of the National Wildlife Refuge System (80 Stat. 926); 16 U.S.C. §668dd(c) provides in relevant part the following:

"Nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife, including endangered species thereof, on lands not within the System. The regulations permitting hunting and fishing of resident fish and wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws and regulations. *The provisions of this Act shall not be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any aera within the System.* [Emphasis added]

The discretionary authority that the joint provisions would give the Secretary as contrasted with the Act above is but another demonstration of the extensiveness of the discretionary powers that would be vested in the Secretary. He could substitute an entirely different scheme for the present system that now control such matters on the City's lands.

The characterization of the tule elk as a "species of wildlife that is threatened with extinction" (Section 3(b) of the joint resolutions) is a further example of the departure that the point resolutions would make to bypass existing federal laws. Under those laws, the Secretary of the Interior, on the basis of scientific and commercial information and after consultation with various groups, would make that determination as a matter of fact; however, the joint resolutions would make that determination as a matter of law by a simple characterization. Section 668aa(c), 16 U.S.C. sets forth the following criteria for the Secretary in making his determination of the species of wildlife that are threatened with extinction:

"(c) A species of native fish and wildlife shall be regarded as threatened with extinction whenever the Secretary of the Interior finds, after consultation with the affected States, that its existence is endangered because its habitat is threatened with destruction, drastic modification, or severe curtailment, or because of overexploitation, disease, predation, or because of other factors, and that its survival requires assistance. In addition to consulting with the States, the Secretary shall, from time to time, seek the advice and recommendations of interested persons and organizations including, but not limited to, ornithologists, ichthyologists, ecologists, herpetologists, and mammalogists. He shall publish in the Federal Register the names of the species of native fish and wildlife found to be threatened with extinction in accordance with this subsection."

The intent of the resolutions is clear: It bootstraps the tule elk and the Tule Elk National Wildlife Refuge into a favored position to which they might not otherwise be entitled, so as to receive financial assistance under the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460L–9). That act, in relevant part, provides as follows:

"Moneys appropriated from the fund for Federal purposes shall, unless otherwise allotted in the appropriation Act making them available, be allotted by the President to the following purposes and subpurposes . . . .

(1) For the acquisition of land, waters, or interests in land or waters as follows:

Threatened species.—For any national area which may be authorized for the preservation of species of fish or wildlife that are threatened with extinction."

In summary, the powers that would be given to the Secretary of the Interior under the provisions of the joint resolutions to acquire land or interests in land for the Tule Elk National Wildlife Refuge and the powers to manage and control the refuge could affect the land and water rights of The City of Los Angeles as pointed out above, including the discretionary right to manage and control its aqueduct system and lands.

ROGER ARNEBERGH,
City Attorney,
EDWARD C. FARRELL,
Chief Assistant City Attorney for Water and Power,
KENNETH W. DOWNEY,
Assistant City Attorney.
GILBERT W. LEE,
Deputy City Attorney.

Mr. GEORGESON. I have a statement that has been furnished to your committee, and it is repetitious in part.

I would like to, instead of reading it, request it be made a part of the record as though I read it and merely highlight a couple of areas and then make myself available for any questions that you and others might have.

Mr. DINGELL. I think that is quite appropriate and, without objection, it is so ordered.

[The statement referred to follows:]

STATEMENT BY DUANE L. GEORGESON, ENGINEER IN CHARGE, LOS ANGELES AQUEDUCT DIVISION, LOS ANGELES DEPARTMENT OF WATER AND POWER

The Los Angeles Department of Water and Power has long supported measures to protect the Tule Elk on City lands in the Owens Valley and continues to work through the Inter-Agency Committee on Owens Valley Land and Wildlife to achieve that objective.

The Department of Water and Power is opposed, however, to H.J.R. 204 and companion bills which would establish a Tule Elk National Wildlife Refuge in the Owens Valley. By way of background information, let me explain the basis of our opposition to this legislation.

In 1913 the City of Los Angeles completed an aqueduct system 233 miles long, tapping the snow-fed streams of the High Sierras, to supply a growing population expected to someday reach 2 million.

Today this 340 mile expanded system includes the Second Los Angeles Aqueduct, completed in 1970, and supplies 80 percent of the water required for a population now numbering nearly 3 million.

In order to protect and develop this vital water supply, the City has acquired over 300,000 acres of land in Inyo and Mono Counties since 1906 at a cost of more than $35 million. In addition, since 1931, over 800,000 acres of land have been withdrawn by the Federal government to protect the water supply and watershed for the City of Los Angeles.

Creation of a Tule Elk National Wildlife Refuge would authorize the Secretary of the Interior to acquire land or other interests within the Owens River watershed area, which is defined as being the area of land in Inyo County south from Laws to the northerly point of Owens Lake and bordered on the east and west by the Inyo National Forest. Of this total 380,000-acre area, the City of Los Angeles owns 183,000 acres and 197,000 acres are Federally withdrawn.

Lands owned by the City in this area are used for the purpose of developing and protecting the water supply, and an extensive system of aqueducts and facilities having been developed on these lands. The City also permits many other activities on these lands which are compatible, such as recreation, wildlife preservation, grazing, and agriculture. Adjacent withdrawn and national forest lands are used under permit for similar purposes related to management of the watershed.

Under Section 2(a) of the joint resolutions which propose the Refuge, the Secretary is directed to establish and maintain the refuge "in an ecologically and environmentally sound manner *in accordance with the laws and regulations relating to the National Wildlife Refure System.*" (emphasis added) Under those laws and regulations, the City's uses could become nonconforming uses and the Secretary could restrict or eliminate them. Further, the resolutions do not establish any standards to limit the Secretary's discretion in acquiring land or other interests for expanding the refuge.

The resolutions before you would prohibit the Secretary from acquiring water rights of "State or local agencies"; however, it is not clear whether the City of Los Angeles would be included in such a category. Under a possible interpretation of this terminology, the City's water rights could become subject to condemnation by the Secretary. Even if the City of Los Angeles was included in this exempt category, the combined powers of the Secretary to acquire land or other interests and the power to manage the refuge for the *primary purpose* of protecting Tule Elk could prevent the City from exercising its water rights. If the Secretary is given the power to take land or other

interests without acquiring the City's water rights, those rights alone, without the ability to exercise them would be meaningless.

Regulations pertaining to the National Wildlife System prescribe that the Secretary may permit use of areas within a refuge for such uses as canals, ditches, and pipelines "whenever he determines that such uses are compatible with the purposes for which these areas are established." The Secretary has also published definitions of "compatible" and "nonprogram" uses:

" 'Compatible' means that the requested right-of-way or use will not interfere with or detract from the purposes for which units of the National Wildlife Refuge System are established."

"Nonprogram uses—Uses of wildlife refuge areas that make no contribution to the primary objective of the program for an individual area or are in no way related to the objectives of the National Wildlife Refuge System are classed as nonprogram uses. Permission for such uses will be granted only when compatible with the major purposes for which such areas are established."

As can be seen, the entire scope of the City's operations could very well fall within the nonconforming provisions of the regulations. Further, the responsibility of the Secretary to maintain Tule Elk with all the attendant powers granted, could result in such inflexibility of the City's operations that the discretion and management of the watershed would become subordinate to the operation of the refuge; in other words, Secretary control over the aqueduct system without responsibility for its operation.

The joint resolutions require the Secretary to maintain a minimum of 2,000 head of Tule Elk in the Owens Valley by taking "such action as necessary." This language could be an authorization to exercise the powers provided to him by other Federal Acts such as the power of eminent domain. Exercise of such power could result in the taking of City lands other than within the "Owens River watershed area" with the resulting additional ability to further control the operation of the City's Aqueduct System.

The Department of Water and Power administers City-owned lands in the Owens Valley under a multiple-use management concept, making possible many beneficial public uses that are compatible with the primary purpose of maintaining the security of the City's water supply.

These land management policies and those of the State and Federal agencies in the Owens Valley have maintained the natural character of the Valley with the result that it now has great value as recreation and wildlife preservation in addition to the watershed. The proposed refuge would usurp the management prerogatives of these agencies.

The City, together with the Forest Service, Bureau of Land Management, Department of Fish and Game, Inter-Agency Committee on Owens Valley Land and Wildlife, and other local agencies, will continue to protect the environment from the incursions of civilization.

The Tule Elk have done well in the Owens Valley, as described for you by other testimony, and have not had to struggle for survival since their introduction to the Owens Valley. It is strange that they are deemed threatened with extinction simply by legislative act when such action ignores scientific fact and authoritative studies of responsible agencies.

For these reasons, the Los Angeles Department of Water and Power strongly opposes the creation of a Tule Elk National Wildlife Refuge in the Owens Valley.

Mr. GEORGESON. For the convenience of the committee and its members, there was a question this morning as to whether a copy was available of the monograph prepared by Dr. McCullough.

I have with me a copy of that, and would be happy to make it available to the chairman and other members of the committee for their reference.

I might comment I have read the entire manuscript, and it is an excellent piece of work. And I would make it available at this time.

Mr. DINGELL. The Chair will direct that it will be reviewed by the staff for purposes of ascertaining whether it should be included in the record.

Mr. GEORGESON. I did not really mean to make it a part of the record. I am merely making it available.

It was referenced today by Councilman Wilkinson that the city of Los Angeles has made a large investment going back many years in the Owens Valley, and depends upon the Owens Valley for 80 percent of its water supply.

I think I might comment that there are three imported sources of supply to southern California.

As you know, there is the Colorado River Aqueduct and there is the State aqueduct, recently completed, California water project.

The aqueduct from the Owens Valley is the only one of these aqueducts that produces clean hydroelectric energy instead of consuming it.

I think in these days of threatened energy shortage, the availability of a water source to southern California that produces power rather than consuming it means that Los Angeles will continue for many years, many decades in the future to rely on that source of supply.

I do not see any change in the importance of the Owens Valley from the standpoint of water supply to the city of Los Angeles. I think that is an important point.

Several of the witnesses have expressed concern as to the continuity of the city's ownership and land management practices in the Owens Valley, and I think there is no basis to be concerned about the city walking away from those land ownerships and sources of water supply.

The city of Los Angeles purchased virtually all of the lands that are owned in the Owens Valley and in the Mono Basin, a total investment of $35 million, most of which was spent in the teens—1920's and early 1930's.

I think there is another point that should be recognized by the committee. The city of Los Angeles is concerned not only about the lands that the city has fee title to and pays taxes on, but the lands that would be placed immediately in the Federal refuge are almost exclusively Bureau of Land Management lands which were withdrawn by Act of Congress in 1931 for the protection of the water supply of the city of Los Angeles.

That does not mean that those lands are single purpose lands. Those lands are an important part of the grazing, that is the cattle economy of the area, and are made available for fish, wildlife and recreation.

I think it is important to note that those lands were withdrawn by an Act of Congress in 1931, and here we have a bill that would superimpose on the management of those BLM lands a higher priority for the protection of the Tule elk, a protection that many witnesses have indicates is not needed.

Just a reference to section 2(a) of the Joint Resolution No. 204.

It says the Secretary is directed to establish and maintain the refuge in an ecologically and environmentally sound manner in accordance with the laws and regulations relating to the National Wildlife Refuge System.

That is an important point because there are certain regulations

that have been adopted by the Secretary for the management of the National Wildlife System prescribing that the Secretary may permit uses of the area within the refuge for such uses as canals, ditches, and pipelines whenever he determines such uses are compatible with the purpose for which the area was established.

The Secretary has published a definition of compatible and nonprogram which are of great concern to the Department of Water and Power.

Compatible is defined as meaning the requested right of way or use will not interfere with or detract from for which the purposes of the National Wildlife Refuge are established.

Nonprogram uses mean uses of wildlife refuge areas which make no contribution to the primary objective of the program or are in no way related to the objectives of the National Wildlife System. Permission for such use will be granted only when compatible with the major purposes for which such areas are established.

As can be seen, the entire scope of the city's operations could very well fall within the nonconforming provisions of the regulations.

Without belaboring the point, we are greatly concerned about the kind of restrictions that would be mandated upon the Secretary if the Owens Valley area, the withdrawn land and the city land were to be included within the protection provided by statute and by regulation for a National Wildlife Refuge System.

It has been pointed to by other agencies and the local people that the city, together with the Forest Service, Bureau of Land Management, Department of Fish and Game, working together with local county government and the University of California on an interagency committee of Owens Valley Land and Wildlife—this is a committee that I think it is perhaps important to recognize that the cooperation of these Federal, State and local agencies has, no doubt, been heightened by activities of groups such as the Committee for the Preservation of the Tule Elk.

There has been good cooperation over the years, but I think it is fair to recognize that the cooperation has become better through the recognition of increasing public concern with protection of aesthetic values, such as the Tule elk.

Not included in my statement but, I think, an important area is the matter of security of the continuation of the city's land management, Department of Water and Power's management of the vast land ownership in the Owens Valley.

The city charter of the city of Los Angeles requires that no water rights may be disposed of without an election of the people of the city of Los Angeles.

I think that in itself assures a continuation of the practices by the Department of Water and Power that are recognized to be beneficial practices, preserving Owens' open space, that that provision that no water rights can be disposed of without an election of the people of the city of Los Angeles means, in effect, no lands can be disposed of because the lands have little value without water available in an area of rainfall of 4 or 5 inches a year.

It is also important to recognize that no land under the management of the Board of Water and Power Commission can be disposed

of without the approval of the vote of the city council of the city of Los Angeles.

I think it is also important to recognize, particularly with the prospect of tough Federal regulations of water quality, drinking water standards, that continuation of the present practices of keeping the land undeveloped with little urbanization, industrial development, we at the Department of Water and Power recognize that to preserve the water quality for the people of the city of Los Angeles, there is little room for any significant development on city lands in the Owens Valley.

We have 60 years of experience with the recreational use of the land, with the use of the land for the cattle economy which is the historic use of the lands that the quality of the water can be preserved.

There has been talk about agreement between the city, State and Federal agencies. We have an agreement between the Board of Water and Power Commissioners that was executed in 1967, with the fish and game commissioners of the State of California, whereby the Department of Water and Power has committed itself to work with the State of California, Department of Fish and Game, to make its lands available, not only for the protection of the Tule elk, but for the preservation and enhancement of fish and wildlife on the city lands in the valley.

As I indicated at the opening of my statement, and I think it is an important point in these days of energy concern, energy shortages, the Owens Valley aqueduct to Los Angeles is the only aqueduct supply to southern California that produces clean hydroelectric power instead of consuming it in large quantities.

It has been referred to in the hearings yesterday that perhaps some day Los Angeles will give up its Owens Valley aqueduct supply and presumably use water from the California aqueduct.

That single act would require the generation of electricity which would require the burning of 4 million barrels of oil a year, just speaking in terms of energy requirements of fuel oil; the lost power from the aqueduct from the Owens Valley and the power required to pump water from the State Aqueduct to southern California.

I will be happy to answer any questions that you may have.

Thank you very much.

Mr. DINGELL. Gentlemen, we thank you.

Mr. McCloskey?

Mr. MCCLOSKEY. Thank you, Mr. Chairman.

How many megawatts of power do you produce hydroelectrically in the Owens Valley?

Mr. GEORGESON. We have two primary installations, one in the Owens Gorge where we have 100,000 kilowatts, 100 megawatts installed capacity, and in the San Francisquito Canyon area, approximately 100,000 kilowatts capacity, and then two plants at the north end of the San Fernando Valley, the total of about 220 megawatts and 220,000 kilowatts.

Mr. MCCLOSKEY. Only one of those in the Owens Valley?

Mr. GEORGESON. We have three virtually identical plants in the Owens River Gorge plus four smaller plants, the Pleasant Valley,

Big Pine Creek, Division Creek and Cottonwood Creek, and the Haiwee Power Plant.

We do also, incidentally, provide the generation and distribution of electric energy in the Owens Valley from Big Pine south plus the original city limits of the city of Bishop.

Mr. McCloskey. Let me see if I understand this.

You have a total of 220 megawatts generated?

Mr. Georgeson. That is correct.

Mr. McCloskey. How much of that is generated in the Owens Valley?

Mr. Georgeson. About half.

Mr. McCloskey. About 110 megawatts?

Mr. Georgeson. That is correct.

Mr. McCloskey. And that is from three plants in the Owens Gorge?

Mr. Georgeson. And five smaller plants.

Mr. McCloskey. And of that 110 megawatts, how much is used in the Owens Valley?

Mr. Georgeson. The connected load in the Owens Valley back in 1970, when I was familiar with it, was 11 megawatts.

Mr. McCloskey. Do they have any guarantee that as their needs for power increases, the department of water and power will make it available to them?

Mr. Georgeson. That is an interesting point.

The city charter specifies that only surplus power can be sold outside the city. However, from a practical standpoint, I think, and as a public utility responsibility, we do not consider the customers in the Owens Valley any different than the people in the city of Los Angeles.

Mr. McCloskey. Well, do they have any guarantee they will continue to receive the 11 megawatts?

Mr. Georgeson. I think we are reaching a point where no one is guaranteed of a power supply. I was talking to Mr. Phillips, our general manager, yesterday, and he pointed out to me that not even the people who live in the city of Los Angeles have a power supply guaranteed these days.

Mr. McCloskey. Then your answer is no, there is no guarantee that the people of Owens Valley will get this 11 megawatts?

Mr. Georgeson. That would be a fair statement. The Edison Co. has service in the area also.

Mr. McCloskey. Now, I note, and I think this committee accepts the reservations that you have about Federal ownership of the land, but if we did not acquire the water rights, and let us say we condemned only the development rights on this land, and that we did not permit any uses on the land that would conflict with its present use, in other words, we accept it, the cattle grazing and agriculture and the other rights the city operates, do you object to a Federal wildlife refuge, and if so, for what reason?

Mr. Georgeson. I think we would object to the switch in priorities.

I would say that the present land management of the Federal lands, the forests, the BLM lands and the city lands are dedicated to

a multiple-use concept. And the Tule elk have, in our mind, a secure role in that multiple-use concept, but they do not have a predominant role.

To superimpose, for example, on the BLM lands that were withdrawn by an act of Congress in 1931 to protect the city's water supply with a predominant management role to protect the Tule elk, a need that has not been demonstrated in the testimony here the last 2 days, seems to us not only unwise but reckless.

Mr. McCloskey. Well, let me go down the priorities, Mr. Georgeson, and I have read your testimony, and you may want to comment at some point here, but if I understand it, with reference to this acreage, you urge that first priority should be preservation of the water rights of the city of Los Angeles.

You say that should take precedence over any other?

Mr. Georgeson. I think the land that was purchased and owned in fee by the people of Los Angeles, that is correct.

Mr. McCloskey. Now, the second priority, that the preservation of water rights would be what, in your judgment?

Mr. Georgeson. I think it would be to manage those lands in a way that is acceptable to the representatives of the people of the city of Los Angeles, and that is the Los Angeles City Council.

Mr. McCloskey. Let me turn to Mr. Wilkinson because from most of your testimony I gather that the present use and priorities of the city of Los Angeles are for multiple use for recreation, cattle raising, the Tule elk, and the general open space. Are there any other priorities?

Mr. Wilkinson. I will have to emphasize one thing that is not a priority. We have emphasized in recent years very much the zero growth in the area.

The city of Los Angeles and the water and power department has not allowed their lands to be given to growth of people. They have given lands to the cities and counties and the State agencies for schools, municipal purposes, for parks, and for highway purposes in the area; but they have not released lands for growth and that is one thing we are trying to keep from doing within the area.

Let me emphasize a couple of other things if I may, sir.

We have also been working with the Fish and Game people to provide additional recreational area, warm water fish ponds for other wildlife, and financing, helping to finance areas using our city's funds to provide this additional recreational facilities for the people within the community and outside the community and do planning for wildlife and recreational use.

Mr. McCloskey. Well, if I correctly interpret the testimony that you have given and everyone else has given, I do not think there has been a witness that has suggested differently that the bottom lands in the Owens Valley have been perceived by everybody locally and the city of Los Angeles, (1) that you consider it to preserve the water rights; and (2) the management for multiple use, fish and game, and cattle grazing to the extent that they are consistent. I think the balance between 500 head of Tule elk and the 17,000 cattle is pretty well set. I think you have added that the city of Los Angeles has adopted zero growth for the area as to people and has

excluded from the original valley floor schools, parks and highways and other governmental agencies that are also in fact recognizing the priority of open spaces.

Mr. WILKINSON. Yes.

Mr. MCCLOSKEY. Now, I think I can assure you that this committee has no designs on anything except to preserve that open space and I suppose our concern is that can we be assured that this attitude will prevail.

I grew up in Los Angeles when there was lots of open space and I have seen it vanish.

Can we be assured that these new priorities will govern the city for the next several decades, for example?

Mr. WILKINSON. I think the attitude that we have demonstrated—the attitude that we have changed these priorities in Los Angeles and in Owens Valley—that attitude has been prevailing within the city council, with the new mayor we have and the attitude of the city council itself.

Now, I do not know what else we can guarantee because our actions really speak for themselves.

I was chairman of the water and power committee in 1969 when we did have a kill. I was one of the leaders to try to stop that kill.

Since then I am not the chairman. I am the vice chairman for this particular term. I am still of that attitude and I am an avid hunter and an avid sports fisherman but also there are certain species you have to protect and build up. You cannot do it on a kill or even an overgrowth. You have to have a balance here by area as has been presented by many people and a sportsman has to have animals or anybody who might be going out, and whether this is good or bad, that is a difference in attitude again.

I believe for my children and my grandchildren we have to have the Tule elk and we have to have land built up. We have not built up land in the past. It has only been in recent years that we have really taken lands for other people, people in the big cities, and the other people do not live in the particular area—have it available for other people who live outside that area and make it available where they will not destroy the land at the same time they are going out there for recreation.

Sir, you have seen many times—people go out and whether it is for recreation or camping they destroy an area for hunting, fishing, or just plain recreation.

I think you have found in recent years in the Owens Valley the water and power department and the local people and the State of California—they have not done what I would call destroying, but building it up for people to visit and provide more recreation and more wildlife for the area.

The bird population has increased and actually has multiplied within the Owens Valley area working with the fish and game, the local authorities, and the water and power department, as a prime example.

Mr. MCCLOSKEY. May I ask you one question? Do you require the ranchers who lease your lands for grazing that they commit what, 80 percent of it to be available for public access and use, and that

they have to keep open space so the public can move across this area?

Mr. GEORGESON. That is correct. The provision of the lease requires that 75 percent of the land must be unposted.

The practical effect of that is probably—I believe somebody testified yesterday 90 percent—I would say 95 percent of the city's lands in Inyo and Mono Counties are open to the public.

Mr. MCCLOSKEY. Who bears the cost of cleaning up the beer cans and the other trash that generally attend open usage?

Mr. GEORGESON. I suspect the burden is borne between the water and power, in many cases our leasees, that is, problems associated with gates left open or fences cut, and by the local county government.

Mr. MCCLOSKEY. Am I appraising the situation improperly to say in effect right now the city maintains 97,000 acres, 90 percent of this for public parks and use by the public?

Mr. GEORGESON. The area within the proposed refuge is 183,000 acres of city lands. There are some 90,000 acres of lands that are primarily elk area. The area, virtually all of it, is unposted.

A recent biological study that we financed through the department of fish and game indicated that perhaps we should be a little more careful in controlling the access to some of that area, particularly the area used for calving by the Lone Pine herd, but this is the type of thing that we address ourselves to in the interagency committee which involves a dozen agencies, State, county, and Federal, to try and work together in this area of relatively complex land ownership to manage the land, the water, and the wildlife resources in a mutual effort for the general benefit of all.

Mr. MCCLOSKEY. I am just trying to get at this point. The State fish and game presumably has reservations against killing the elk. The cleanup on this 183,000 acres is the responsibility of the leasee, the cattle rancher, or is it the department of water and power? I have in mind that we are under some pressure as to what is happening in the desert area.

Mr. GEORGESON. For example, in the Owens Valley the city has perhaps 15 leases to Inyo County to provide day use and overnight camping.

There are other campgrounds that are operated by the Bureau of Land Management. The program started about 6 or 7 years ago and up in the Sierras the Forest Service.

I should say that probably Inyo County local government bears a large burden of the cost of taking care of the day use and the overnight camping as far as maintaining the campgrounds.

They have day use charges or overnight charges, I should say, for most of their campgrounds now.

Mr. MCCLOSKEY. Well, you speak in your testimony here of revenue from this property. Do you get revenue from grazing leases?

Mr. GEORGESON. Yes.

Mr. MCCLOSKEY. And what does that amount to, per year?

Mr. GEORGESON. In the two counties the total revenue last year was about $325,000.

Next year it will be, because we are related to the price of beef,

probably $450,000. Probably three-fourths of that revenue originates from the land that would be included within the refuge.

Mr. McCLOSKEY. How much of that total is agricultural revenue?

Mr. GEORGESON. That is exclusively agriculture revenue. We have additional leases, primarily in the cities that generate approximately $600,000 a year in the communities I should say, our policy for a number of years in leasing property to local government agencies, State agencies, is to lease the land for the value of the current property tax.

Mr. McCLOSKEY. So you lease it at the rate of tax.

Do you have any other revenues from private concessions?

Mr. GEORGESON. I am not aware of anything in the way of concessions.

The only major recreational concessionnaire on Department of Water and Power lands is Lake Crowley that is operated by the city Department of Recreation and Parks.

They operate the boat launching area on Lake Crowley and probably lose a little money in the process.

Mr. McCLOSKEY. So that is a city park operation. You do not have any private campgrounds?

Mr. WILKINSON. That is at a loss of over $200,000 a year.

Mr. McCLOSKEY. Crowley Lake?

Mr. WILKINSON. Yes.

Congressman, we would appreciate it if we can get the chairman out on opening day.

Mr. McCLOSKEY. I have seen the chairman fish and I think he could probably catch one of those.

Mr. WILKINSON. It is worth your time and effort to come out on the opening day of Crowley. It is a show that you would not forget.

Mr. McCLOSKEY. Let me say we have to vote and come back and I would like to commend the city of Los Angeles.

I started these hearings with a great deal of reservation about the policies of the city of Los Angeles, dating back to 1906, but I gather from the witnesses here the city has done a superb job of giving the priorities that this committee would be interested in.

My only concern is can we expect this to continue, because there is some temptation in areas that are under tremendous development pressure to preserve the wildlife and to give this Federal assurance because in many cases in the estuaries, the wetlands and many other areas, local governments have not come forward to get the kind of priority that you describe, particularly the zero growth problem; and it is an economic burden to live there.

Can you give me a thumbnail sketch of what is going to happen in the next 10 years?

Mr. WILKINSON. In the Owens Valley?

Mr. McCLOSKEY. Yes.

Mr. WILKINSON. The only thumbnail ketch I can give is that we will be providing and continuing so far as zero population is concerned, not allowing any more residential permit development of the area; and also following up on what you are suggesting as to what we have found in other parkland programs of clean up of anybody coming onto those parklands and I will have to say I have not even

discussed this with Mr. Georgeson. There may be some additional restrictions on people in certain areas where you have areas for wildlife that you have propagation of birds at certain times of the year, to keep people off, or other animals, restricting so you can continue the growth of the animals themselves. And down at the Angeles forest there are certain areas they do not allow them to come in at certain times of the year.

You may find in this particular area after studies have been made, but I am sure there will be no additional growth so far as population is concerned.

Mr. McCloskey. One last question:

Your lands go right up and abut Highway 395 as it passes through the valley?

Mr. Georgeson. Highway 395 is bordered by the city of Los Angeles, almost continuously from south of Lone Pine to the foot of Sherwood Grade except in the communities in the Indian properties adjoining the communities, the highway or the property from both sides of the highway is city property and you might have noted in recent years the total removal of billboards throughout all of the city lands in a graduated program with local merchants to improve the scenic highway up through the area.

Mr. McCloskey. How did you do that? Did you have a 10-year phaseout or a 5-year, or did you pay any compensation to the people?

Mr. Georgeson. I was involved in the Owens Valley directly in that I would say we had a 6- or 7-year program.

Over a couple of years we eliminated all outside advertising and then we limited local merchants to four signs and then we cut them down to two signs. And then we removed all the billboards with the exception of, oh, maybe a dozen or so billboards that advertised off highway frontage.

I must say that even though the screams in the beginning were a little loud when the merchants realized that they were all going to be treated equally, there was general concurrence.

Mr. Dingell. The Chair regretfully announces that we have about 3 minutes to get over to the floor. We should be back in 10 to 15 minutes.

Can you gentlemen remain? I have some questions and I am sure counsel does also.

We will stand in recess for approximately 10 to 15 minutes.

[Brief recess.]

Mr. Dingell. The subcommittee will come to order.

Gentlemen, the Chair apologizes to you but unfortunately the business of the full House must go forward while we do these other matters.

I have read both of your statements with considerable interest. I note, referring first to the statement of Mr. Wilkinson, that you indicate a series of objections, first of which you believe there would be a serious threat to the water supply of the city of Los Angeles.

Where in House Joint Resolution 204 do you find language which would jeopardize or threaten the water supply of the city of Los Angeles?

What specific language, what particular sections do you find jeopardizes the water supply of the city?

Mr. GEORGESON. Mr. Chairman, if I might respond to that, I refer to section 2(a) of the proposed resolution that provides that the area would be managed in accordance with the laws and regulations relating to the national wildlife refuge system.

On page 2 of my statement and on page 3 there is reference to recently promulgated regulations adopted by the Secretary regarding the national wildlife system, particularly the definition of compatible and nonprogram uses.

Mr. DINGELL. Wherein does the statute say that the water rights of the city would be jeopardized?

What language do you refer to to justify that?

Mr. GEORGESON. I think it is important to recognize that the bottom of the Owens Valley from Bishop to Lone Pine is an area, a groundwater basin underneath the city of Los Angeles fee lands.

Mr. DINGELL. That may very well be true, but let us come very directly to the point of the question.

Where in the language of House Joint Resolution 204 is there provision which would jeopardize the water supply or the water rights of the city of Los Angeles?

I mean, just tell me where the language is, in the bill.

Mr. WILKINSON. I think specifically the language, we do not have language before us. It is a fear.

Mr. DINGELL. You told us you had trouble with this bill. I want you to be fair with yourself, be fair with me, be fair with the committee and tell me precisely the language that would jeopardize the water supply or the water supply of the city of Los Angeles. Where is it?

Mr. GEORGESON. I have in front of me Senate Joint Resolutions Res. 6, section 2(a), the Secretary of Interior, hereinafter referred to in this joint resolution as the Secretary, is authorized to acquire any land and any easements, grazing rights or other interest in land within the Owens River watershed which he determines to be suitable for carrying out the purposes of this joint resolution.

That language gives the Secretary of the Interior the right to acquire.

Mr. DINGELL. Now, wait a minute. Let us be fair with each other.

The next language says, nothing in this act shall be construed as authorizing the Secretary to acquire any rights to water which are held on the date of the enactment of this act or acquire after such date by such State or local agency.

Now, that authorizes no taking of water rights which are now vested or later acquired by State or local governments.

Mr. GEORGESON. Water rights are a matter of State law. The city of Los Angeles water rights are well defined insofar as surface rights are concerned but they are not well defined insofar as groundwater rights are concerned and that was my reason for referring to the groundwater basin.

We own the land. Under California law we have the right to extract water underneath the land which the city owns.

Mr. DINGELL. The bill says, any rights to water; it does not say ground, it says any rights to water. It says all rights.

Mr. GEORGESON. Perhaps the language has no intent to jeopardize the city's water rights but from a legal standpoint it does not go far enough to protect the city's groundwater rights, in the opinion of the city attorney of Los Angeles.

Mr. DINGELL. Well, that language I read is very clear.

Mr. GEORGESON. There is a permit system through the State Water Resource Control Board for surface rights but not for groundwater rights.

Groundwater rights are only protected in a nonadjudicated basin like the Owens Valley through the control and the ownership of the land; and it is important to preserve and protect the groundwater rights, to continue the exclusive ownership and control of the land overlying the groundwater basin.

That is a very fundamental point, Mr. Dingell.

Mr. DINGELL. This says, any rights of water; any rights.

Mr. GEORGESON. Perhaps there is clarifying language that could remove that area of concern from the city attorney's mind.

Mr. DINGELL. Well, of course I know that when a lawyer makes problems he does not have too much trouble finding nits to pick. That is an ancient and honored practice in my profession, but I find myself hard put to observe any problem with the clause "any rights to water."

You cited the language. I cited the next sentence, page 3, line 3.

Mr. GEORGESON. I think the point should be made the intent is clear enough here but under California law unless a groundwater basin is adjudicated, the rights to use the groundwater basin are not clear and the only way to preserve and to protect your rights to use the groundwater basin which in years like last year, a dry year, a third of the water supply of the city of Los Angeles was available only through using the groundwater basin.

The wells that the city has within the area are included within the proposed refuge.

Mr. DINGELL. Well, supposing you submit to me language on that point to clear up any ambiguity you find there.

I must confess I find none. You go on and say here again in your statement Mr. Wilkinson, you indicate city land in Owens Valley is taxable and represents more than 25 percent of the assessed tax valuation.

Where in the bill do you find language that would jeopardize that particular problem referred to in the second paragraph of your statement on page 3?

Mr. WILKINSON. We were assuming you were going to take over land and I do not find that you are going to.

If you took over the land and made a wildlife refuge and physically took over the land, that is my fear.

Mr. DINGELL. Under (c) in the bill it says, land under the jurisdiction of the State of California. But where in the bill do you find language that would indicate that particular situation exists?

Mr. GEORGESON. Once again in section 2(a) it indicates the Secretary of Interior is authorized to acquire any land.

Then skipping down it says, or other interest in land within the Owens River watershed areas which he determines to be suitable for carrying out the purposes of the joint resolution.

I think it is important to recognize that the BLM lands that are the Federal lands that are placed into the refuge are just a shoestring.

Mr. DINGELL. Let us stay away from the BLM for a bit. I intend to come back to that but I want to know about your statement the city lands and Owens represent 25 percent.

Where do you find a requirement that this land should be removed from the tax rolls?

Mr. GEORGESON. If the Secretary of Interior acquired those lands as provided in section 2(a), then they would become federally owned lands and would come off the tax rolls and there is 183,000 acres of city of Los Angeles lands most of which are presently on the tax rolls.

Mr. DINGELL. Well, assuming that they were only to acquire such interest in the lands as was necessary to carry out the purposes of this legislation and were to leave the residue of the lands in the hands of the city for purposes of water rights, grazing, and so forth, what would be your objection to the bill?

Mr. GEORGESON. I think it is difficult to evaluate something other than acquisition without having the language to review to see whether it is adequate to protect the water supply for the city.

Mr. DINGELL. Why not have your city attorney submit us language to resolve those two problems?

Then you go on to allow in addition the city to permit agricultural grazing and recreational use on this land. Cessation of this usage would be a serious economic setback to the people of Owens Valley.

I am curious to know where in the bill you have a problem with that.

Mr. GEORGESON. I think the provision of the bill that spells out that the Secretary—and I do not have the Secretary in mind—shall take whatever steps——

Mr. DINGELL. Do you have a copy of the bill?

Mr. GEORGESON. Yes, there is a provision on page 3, section 2(a)(1), I guess it is, that says the refuge shall be managed so as to build and sustain a herd of Tule elk which at no time numbers less than 2,000; and in order to achieve this purpose the Secretary shall, to the extent necessary, limit the issuance of grazing and other land use rights within the refuge except if the Secretary shall at any time find the herd, et cetera.

In other words, the Secretary is given broad powers to find a way to put 2,000 elk in the Owens Valley and I would like to refer to the testimony of Dr. McCullough where he points out that the absence of the cattle on the city lands in the summertime makes certain fodder available for the elk.

Now, if the grazing permits were canceled on the BLM lands in order to minimize competition which the Secretary sees between the cattle grazing on the BLM lands or the Forest Service lands in the summertime, it would force the cattle back onto the city of Los Angeles lands in the summertime, provide a serious competition during the summertime on forage such as bassia that would force the Secretary to remove cattle or at least to acquire the right whether it be fee title or some other easement to remove the cattle

from the city leases during the summertime to eliminate the competition that was forced through the cancellation for grazing purposes during the summertime, whether it be on BLM or Forest Service lands.

Mr. DINGELL. Suppose we were to change that language which you object to that concerns the 2,000 in number?

Mr. GEORGESON. I think it lies to the total management, the failure to recognize that probably as far as the herd in the valley floor I think it is a failure to recognize that there is a total package here, that the cattle are gone in the summertime. They are up on the BLM and the Forest Service lands and the absence of the cattle makes the floor available for the tule elk and eliminates competition that might exist were the cattle present.

Mr. DINGELL. Suppose we substitute the language your State law for 2,000 and require the Secretary to diligently exercise his duty to ascertain other locations where the animals could be placed?

Mr. GEORGESON. I think we would wholeheartedly support the more aggressive pursuit of other locations.

Mr. DINGELL. That is half of it.

Let us come back to the first half.

Mr. GEORGESON. The first half I think California's policy of 490 animals in the Owens Valley only makes sense if you recognize that competition on the valley floor is eliminated during the summertime with the cattle approximately numbering 10,000 to 11,000, a relatively stable number most of which are gone during the summertime when certain species are available and the elk use the valley floor not only for grazing but for calving and during the rutting season.

I think it is the total package, the management not only of the elk but the cattle industry that has led to the development of the California policy.

Mr. DINGELL. Which is apparently your kind of trouble because the elk come down and the cattle go up.

Mr. GEORGESON. I did not hear the first part, Mr. Dingell.

Mr. DINGELL. I say apparently your problem during the summer is not very large because the elk come down and the cattle go up.

Mr. GEORGESON. That is because the cattle have a place to go to but if you cancel the permits there would be no place for the cattle to go to in the summertime.

Mr. DINGELL. Apparently you have enough carrying capacity according to State law to carry 490 elk.

Mr. GEORGESON. Given the present management of the city, BLM, and Forest Service lands.

Mr. DINGELL. I assume if you have a carrying capacity for 490 elk in the bottom in the summer you have carrying capacity for 490 elk in the mountains during the winter.

Mr. GEORGESON. As I recall Dr. McCullough testified in the spring grease wood is probably more than adequate to carry the tule elk and the cattle that use the foothill areas and I think it is also important to recognize Dr. McCullough's point that not all years are average years in the Owens Valley.

As you probably are aware there are dry years and he feels to manage a species such as tule elk prudently you should probably

manage them to numbers that can be safely supported during drought years.

Mr. DINGELL. Well, I do not think you are following my reasoning here.

You have enough grazing for 490 elk in the bottom, according to State law. I am assuming your State acted prudently.

I must assume also you have enough grazing for elk to carry 490 in the higher country with the present practices.

Why then would it be a problem for us to say, OK, we are going to require that the Federal grazing permits be fixed at that level as opposed to the lower level or some other lower level?

Mr. GEORGESON. I think when we speak of 490 animals we should recognize that is 290 on the valley floor herds, 100 approximately which is close to the present number in the Goodale herd and a new herd of approximately 100 animals basically in the foothills of the Inyo National Forest and the Mount Whitney herd.

Dr. McCullough's testimony on the valley floor, that herd through natural processes has stabilized as close to something like 300 and I think it was his testimony also that the Federal agencies have already moved in the direction to regulate their grazing permits to accommodate the spring and fall use of the BLM and the Forest Service lands during the time of the year when that is an important grazing area for the elk.

Mr. DINGELL. You do not have any problem with it, doing that?

Mr. GEORGESON. No, I think it presents a problem for certain permitees to adjust to cancellation of permits but this type of thing is worked out gradually and frequently because the city leases provide a base for the BLM and the Forest Service grazing it is important to think in terms of the total cattle industry up there, the fact that if you cancel a permit for a certain leasee on the city land in the fall or winter it means that he is either going to have to reduce his herd or he is going to be overgrazing the city lands or have to buy a lot more hay.

Mr. DINGELL. It does not strike me that is too bad.

Mr. GEORGESON. I think the experience to date is that things have worked out quite well.

Mr. DINGELL. Now, you have indicated Mr. Georgeson, at the bottom of page 2, you say under these laws and regulations the city's use would become nonconforming.

I would like to have you give us a specific statement as to how that particular objection could be obliterated. I suspect you will want to do that when you find time.

Mr. GEORGESON. I think one of the problems here is that regulations for managing Federal wildlife refuges have to be drawn up giving consideration to a wide variety of needs, for a wide variety of refuges across this country and to apply those general regulations to the Owens Valley where we have a unique situation, a water supply to a city of 3 million——

Mr. DINGELL. Everyone of these refuges is unique and many of them are superimposed on a lot of things.

We have desert sheep and antelope ranges, elk refuges and things of that kind set up.

Mr. GEORGESON. I am not aware of any other refuge that has been superimposed on a complex that provides 80 percent of the water supply or anything approaching that magnitude of an impact on a population of 3 million people where the land has been acquired and is still on the tax rolls.

Mr. DINGELL. Of course, I have asked you to suggest some particular language to meet your problem with regard to water.

The bill would prohibit the Secretary from acquiring water rights of State or local agencies.

I am curious to know why the city of Los Angeles would not be a local agency? It strikes me that you are stalking shadows here.

Mr. GEORGESON. In Inyo County we are not looked upon as a local agency.

Mr. DINGELL. Local units of government have been used in Federal statutes since I came here 17 or 18 years ago and it has always meant cities or counties.

Mr. GEORGESON. Perhaps specific language that covered the problem of groundwater rights would be helpful.

Mr. DINGELL. It is very clear.

You say the combined powers of the Secretary to acquire land or other interest could prevent the city from exercising its water rights. I just do not see how.

Mr. GEORGESON. That gets back to the point I was making about groundwater.

There is no permit system in California for groundwater. It is only the ownership of the land that permits you to extract water, particularly where you are not using it on the land, where you are appropriating the water for export, the control and ownership of the land is an extremely important point.

We have many legal cases in California in the Owens Valley. As a matter of fact we have been in court recently on this in California regarding these cities' rights to extract water from the groundwater basin in the Owens Valley during drought years like the last 3 years for export and it is only the fee title ownership of that land that secures the cities' groundwater rights.

Mr. DINGELL. Now, you set our further objection on page 4 of your statement, and I would appreciate your giving us specific amendatory language to correct the problems you see there. Also, in the letter by Mr. Robert B. Phillips he sets out some objections to page 3.

I would appreciate you giving me amendatory language to meet the problems that you find there and also such other problems as you find in the bill throughout the other portions of Mr. Phillips' statement.

Mr. GEORGESON. We would be happy to amplify on the points.

Mr. DINGELL. I would like you gentlemen to understand one thing. We are not trying to raid the water rights or raid the range. We are just trying to get a good piece of legislation and I hope you will go home and take a look at it and submit the amendments necessary to make this bill acceptable to you.

We are anxious to cooperate and come to a wholesome and reasonable accommodation with all interested parties.

Mr. GEORGESON. We would be happy to do that.

Mr. DINGELL. Mr. Everett.

Mr. EVERETT. No questions, Mr. Chairman.

Mr. DINGELL. Mr. Rountree.

Mr. ROUNTREE. I have a copy of the city of Los Angeles lease which I would like to have inserted in the record.

I also have a copy of their land use, or dedicated land use for the city-owned lands.

Mr. DINGELL. Without objection, they will be inserted in the record at this point.

[The documents follow:]

LEASE

The city of Los Angeles, a municipal corporation, and Department of Water and Power of the city of Los Angeles, hereinafter collectively referred to as "Lessor," leases to _____, hereinafter referred to as "Lessee," certain real property situate in the County of _____, State of California, more particularly outlined on the drawing marked Exhibit "A" attached hereto and made a part hereof.

Subject to all existing uses and to all matters of record and to the reservation hereinafter set out, for a period of _____ ( ) years, commencing on the _____ day of _____, 19__, and ending on the _____ of _____, 19__.

This lease is made upon and subject to the following terms, covenants and conditions to which the Lessee expressly agrees:

1. *Designated use.*—The subject premises shall be used for and for no other purpose without the consent of Lessor in writing first obtained.

2. *Utilization of land.*—No change shall be made in the designated use of the subject land, or in the classification of the land as shown in Paragraph 5 without prior written approval of Lessor.

Any federal cost sharing practices including those sponsored under the Agricultural Conservation Program for soil building and soil and water conservation practices, including related wildlife conservation practices, will require written approval of Lessor at least thirty (30) days before the start of the practice.

Any range improvements, including burning and aerial spraying of fertilizers, pesticides and herbicides will require written approval of Lessor at least forty-five (45) days before the start of the improvements.

Lessor may allow a credit against the lease rental for projects and improvements approved by Lessor which will raise the classification of the land or increase the efficiency of the water use.

3. *Water supply.*—It is understood and agreed by Lessee that this lease is given upon and subject to the paramount rights of Lessor with respect to all water and water rights as set forth in Paragraph 21 hereof. The availability of water for use in connection with the premises leased herein shall be conditional upon the quantity in supply at any given time. It is the intent of Lessor, subject to its paramount responsibility to furnish water for the City of Los Angeles, to manage its water supplies to the fullest extent it deems practicable, including pumping from the ground water basin, in order to provide water for leased land herein classified for irrigation. The availability of water is dependent upon the Lessor's continued right and ability to pump water from the Owens Valley ground water basin.

4. *Irrigation water.*—Any water supply delivered for irrigation of the leased premises must be utilized as follows:

A. FIVE ACRE-FOOT LIMITATION

Water supplies to all land classified for irrigation (alfalfa and pasture) will be delivered in an amount not to exceed five (5) acre-feet per acre per irrigation season, subject to conditions stated in Paragraphs 3 and 5 of this lease. Stock water and water returned to Lessor's system at locations where it can be conveniently measured will not be included in computing the five acre-foot water supply.

B. CALL FOR IRRIGATION

When Lessee advises Lessor that he is ready to irrigate, Lessor will provide water to Lessee as soon as possible under existing conditions.

C. CONDITION OF DITCHES

Lessor may determine whether or not Lessee's ditches, pipelines, and gates are in reasonably proper condition to receive water. Lessee shall maintain all ditches, pipelines, and gates free of obstructions and in good working order.

D. DRAINAGE FACILITIES

Every Lessee shall construct, maintain, and operate adequate drainage facilities so as to prevent damage to adjacent lands.

5. *Classification of lands.*—The subject lands are classified as: Acres; type and grade of land; basic rate per acre; and basic rent component.

The rental rates for each type and grade of land have been determined according to Lessor's "Schedule A" for "Land Classification, Rental Rates and Rental Adjustment Factors, Ranch Leases of the Department of Water and Power of the City of Los Angeles," dated March 1, 1973, attached hereto and made a part hereof.

If the operations of Lessor render the leased lands unsuitable for designated use shown in "Schedule A," rent on the part affected shall be computed at a lower rate. The suitability for designated use of such property shall be determined by the findings of the Board of Water and Power Commissioners of Lessor. Land found to be unsuitable for its designated use in a given lease year shall be deemed such for the entire year. However, suitability will be deemed restored at the end of that year unless otherwise determined by Lessor.

If the Lessee has installed improvements approved by Lessor which have increased the efficiency of the water use, Lessor may classify additional land included in this lease for irrigation. The existing water allotment will not be increased and water conserved by installation of these improvements shall be used to irrigate said additional land. Water supply for said additional land is subject to curtailment on years when water supply is below normal, in accordance with Paragraph 3 of this lease.

6. *Rent.*—On or before the first day of March of each year, Lessor will advise Lessee of the amount of rent due for the current year, subject to possible modification under Paragraph 2 or 5 hereof. The total rent to be paid by Lessee for any lease year is determined by multiplying the basic rent stated in Paragraph 5 above, by the appropriate adjustment factor for that year as determined in Section 2 of the Department's "Schedule A" for the designated use of land under Paragraph 1 of this lease, and adding the rental for Operating Structures, plus taxes or special assessments as set forth in Paragraph 24, and all or part of the cost of any maintenance, construction, alteration, repair or other work of improvement made by Lessor for the protection of its investment or at the request of Lessee as set forth in Paragraph 13 hereof. Rental for first year is $_____\times$adjustment factor of $_____=$_____, plus $_____=$_____, subject to any modification under Paragraph 2 or 5 hereof.

7. *Rent payment.*—Lessee shall pay his rent to the Department of Water and Power at Independence, California. Lessee shall pay an amount equal to 10% of the annual rent, adjusted to the nearest dollar, but not less than $25.00 on the first day of March; and the balance on or before the first day of November. Rent for any lease year shall not be less than One Hundred Dollars. Rent payments shall become delinquent thirty (30) days after March 1 and November 1. Any delinquent balance shall bear interest at the rate of one-half of 1% (0.5%) per month, and Lessee agrees to pay such. If November 1 rent payment has not been made prior to January 15 of the following year this lease will be cancelled as of March 1 as provided in Paragraph 22 of this lease, unless Lessor agrees prior to March 1 to a different payment schedule.

8. *Care of leasehold estate.*—Lessee has examined the lease premises; knows the condition thereof; and accepts possession thereof in its present condition. Lessee agrees at its own expense, to keep the premises in good and sanitary condition as provided by law. Lessee will tolerate no fire hazard; nor will Lessee burn off any part of the premises without a permit, first being obtained from Lessor. In no event will Lessee commit or suffer to be committed any waste upon

the leased premises. Lessee shall at all time observe and comply with all laws and lawful regulations applicable to the leased premises.

9. *Fences.*—Lessee at all times hereunder at his own expense shall keep and maintain all boundary fences and gates in good condition and repair.

10. *Structures or improvements.*—Lessee shall not build or place any structure on the leased premises without the prior written consent of Lessor. In the absence of a written agreement therefore to the contrary, all improvemetns and structures on the leased property belong to the Lessor.

11. *Improvements owned by Lessee.*—Upon execution of this lease Lessee agrees to file an inventory of his improvements or other personal property to be used upon the premises including any improvements or personal property acquired from a former Lessee.

12. *Improvements owned by Lessor.*—Lessee, at his own expense, agree to maintain all improvements owned by Lessor in good condition and repair, reasonable wear and tear excepted. Lessor may, but need not, maintain said improvements in order to protect its investment, or Lessor may agree to provide Lessee with the materials required for said maintenance and Lessee agrees to perform same. Lessee shall not alter or remove any structures from the leased land. Lessee waives any and all rights to charge to the Department, or to deduct from the rent, the cost of improvements on, or repairs to the leased premises.

13. *Improvements made by Lessor.*—Should Lessee fail or refuse to maintain all Lessor owned residential or operating structures as herein provided, or should Lessor agree at the request of Lessee to perform maintenance, repairs, alterations, construction, or other works of improvement on the leased premises, Lessor may, at its option, perform such works and either bill Lessee for the entire costs of same, which Lessee agrees to pay on demand, or Lessor may increase the lease rental in an amount necessary for Lessor to recover all or part of the cost of the improvements, as Lessor shall determine, over the remaining term of this lease or any extension or renewal thereof. Such sums, which Lessee agrees to pay, may be added to the basic rental at the beginning of any lease year as provided in Paragraph 6 hereof.

14. *Sublet.*—Lessee shall not let, sublet, or rent the leased premises, or any portion thereof, or permit the use or occupancy of the premises by any other party.

Lessee shall obtain prior written approval from Lessor before placing any livestock not owned by him on the leased premises.

Lessee shall not, without prior written approval by Lessor, remove, or permit to be removed, any trees, topsoil, gravel, cinders or any other such materials from the leased premises.

15. *Assignment-insolvency.*—This lease shall not, nor shall any interest therein or thereunder, be assigned, mortgaged, hypothecated, or transferred, either by Lessee or by operation of law, without the written consent of Lessor first obtained. In no event shall this lease or the leasehold estate become an asset of Lessee in bankruptcy, receivership, or other judicial proceedings. In the event Lessee be adjudged a bankrupt, or its business or assets be taken over by an assignee for the benefit of creditors or by a receiver or other Court Custodian and be unreleased therefrom for 10 days, this lease terminates and Lessor may reenter without liability for trespass or ouster.

16. *Liability.*—Lessee at all times during the existence of this lease shall hold harmless and indemnify Lessor from any and all loss arising out of the operations of Lessee under this lease, including but not limited to, loss arising out of injury or death to any person or persons, trespassers or not, on the leased property ; or loss arising out of, or as a result of, latent dangers, whether known to Lessor or not, on or around the leased land or installations thereon, or both ; or loss arising out of operations of Lessee under this lease causing damage or destruction to property of a person or persons not in privity of contact with the parties hereto.

17. *Insurance.*—The Lessee shall furnish the Department a policy or certificate of liability insurance in which the City of Los Angeles, the Board of Water and Power Commissioners of the City of Los Angeles, and the Department of Water and Power of the City of Los Angeles are the named insureds or are named as additional insureds with the Lessee. Such policy or certificate shall be subject to the approval of the Chief Internal Auditor of the Department.

The policy shall insure the City of Los Angeles, the Board, and the Department, their officers, agents and employees against liability for death, bodily

injury or property damage allegedly arising out of or in connection with the Lessee's use or occupancy of the leased premises to a combined single limit of $200,000.00 for each occurrence.

18. *Tule elk.*—Lessee shall comply with the provisions of the existing State Department of Fish and Game Tule Elk Management Plan and shall cooperate in the protection of the Tule Elk.

19. *Policy—fishing and hunting.*—Lessee and Lessor agree that in order to permit Lessor approved multiple use of its lands in Inyo and Mono Counties, Lessee will keep at least 75% of the leased land, except alfalfa land, open for hunting and fishing without charge, but such activity shall be subject to the provisions of the Fish and Game Code of the State of California.

20. *Overnight camping.*—Overnight camping shall not be permitted on leased premises without prior written consent of the Lessor, and Lessee agrees to take all reasonable measures to discourage or prevent overnight camping.

21. *Reservations.*—There is excepted and reserved unto Lessor, all water and water rights, whether surface, subsurface, or of any other kind, and all water and water rights appurtenant or in anywise incident to the lands or premises leased herein, or used thereon, or in connection therewith, together with the right to develop, take, transport, control, regulate, and use all such water and water rights, and to flood, inundate, and overflow said premises at such times and in such manner as Lessor may determine.

There is also excepted and reserved unto Lessor the right to use, operate and maintain any ways, waterways, ditches, pipe lines, canals, wells and appurtenances thereto, or desirable in connection therewith, together with the right to grant easements, rights of way, licenses and permits for other purposes that will not unreasonably interfere with Lessee's use herein.

Lessor also reserves the right, at any time during the term of this lease, to delete certain lands leased hereunder for public benefit.

22. *Termination by parties.*—This lease may be terminated by either party as of the end of any lease year by giving to other party not less than 30 days written notice of such termination; but, such right of termination shall be exercised by Lessor only when Lessee is in default with respect to the lease terms or in the event the operations of Lessor, or the public interest, as the Board of Water and Power Commissioners of the City of Los Angeles shall determine, require such termination.

23. *Taxes.*—Lessee shall pay taxes on his personal property used or located on the leased land; and shall pay any other tax arising out of Lessee's operations upon the leased premises, including but not limited to any possessory interest tax.

24. *Taxes and assessments.*—In the event any special assessments, or taxes are levied against the leased premises by a special district, assessment district, or a district with power to levy taxes, such as a watermaster service, or a water district, Lessor shall pay said taxes and said payment will, unless the Board of Water and Power Commissioners shall otherwise find and determine, be added to the basic rental at the beginning of any lease year, as provided in Paragraph 6 herein.

25. *Surrender of premises.*—Upon the expiration or any termination of this lease, or of any renewal or extension thereof, Lessee will vacate the premises and will surrender the same in as good a state and condition as Lessee is required to keep and main the same hereunder. Any and all property of Lessee not removed from the premises at, or prior to the time of such expiration or termination, or within such further time as Lessor may allow, may, at the option of Lessor, be deemed to be abandoned and may be retained by Lessor as its own property, or be removed, stored, sold or otherwise disposed of, entirely at the risk and expense of Lessee, and Lessee shall reimburse Lessor on demand for any and all expenses and charges in that connection incurred by Lessor.

26. *Holding over.*—If Lessee shall hold over after expiration or other termination of this lease, such shall not imply renewal or extension of this lease, but only a month-to-month tenancy, with liability for reasonable rent, and in all other respects on the same terms and conditions as are herein provided. The term reasonable rent as used in this paragraph is equal to 1/12th of the yearly rent provided for in Paragraph 6, and said reasonable rent during the hold-over period shall be paid, in advance, on the first of each month.

27. *Notices.*—All notices required to be given to either party may be mailed or delivered to the parties thus:

To Lessor.—District Office, Department of Water and Power, Independence, California 93526.

To Lessee.—_____.

28. *General provisions.*—Time is of the essence of this lease.

The captions of the articles of this lease are for convenience only, and are not part of this lease, and do not in any way limit or amplify the terms or provisions of this lease.

Unless the context shall otherwise require, words herein used in the masculine gender shall include the feminine and neuter and the singular number shall include the plural and the plural singular.

29. *Segregation clause.*—The Lessee herein covenants by and for himself, his heirs, executors, administrators and assigns and all persons claiming under or through him; and this lease is made and accepted upon and subject to the following conditions: that there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, national origin or ancestry in the transferring by sublease or assignment, should such acts of transfer be permitted by Lessor; or, in the use, occupancy, tenure or enjoyment of the premises herein leased; nor shall Lessee himself, or any person claiming under or through him, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased, should such act of transfer have been allowed by Lessor for the benefit of Lessee.

30. *Waiver.*—Failure of Lessor to insist upon performance of any of the terms or conditions of this lease in any one or more instances shall in no event be construed as a waiver or relinquishment of its right to future performance thereof, and Lessees obligations to such future performance shall continue in full force and effect. The receipt by Lessor of rent, the knowledge of the breach of any agreement or condition hereof shall not be determined to be a waiver of any such breach.

In witness whereof, the respective parties hereto have executed this lease the day and year first herein written.

ROBERT V. PHILLIPS,
General Manager and Chief Engineer.

LAND USE STUDY—CITY-OWNED LANDS IN THE OWENS VALLEY-MONO BASIN

	Area	Ranching	Approximate acres	Recreation		Public use (typical future projects)
				Fish and wildlife	Other	
I.	Mono Basin	Sheep:		Fishing—Lee Vining, Walker and Parker Creeks and Grant Lake Reservoir.	Thompson Ranch Recreation Area. Tufa Towers.	Airport. Church. (Possible water skiing at Grant Lake Reservoir.)
		Irrigated	2,340			
		Dry	13,350			
		Total	15,690			
II.	Long Valley	Cattle:		Fishing—Convict and Hot Creeks, Owens River, Crowley Lake, and Upper Gorge. Wildlife—Sage Grouse, waterfowl, deer.	Water skiing at Lake Crowley. Campgrounds (3). Sage Grouse strutting ground viewpoint.	Church. Community Center. Hot Creek Fish Hatchery. Sierra Nevada Aquatic Research Laboratory. (Campgrounds.)
		Irrigated	4,780			
		Dry	11,990			
		Total	16,770			
III.	Bishop	Cattle:		Fishing—Pleasant Valley Reservoir, Owens River, and Bishop Creek. Warm water fishery at Buckley Ponds. Wildlife—Pheasants, waterfowl and upland game at Buckley Habitat Improvement Project.	Petroglyphs. Pupfish Sanctuary in Fish Slough. Golf course. Sawmill Pond Recreation Area. Campground. Overnight rest stop. Bishop herd of Tule elk. Park.	Tri-Counties fairgrounds. Airport. White Mountain Research Station. Brown trout spawning channel. Churches. (East Bishop Lake and Park Project.) (Campgrounds.)
		Irrigated	6,860			
		Dry	41,860			
		Total	48,720			
IV.	Big Pine	Cattle and packstock:		Fishing—Owens River, Big Pine Creek, and Sanders Pond warm water fishery. Wildlife—Pheasants, upland game and waterfowl.	Park. Campgrounds. Warm Springs Pupfish habitat. Tinemaha herd of Tule elk.	Outdoor education center. Cal Tech radio telescope. Fish Springs rearing ponds. Church. Baseball diamond.
		Irrigated	3,080			
		Dry	51,730			
		Total	54,810			

V. Independence	Cattle and packstock:		Fishing—Warm water fisheries along old river bed.	Campgrounds.	Black Rock Rearing Ponds.
	Irrigated	950	Wildlife—Waterfowl and upland game.	Historical sites.	Airport.
	Dry	53,520		Park.	Churches.
				Goodale, independence herds of Tule elk.	Baseball diamond.
	Total	54,470		Tinemaha Wildlife Viewpoint.	(Black Rock warm water fishery and wildlife habitat.)
VI. Lone Pine	Cattle:		Fishing—Lone Pine and Tuttle Creeks.	Park.	Airport.
	Irrigated	730	Wildlife—Upland game.	Campgrounds.	Rodeo grounds.
	Dry	26,370		Diaz Lake Recreation Area.	Churches.
				Golf course.	Baseball diamond.
	Total	27,100		Lone Pine and proposed Whitney herds of Tule elk.	(Lone Pine Station warm water fishery and wildlife habitat.)
VII. Owens Lake	Cattle:		Fishing—Cottonwood Creek.		(Possible camping and other recreation development in cottonwood Basin.
	Irrigated	100			
	Dry	2,390			
	Total	2,490			
VIII. Haiwee	Cattle: Dry	740			
	Subtotal:				
	Irrigated	18,840			
	Dry	201,950			
	Grand total	220,790			

Mr. ROUNTREE. I have no questions, Mr. Chairman.

Mr. DINGELL. Gentlemen, we thank you for coming a long way and appreciate your kindness.

Mr. WILKINSON. Thank you, sir.

Mr. GEORGESON. Thank you very much.

Mr. DINGELL. Our next witness is Mrs. Beula Edmiston, secretary, Committee for the Preservation of the Tule Elk.

Mrs. Edmiston, we are happy to welcome you.

STATEMENT OF BEULA EDMISTON, SECRETARY, COMMITTEE FOR THE PRESERVATION OF THE TULE ELK

Mrs. EDMISTON. Thank you, Mr. Dingell.

It is a pleasure for the Committee for the Preservation of the Tule Elk to be here.

I am Beula Edmiston, the secretary, and I come in complete support of House Joint Resolution 204 and its companion measures, and Senate Joint Resolution 6, which is similar, to establish a Tule Elk National Wildlife Refuge in the Owens Valley of California, and to provide additional appropriate habitats in the State for a total of at least 2,000 Tule elk.

Mr. DINGELL. The chair notes that you have a comprehensive prepared statement, Mrs. Edmiston, and without objection, it will be entered in the record as though read.

[The statement follows:]

STATEMENT OF BEULA EDMISTON, SECRETARY, COMMITTEE FOR THE PRESERVATION OF THE TULE ELK

Mr. Chairman, I am Beula Edmiston, secretary of the Committee for the Preservation of the Tule Elk, speaking for this national organization which is dedicated to the preservation and restoration of the Tule Elk, the earth's smallest and rarest elk.

We deem it a privilege to appear before the Subcommittee on Fisheries and Wildlife Conservation and Environment in support of the Provisions of H.J. Res. 204, H.J. Res. 203, H.J. Res. 270, H.J. Res. 297, H.J. Res. 336, H.J. Res. 369, H.J. Res. 376, H.J. Res. 413, H.J. Res. 436, H.J. Res. 449, and H.J. Res. 507, all similar to S.J. Res. 6—to establish a Tule Elk National Wildlife Refuge (and provide additional habitats as necessary) to restore the Tule Elk to the number of at least 2000 in California, as mandated by unanimous action of the Legislature in 1971.

In short, we support this measure to transfer certain Public Lands under the jurisdiction of the Department of the Interior's Bureau of Land Management to the Department of the Interior's Fish and Wildlife Service for a National Wildlife Refuge to provide permanent habitat for the Tule Elk and other resident wildlife.

The intensity of the opposition to this transfer of Public Lands to the Public Agency with the authority and the expertise to accomplish wildlife restoration, indicates the aggressive pressures on the land and wildlife, and underlines the need for Congressional action.

In 1903, just 70 years ago, President Theodore Roosevelt set aside Pelican Island on the east coast of Florida to protect a nesting colony of pelicans and herons. This was our first National Wildlife Refuge and the beginning of our National Wildlife Refuge System that has played a substantial role in every major wildlife restoration program in the nation.

At this time when the forces of pollution and fragmentation are destroying wildlife habitat and driving more and more species to the point of endangerment and extinction, it is important to establish National Wildlife Refuges now, before both the wildlands and the wildlife are forever lost.

Our National Wildlife Refuges provide welcome islands of naturalness in an ever increasing artificial environment. As well as providing habitat for the named species, the Refuges are places where birds and mammals, (both predator and prey), fish, reptiles, and native plants comprise a healthy ecosystem and provide enjoyment for people who cherish the natural scene.

While it is true that the Department of the Interior has the authority to establish National Wildlife Refuges without the mandate of Congress, it is certainly true that an Act of Congress is the only sure formula for such action, particularly at a time when our National Wildlife Refuge System is beset by budgetary problems.

The Tule Elk National Wildlife Refuge *requires no land acquisition*, only the transfer of jurisdiction of Public Lands within the Department of the Interior for the Refuge.

It is argued that the preservation of the Tule Elk (or any species) is a local matter to be met at state level. Not so with regard to rare or endangered species, and certainly not so in the matter of our Public Lands, where only Congress, the national deliberative body with national perspective, can act.

The establishment of the Tule Elk National Wildlife Refuge is a *national issue* located in eastern California involving the transfer of jurisdiction over some 197,000 acres of Public Land to the Fish and Wildlife Service for a National Wildlife Refuge "to be established and maintained in an ecologically and environmentally sound manner" for habitat for the rare Tule Elk, and all resident wildlife including at least *22 de facto threatened species*; and requiring the Los Angeles Department of Water and Power to manage its Owens Valley grazing lands of some 158,000 acres, in an ecologically and environmentally sound manner.

The Refuge legislation spells out full protection for all legal water rights of the City of Los Angeles, but will through ecologically and environmentally sound management *curb the excessive pumping of ground waters and destruction of riparian growth* now practiced by the Los Angeles Department of Water and Power.

THUMBNAIL HISTORY OF THE TULE ELK

Hardly an animal species in our western hemisphere has had such a varied, colorful, and near tragic history as the California Tule Elk, so rare for more than a century that most people are not even aware of its existence! Once occurring in untold thousands, its great herds were relentlessly persecuted and decimated until it was on the very brink of extinction. Through good fortune this last remnant of a race was able to increase despite much poaching, a long series of transplants which failed to perpetuate themselves, confinement, disease, herd culling, and legal hunts until now its numbers are around 400 individuals.

The California Department of Fish and Game's official census of the *Owens Valley Tule Elk population for 1973 is 340 animals, including calves.* There are 47 at the tiny State Reserve at Tupman, and a handful in zoos.

DESCRIPTION OF THE TULE ELK, CERVUS NANNODES

The Tule Elk is the smallest, rarest, and most specialized of all elk. It is lighter in coloration and only half the size of the great Roosevelt Elk, but possessed of all the majesty that marks the elk MONARCH OF THE WILD.

DESCRIPTION OF THE PROPOSED TULE ELK NATIONAL WILDLIFE REFUGE

The Tule Elk National Wildlife Refuge would extend some sixty-five miles north and south through the Owens Valley of Eastern California which is nestled some two miles deep between the lofty Sierra Nevada Range to the west and the White and Inyo Mountains to the east. The distance of only 20 miles separates their crests. The meandering Owens River runs the length of the Valley, fed by sparkling streams that rise from Sierra glaciers and tumble down deep canyons. Subtropical marshes grace the riverbottom of this semi-desert valley.

Mt. Whitney's 14,496 ft. peak, highest elevation in the United States except Alaska, is almost matched by White Mt. to the east, home of the ancient Bristlecone Pine, now determined to be the oldest living thing.

CURRENT STATUS OF THE LAND

Early in the century, the City of Los Angeles bought up practically all the land in the Owens Valley bottom lands so as to be able to take Owens River water by way of a 200+ mile aqueduct to the City of Los Angeles. Recently the City's Department of Water and Power built a "second barrel" aqueduct and increased its ground water pumping and vegetation destruction to be able to fill the "second barrel". By order of the Court, the Los Angeles Department of Water and Power must cut back its water extraction to its 1970 level or prepare an environmental impact statement on the matter. There is visible evidence of environmental deterioration since the "second barrel" of the aqueduct in the Owens Valley.

The Public Lands to be included in the Tule Elk National Wildlife Refuge were withdrawn from entry by Executive Order or were withdrawn by Act of Congress for watershed protection for the City of Los Angeles' water supply in the 1930's. Due to possible changing status of such withdrawals, the added layer of protection the National Wildlife Refuge status would afford these lands, is substantial.

CURRENT STATUS OF THE TULE ELK

In 1933, a remnant of 26 Tule Elk that had been temporarily held in a paddock in Yosemite National Park, were relocated to the Owens Valley. In 1934, 27 more were added from the tiny State Reserve at Tupman. Here, the one unhybridized wild, free population of Tule Elk, (sometimes referred to as 5 Owens Valley groups or herds), has thrived except for the pressure of man and his commercial grazing. After more than a decade of bitter controversy, to the credit of all concerned, the California Legislature by unanimous action adopted the "Behr Bill" to restore the Tule Elk to at least 2000 in California before it can again be hunted.

Thus, the goal of at least 2000 Tule Elk in California is established by state law. However, habitat, sufficient permanent habitat, must be provided by Refuge on the Public Lands to make the restoration possible and for the preservation of resident wildlife, including at least 22 de facto threatened species in the Owens Valley. See: Appended list of threatened wildlife in the Owens River watershed area compiled by Dr. Glenn R. Stewart, Biologist, California Polytechnique College, Pomona, California.

Since only Congress can mandate setting aside public lands, *the enactment of H.J. Res. 204 and companion measures is imperative.*

Notable provisions of the Refuge measure include the provision that *the number of Tule Elk in the refuge will be determined by the actual carrying capacity of the land* maintained in an ecologically and environmentally sound manner. *H.J. Res. 204 does not necessarily mandate 2000 Tule Elk in the Owens Valley.*

The measure assigns *priority to the Tule Elk over commercial grazing on the range within the boundaries of the refuge.*

The Resolution provides that *Tule Elk in excess of the refuge's carrying capacity up to a total of at least 2000 in the state of California, shall be relocated to additional habitats within the state.*

In that matter, we commend to you the language of S.J. Res. 6 (whose provisions are essentially the same as H.J. Res. 204) which names Point Reyes National Seashore as an appropriate additional habitat. Point Reyes National Seashore, only some 35 miles northerly of San Francisco, lies within the former range of the Tule Elk, and once accommodated vast herds of Tule Elk. When relocation becomes appropriate, we urge that the nucleus of a wild, free-roaming herd of Tule Elk be reintroduced to Point Reyes.

We vigorously oppose any fencing of Tule Elk on the Seashore as ecologically unsound, unnecessary, and not in line with National Park policy. Should Tule Elk be inclined to move off the Seashore (and the Tule Elk are not given to the great migrations of other elk), they would only move onto the newly established Golden Gate National Recreation Area's 36,000 acres which abut the Seashore.

Like the Grand Canyon, nature has done everything for the Owens Valley that should be done. Diversity and natural beauty are its greatest assets.

The Tule Elk National Wildlife Refuge will not require land acquisition. U.S. 395 runs through the Valley. The charming towns of Lone Pine, Independence, Big Pine, and Bishop, whose basic economy depends largely upon the visitor dollar, can provide visitor goods and services.

Many visitors will feel rewarded by the glorious roadside vistas, the sight of the noble Tule Elk and other undisturbed wildlife, the breath of fresh air, and the drama of the seasons, even the changing shadows of the hour.

Its wildlife, diversity, and unspoiled beauty will make the Tule Elk National Wildlife Refuge one of the greatest in the nation.

To the 36 Congressmen and 14 Senators sponsoring the measure, we express our deepest gratitude. To the members of the Subcommittee on Fisheries and Wildlife Conservation and Environment, we respectfully commend affirmative action.

Mrs. EDMISTON. Mr. Chairman, our national membership is very pleased to have this full hearing for national consideration of the national issue of the Tule elk, a threatened species and protection of its habitat on public lands which belong equally to all Americans.

We have noted the map on the easel, and we would like to make a few comments.

Indeed, the Central Valley was the Tule elk's original home to and including Point Reyes. There is ample literature of early vast populations on the area, but it also included the San Francisco Bay area, and all of this area south to and including Santa Barbara.

Early records are replete with the little elk. Instead of the giant migrations of some of the other elk, they seemed to flow back and forth from the valley through the coastal range to the ocean, and all of this area on the map was a part of the original habitat.

A question was asked yesterday about Cache Creek.

The Cache Creek transplant was one of the 22 early efforts we do not consider successful because it was elk that had been bandied about, put down where they could well have hybridized with Rocky Mountain elk and were forgotten, kicked around, picked up and moved again, until finally a remnant of elk over here in the Monterey area were taken over to Cache Creek.

They could have hybridized before the transfer, or since as there were early transfers of Rocky Mountain elk throughout the area.

The Cache Creek elk are wonderful animals. They are an aesthetic addition to the environment, but probably, a hybrid elk.

We learned yesterday they had reached the capacity of their range anyway, so it is a moot question, but we would like to say there are critters here—indicating on map—not Tule elk.

Mr. Chairman, they are an addition to the environment, but since we are talking about a genetic diversity, an entity that is very special, as each species is, let us talk about the Tule elk that we know to be of that line entirely. And since these animals have reached the extent of their range, and since there is subdivision going on, the possible addition of a ranch, as a purchase is suggested, would be a purchase of land that is terribly overgrazed, terribly overpoached and, frankly, would not add substantially to the Tule elk habitat even if the Cache Creek herd were actually Tule elk.

And there is at least a big question mark on that score.

We would like to speak about San Luis Wildlife Refuge that was mentioned today.

There is also land immediately adjacent. We have been urging the State Parks Department, which says it has an interest in it, to get on the ball and acquire it.

I am afraid it will be acquired 7 days after doomsday if we wait for the permissiveness of what may happen. That is one of the main reasons that we are in such ardent support of this legislation which will give a mandate to provide habitat.

We heard the Department of the Interior say we have authority. We heard the Department of Fish and Game say we have authority. We heard the water and power authority say we are cooperating, but we are not getting the job done of nailing down adequate habitat in a permanent State. And I will have to say that the love affair with the Tule elk that we heard about yesterday and today is very fickle and very fleeting. It does not bear the hallmark of quality the National Wildlife Refuge would give.

It does not have the permanence, and it does not have the firm direction the Tule Elk National Wildlife Refuge would provide. The public lands, a public resource, should rightly be transferred to the agency with the proud tradition of national wildlife refuges to restore the Tule elk.

We would like to point out this requires no land acquisition. It simply takes out of the rather loosely held land under the Bureau of Land Management 197,000 acres of public land already under the jurisdiction of the Department of the Interior for the fish and wildlife service. Bureau of Sport Fisheries & Wildlife is to put in a National Wildlife Refuge, to get a specific job done within the framework of law, and the framework of law is the only protection we really have for wildlife, open spaces, or ourselves.

Yesterday we heard the Department of the Interior say it assigns no meaning to the threatened species of the United States, and the Tule elk is one of them. Law is our only protection.

Mr. Chairman, the Tule elk is a rare species according to the International Union for the Conservation of Nature that has not said its list does not mean anything.

The Department of Fish and Game told us how it loves the Tule elk and is doing everything for it.

Yet when it came up with its threatened species brochure, and the legislature invested money for the study and money to do something about the threatened species, it left the Tule elk and a number of other threatened species off its inventory.

When we challenged it, they said, "You are looking after the Tule elk, so we do not need to." That is not what we call responsible stewardship by the State agency.

We would like to include for the record, since there was so much said about the complete care of the rare species, a look at this California Fish & Game Department brochure—*At the Crossroads*. It shows that the Tule elk is not there, and with the number around 280 at that time, we wonder why it is not. Here, in an editorial, June 9, 1971, the Daily News of Inglewood, asked the vital question, "Why is the species not on the list?"

Mr. Chairman, may we add this to our testimony for the record?

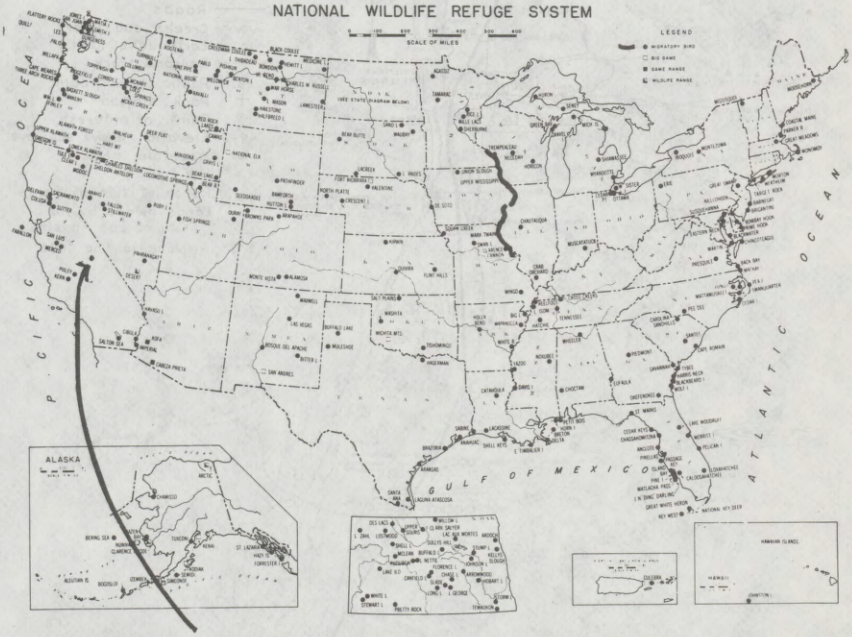
Mr. DINGELL. Without objection, it will appear in the record at this point.

[The editorial was placed in the committee files.]

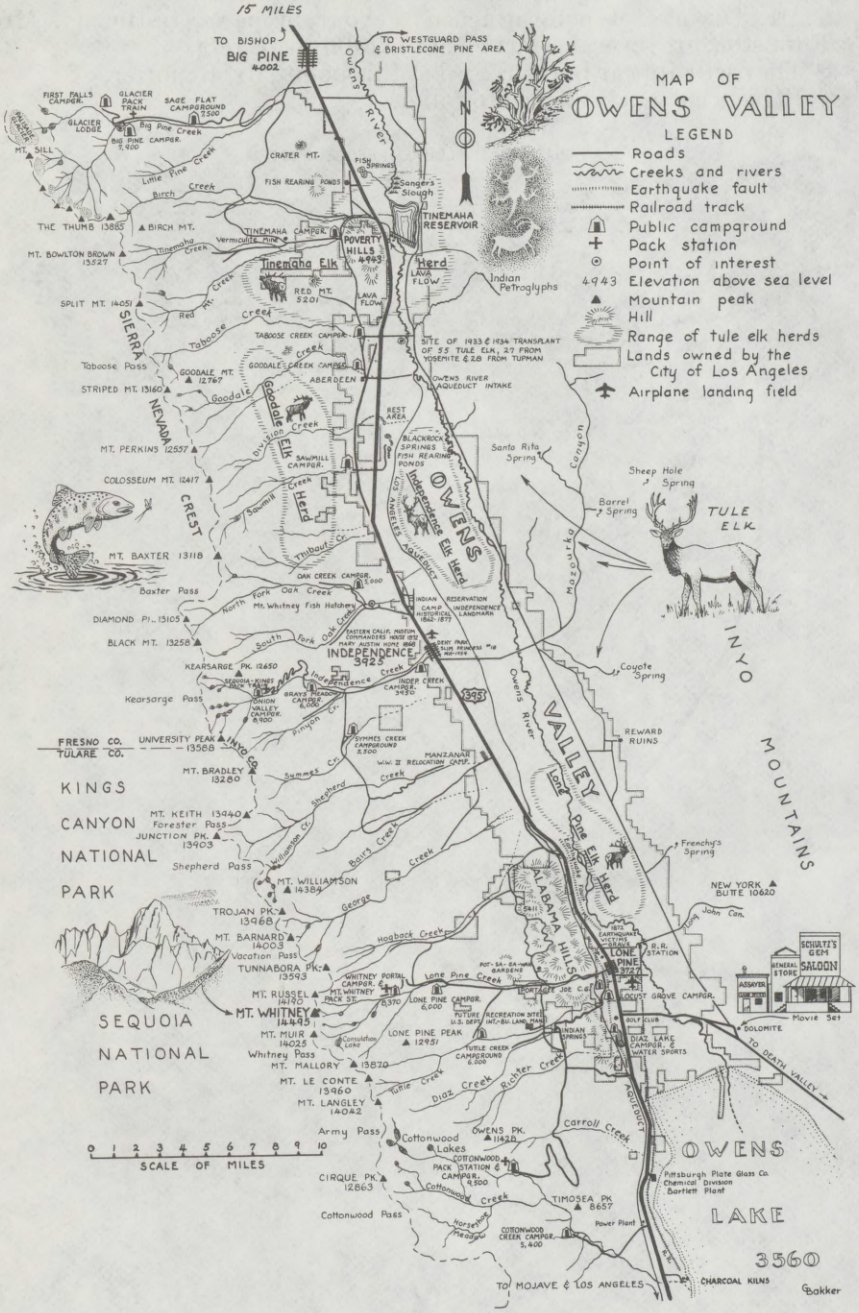
Mr. DINGELL. I note attached to your prepared testimony, Mrs. Edmiston, are several attachments, exhibits, et cetera.

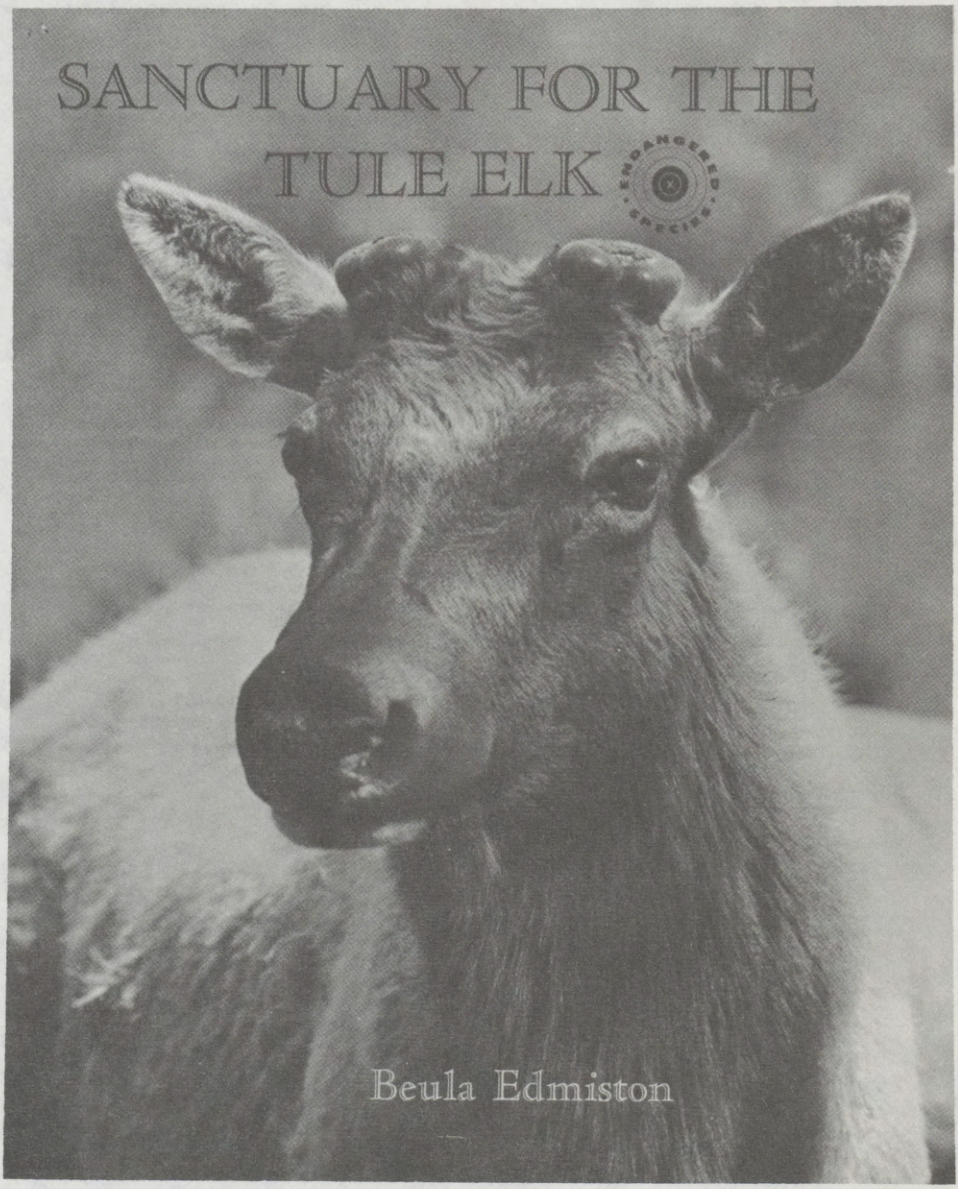
They will appear in the record at this point, Mr. Reporter.

[The documents referred to follow:]



PROPOSED TULE ELK NATIONAL WILDLIFE REFUGE


MAP OF
OWENS VALLEY
LEGEND
Roads
Creeks and rivers
Earthquake fault
Railroad track
Public campground
Pack station
Point of interest
4943 Elevation above sea level
Mountain peak
Hill
Range of tule elk herds
Lands owned by the City of Los Angeles
Airplane landing field
15 MILES
TO BISHOP
BIG PINE 4002
TO WESTGUARD PASS & BRISTLECONE PINE AREA
Owens River
FIRST FALLS CAMPGR.
GLACIER PACK TRAIN
SAGE FLAT CAMPGROUND 7,500
GLACIER LODGE
BIG PINE CAMPGR. 7,900
MT. SILL
CRATER MT.
FISH SPRINGS
Sangers Slough
TINEMAHA RESERVOIR
THE THUMB 13885
BIRCH MT.
TINEMAHA CAMPGR.
POVERTY HILLS 4943
MT. BOWLTON BROWN 13527
Tinemaha Elk Herd
RED MT. 5201
LAVA FLOW
Indian Petroglyphs
SPLIT MT. 14051
SIERRA NEVADA CREST
TABOOSE CREEK CAMPGR.
SITE OF 1933 & 1934 TRANSPLANT OF 55 TULE ELK, 27 FROM YOSEMITE & 28 FROM TUPMAN
Taboose Pass
GOODALE MT. 12767
GOODALE CREEK CAMPGR.
ABERDEEN
OWENS RIVER AQUEDUCT INTAKE
STRIPED MT. 13160
Goodale Elk Herd
REST AREA
BLACKROCK SPRINGS FISH REARING PONDS
MT. PERKINS 12557
SAWMILL CAMPGR.
Santa Rita Spring
Sheep Hole Spring
COLOSSEUM MT. 12417
Independence Elk Herd
OWENS VALLEY
Barrel Spring
TULE ELK
MT. BAXTER 13118
Baxter Pass
OAK CREEK CAMPGR. 7,000
Mt. Whitney Fish Hatchery
INDIAN RESERVATION CAMP HISTORICAL 1862-1877
INDEPENDENCE LANDMARK
DIAMOND PK. 13105
BLACK MT. 13258
INDEPENDENCE 3925
KEARSARGE PK. 12650
Kearsarge Pass
INDEP. CREEK CAMPGR. 3950
Coyote Spring
INYO MOUNTAINS
REWARD RUINS
FRESNO CO.
TULARE CO.
UNIVERSITY PEAK 13588
MT. BRADLEY 13280
SYMMES CREEK CAMPGROUND 5,500
MANZANAR W.W. II RELOCATION CAMP.
KINGS CANYON NATIONAL PARK
MT. KEITH 13940
Forester Pass
JUNCTION PK. 13903
Shepherd Pass
Lone Pine Elk Herd
Frenchy's Spring
MT. WILLIAMSON 14384
ALABAMA HILLS
NEW YORK BUTTE 10620
TROJAN PK. 13968
MT. BARNARD 14003
Vacation Pass
TUNNABORA PK. 13593
LONE PINE 3727
R.R. STATION
SCHULTZ'S GEM SALOON
GENERAL STORE
ASSAYER
Movie Set
MT. RUSSEL 14190
MT. WHITNEY 14495
WHITNEY PORTAL CAMPGR.
LONE PINE CAMPGR. 6,000
LOCUST GROVE CAMPGR.
SEQUOIA NATIONAL PARK
MT. MUIR 14025
Whitney Pass
LONE PINE PEAK 12951
TUTLE CREEK CAMPGROUND 6,000
DIAZ LAKE CAMPGR. & WATER SPORTS
DOLOMITE
TO DEATH VALLEY
MT. MALLORY 13870
MT. LE CONTE 13960
MT. LANGLEY 14042
Army Pass
Cottonwood Lakes
OWENS PK. 11428
Carroll Creek
OWENS LAKE 3560
0 1 2 3 4 5 6 7 8 9 10
SCALE OF MILES
CIRQUE PK. 12863
COTTONWOOD PACK STATION & CAMPGR. 9,500
Pittsburgh Plate Glass Co. Chemical Division Bartlett Plant
TIMOSEA PK. 8657
Cottonwood Pass
COTTONWOOD CREEK CAMPGR. 5,400
Power Plant
TO MOJAVE & LOS ANGELES
CHARCOAL KILNS
Bakker



LOS ANGELES ZOO

For years now, indeed for many decades, most Americans who have taken an interest in the fortunes of endangered native animals and plants have been able to agree on one point: that there ought to be a refuge, preferably managed at the federal level, for the tule elk of California. Conservationists, environmentalists, wildlife managers, politicians, scientists, sympathetic laymen—all agree that the idea is good, the need great, the time as soon as possible. But, in spite of years of study, effort, and exhortation by many people, today there is no such refuge.

The tule elk, considered by some biologists as a subspecies of the bigger and still relatively common American elk or wapiti and by others as a species in its own right, is distinguished from the larger mammal by its bright, golden-brown apparel and its smaller size. An average male specimen of *Cervus canadensis*, the wapiti, weighs in at about 650 pounds; whereas his tule counterpart, *C. nannodes*, weighs about 425. There are certain anatomical differences between the two animals also, of interest mostly to the specialist.

The history of the tule elk is the story of an American mammal brought to the verge of extermination during the days of the California gold rush. Before the human hordes descended on California from the east the tule elk occupied the San Joaquin and Sacramento valleys of the state in numbers that one contemporary writer described as "darkening the California plains." By 1885 pothunters catering to the burgeoning numbers of gold-seekers, adventurers, and settlers had reduced tule elk numbers to near the vanishing point. Then, said an observer of the day (as quoted in Theodore Roosevelt's *The Deer Family*), "only one band was left, and that on the immense ranch of Miller and Lux . . . some 20 miles from Bakersfield."

It was fortunate for the elk, and for sensitive Americans of a later day, that Henry Miller, of that "immense ranch of Miller and Lux," took a personal interest in the unfortunate mammal. In the abrupt manner of the proud and powerful California ranchers of his time Miller created an instant elk refuge on partnership lands and spelled out a simple rule of management for the tiny herd: "We've no right to destroy them," he said. "Anyone molesting these tule elk will answer to my gun." In these two sentences Miller had not only created a refuge but probably also a popular name for the species. He had referred to the animals as "tule elk" simply because they had been discovered hiding in the tules—the bulrushes of moist California valley lands—on his vast holdings in the San Joaquin Valley. It is said, without guarantee of accuracy, that there were 28 head of elk in existence at the time of the Miller action.

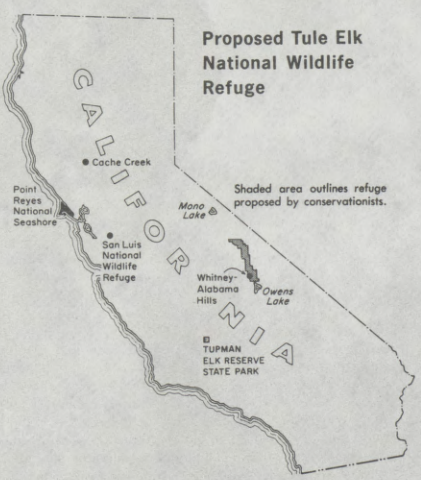
Time passed, and the tule elk recovered somewhat in numbers. Under the auspices of the old U.S. Bureau of the Biological Survey, now the U.S. Fish and Wildlife Service, at least 22 separate efforts were made to reestablish the mammal in various parts of the state. Only one of these transfers was successful, and circumstances under which it succeeded surely are worth a brief notice.

In the 1920s, at the urgent request of Dr. Barton W. Evermann, a few of the remaining tule elk were taken to the Yosemite Valley in Yosemite National Park for confinement there in a paddock as an emergency hedge against total extinction.

As a crisis action to save an American wildlife species this measure was undoubtedly justified, but it could hardly be viewed as a permanent arrangement. In the first place, the tule elk never was an inhabitant of Yosemite country and thus would be an exotic animal in the national park. In the second place, the National Park Service quite properly did not propose to retain animals, wild or otherwise, in confinement on its lands. The tule elk would have to go. The question then became: where?

At this point another California rancher stepped into the picture in behalf of the beleagured elk. G. Walter Dow, Owens Valley rancher and businessman, commenced negotiations with the Park Service on the possibility of introducing the elk into the Owens Valley of California, over the Sierra Nevadas to the southeast of Yosemite and lying between the Sierra and the White and Inyo mountains along the California-Nevada border. The rancher reasoned that the valley-dwelling mammal would find Owens Valley habitat not greatly unlike parts of its original Valley of California range. Most of the Owens Valley was, and still is, owned by the City of Los Angeles as an important watershed; it is further protected by flanking lands of the federal government. After several years of negotiations arrangements crystallized, and in 1933 the Yosemite elk were crated and trucked to a new home in the Owens Valley. They are still there today to the number of about 290 head, and they still have a problem.

The problem is that the wild elk compete with ranch cattle for forage in the valley. Commercial grazing is permitted under lease arrangement with Los Angeles—actually, with the city's somewhat autonomous Department of Water and Power. As the elk multiply, competition with the cattle increases, and demands for reducing the elk herd



LOS ANGELES DEPARTMENT OF WATER & POWER

arise. For a number of years now tule elk numbers in the Owens Valley have been kept below 300 by hunts sanctioned by the state Fish and Game Commission whenever the count indicated a possible total of 300. The purpose and conduct of these hunts have proved vastly unpopular with conservationists. That figure of 300 does not, by any stretch of the imagination, remove the animal from a reasonable list of endangered species.

Studies of the tule elk matter have been performed in plenty. The situation has been studied by the state Fish and Game Department, by the California legislature, by specialists from the University of California, and agencies of the Department of the Interior. What the tule elk seems to need most today is not more studies but a federal refuge—perhaps several—in which it can lead a reasonably natural existence in numbers that will guarantee viability of the species into the indefinite future. The main refuge, at least, in the thinking of many conservationists, ought to be in the Owens Valley. By virtue of the fact that Los Angeles bought much land in the valley for water rights many years ago and that adjacent federal lands were withdrawn from entry for watershed protection, this great area remains in a substantially natural condition. By virtue of its location between two high mountain ranges it is also, incidentally to its proposed main purpose, highly scenic.

The most recent study of the elk situation seems to be the most promising by far, and for a very simple reason. It was made personally by Congressman John Dingell, conservation-oriented chairman of a House of Representatives subcommittee on environmental matters. In the Congress, Representative Dingell has moved from study to concrete proposal.

Within a Tule Elk National Wildlife Range of some 380,000 acres in the Owens Valley—183,000 acres of City of Los Angeles lands and 197,000 acres of federal lands —priorities vis-à-vis elk and cattle would be reversed: elk first, and then cattle. Total number of the elk herd would be allowed to rise to the neighborhood of 2,000 if, in the opinion of the Secretary of the Interior, it could properly support that figure. Tule elk beyond the actual carrying capacity of the Owens Valley Refuge up to a total of at least 2,000, would be relocated into appropriate habitats in other parts of the state, instead of being "culled" by sportsmen as in the past.

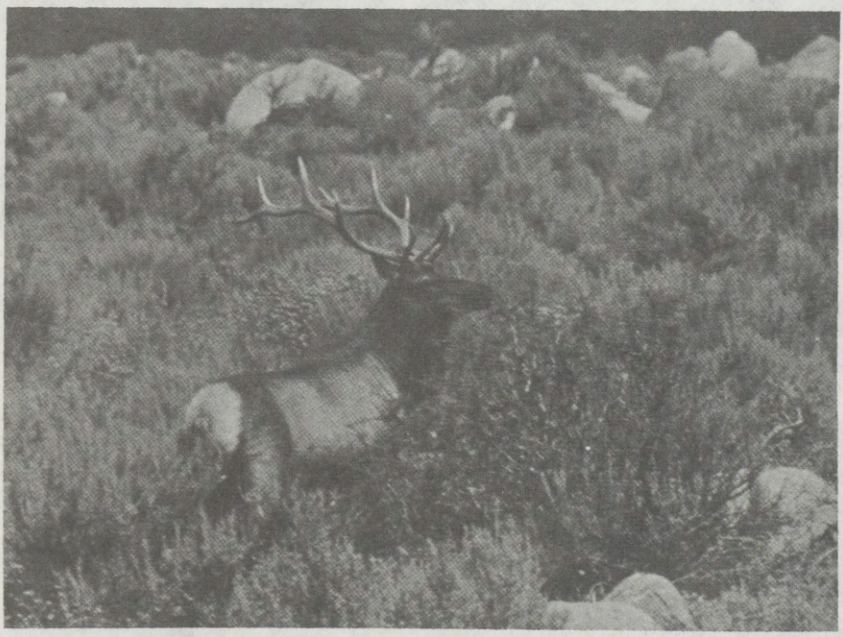
This national wildlife refuge plan has received the support of a number of other Congressmen. The City Council of Los Angeles, which would be a large contributor of lands to the project, has endorsed the idea; the Los Angeles County Board of Supervisors was unanimous in a favorable opinion. The City and County of San Francisco, which actually are interested onlookers in the matter, have declared establishment of the refuge important to the people of California. Organizations from every part of the country have expressed their support for the project. The Committee for the Preservation of the Tule Elk, based in Los Angeles and long active in promoting the Owens Valley refuge idea, has pointed out that aside from its benefit to the elk the refuge would also protect a number of other species of animals that are rare, depleted, or endangered—among them the Sierra bighorn sheep, cougar, southern pine marten, desert tortoise, and Owens Valley pupfish.

Enthusiasm for the Owens Valley elk refuge on the part of federal bureaus that would be involved in its implementation has been considerably less than that of conservationists. In response to mounting pressure for tule elk protection an interdepartmental task force was set up in 1970 to identify possible alternative refuges for the animal, preferably located within its original habitat. Involved in the effort were the U.S. Forest Service, Bureau of Sport Fisheries and Wildlife, Bureau of Land Management, and National Park Service, plus, at the state level, the California Department of Fish and Game.

The task force looked at many sites in California and even one in Arizona. Eventually these locations were boiled down to four possibilities for official recommendation. The sites, three of which are within the original range of the tule elk, were: the Point Reyes National Seashore, north of San Francisco; the San Luis National Wildlife Refuge, near Merced; Swanson Range-Cache Creek area east of Clear Lake in Lake County about forty miles north of Santa Rosa, and the Alabama Hills-Whitney region on the west side of the Owens Valley within the proposed Owens Valley refuge. (The Swanson Range-Cache Creek area presently contains a herd of some 100 elk that probably are Rocky Mountain elk—tule elk hybrids, and in addition has an extremely limited carrying capacity.)

One of the official arguments for transplanting Owens

LOS ANGELES DEPARTMENT OF WATER & POWER



Valley elk to these alternative areas is, from the biologists' point of view, very likely sound: it might be risky to keep nearly all the elk (there are also a few in a state reserve at Tupman, living under rather artificial, zoo-like conditions) in any single area because of possible total disaster by disease; scattered smaller areas for the animal would be preferable.

Environmentalists counter this argument by saying the proposal to establish the big Owens Valley refuge, which could accommodate up to 2,000 elk, includes provision to transplant excess animals to the additional areas, thus further assuring the future viability of the species. Indeed, the suggestion has been made that transplanting might not need to wait until elk numbers in Owens Valley had reached the carrying capacity of their range; that perhaps the process could commence after the Owens herd had reached a figure of, say, 1,000 animals. Such a procedure would help keep the range of the main herd in better condition and would lessen the danger of possible mass losses by disease while providing animals for other desirable populations. At the same time it would hasten the distribution process.

In his case for the Owens Valley refuge Congressman Dingell summed up its importance and urgency as well as any other writer when he said, in a preamble to his proposed legislation, that "the protection and maintenance of tule elk in a free and wild state is of educational, scientific, and esthetic value to the people of the United States, and its struggle to survive epitomizes the worldwide threat to the larger browse and graze mammals whose environments are shrinking and are being depleted as a result of civilization's incursions. . . ."

Conservationists and environmentalists all over the country think that an Owens Valley tule elk refuge would be the first long step toward that long-awaited "protection and maintenance of tule elk in a free and wild state." ■

Beula Edmiston is secretary of the Committee for the Preservation of the Tule Elk, headquarters of which are in Los Angeles. The committee, composed of many distinguished American and foreign environmentalists, has for many years advocated establishment of a refuge for the endangered tule elk in the Owens Valley of east-central California.

The relatively unspoiled Owens Valley of east-central California is seen by American conservationists as a likely site for a refuge in which the diminutive tule elk, an endangered species, may be allowed to increase its numbers. The view looks west toward the steep eastern face of the high Sierra.

GERHARD BAKKER

Reprinted by permission from

National Parks and Conservation Magazine, June 1972

which assumes no responsibility for its distribution
other than thru the magazine.

For more information and to help, Contact:

COMMITTEE FOR THE PRESERVATION
OF THE TULE ELK
5502 Markland Drive
Los Angeles, California 90022

Mrs. EDMISTON. Thank you so much, Mr. Dingell.

We would like to say a few words, and I know the hour is late.

It is our privilege to say that we agree with Ray Arnett on one point.

For the record, we certainly do want adequate habitat for wild free roaming herds of Tule elk where they can live in a quality of environment and be a real esthetic and genetic asset to our State and to our Nation.

We would like to agree with Los Angeles City Councilman Wilkinson, who said we must save land and wildlife. We certainly agree with that.

We do not agree with the flip-flop of the city council he helped engineer, however.

We would like to agree with all who said that Senate bill 722 was a great piece of legislation. It is. It established the policy to restore the unique Tule elk to at least 2,000 in California.

California wants no less than 2,000 Tule elk, but it could not establish the law for national or public lands for habitat. The State cannot do that. The Congress can. And we are so grateful that the Congress has set about to do it.

We are disturbed, however, to learn that we have a very reluctant Director of the Department of Fish and Game, who comes here—and although he had withdrawn his objections to the State legislation—says he really does not see the need of 2,000.

To give him the backing that he will need in administering the resources so that we will have 2,000, I believe the law for the refuge and additional habitats will be very, very helpful.

I think we have all agreed we want dispersal.

The committee for the preservation of the Tule elk wants what is the real carrying capacity in the Owens Valley. It is the one place that has proved right. All the others are nebulous things, and though we concur with planning, they are still nebulous plans.

This is the one place that has proved right.

We want to publicly congratulate the Department of Fish and Game for having a part in their transfer there.

We want to take a little credit for ourselves. Walter Dow, a former president of our organization, is the Lone Pine rancher and businessman who physically did most of the work, who financed most of the transfer, and negotiated with all of the proper entities to bring it about.

We take a dim view of saying, according to State law, the limit is 490 Tule elk in the Owens Valley.

Again, we would ask permission to enter into the record of the hearing a chaptered copy of Senate bill 722, chapter 1250 of the Fish and Game Code, because it says "490 or any greater number determined to be the holding capacity of the Owens Valley."

Mr. DINGELL. Without objection, the document referred to will be inserted in the record at this point.

[The document referred to follows:]

FISH AND GAME—ELK—CHAPTER 1250—SENATE BILL NO. 722

AN ACT to amend Section 332 of, and to add Section 3951 to, the Fish and Game Code, relating to elk.

The people of the State of California do enact as follows:

SECTION 1. Section 332 of the Fish and Game Code is amended to read:

The commission may determine and fix the area or areas, the seasons and hours, the bag and possession limit, and the * * * number of elk that may be taken under such rules and regulations as the commission may prescribe from time to time. *The commission may not authorize the taking of tule elk until the total statewide population of such mammals exceeds 2,000, or it is hereafter determined by the Legislature, pursuant to the reports required by Section 3951, that suitable areas cannot be found in California to accommodate such a population in a healthy condition.* Only a resident of the State of California over the age of 16 years and possessing a valid hunting license may obtain a license for the taking of elk.

The fee for the license may be determined by the commission but not to exceed fifty dollars ($50). The fees shall be deposited in the Fish and Game Preservation Fund and shall be expended in addition to money budgeted for salaries of the department, for the expense of enforcing the provisions of this section and the processing of the applications.

SEC. 2. Section 3951 is added to the Fish and Game Code, to read:

3951.

The commission may authorize the taking of tule elk pursuant to Section 332. The department shall relocate tule elk in areas suitable to them in the State of California and shall cooperate to the maximum extent possible with federal and local agencies and private property owners in relocating tule elk in suitable areas under their jurisdiction or ownership.

The number of tule elk in the Owens Valley, presently the major habitat of such mammals, shall not be permitted to increase beyond 490, or any greater number hereafter determined by the department to be the Owens Valley's holding capacity in accordance with game management principles. However, tule elk from the Owens Valley may be relocated to other suitable areas within the state at any time to meet the department's responsibility under this section.

Department personnel may cull sick or inferior tule elk, but only when this is done for the protection, enhancement, and healthy increase of the species. Any such animal or animals so destroyed, shall be the subject of a written report to the Fish and Game Commission at its meeting immediately following such action, detailing the reasons therefor.

The Director of Fish and Game shall submit a report describing progress made in relocating tule elk, as herein set forth, to the Governor for transmittal to the Legislature no later than the fifth legislative day of the 1974 Regular Session of the Legislature and every two years thereafter. Such report shall also include, but not be limited to:

(1) The population status of tule elk in California;
(2) Age and sex information;
(3) Condition of their ranges; and
(4) Other pertinent information.

Approved and filed Oct. 27, 1971.

Mrs. EDMISTON. Thank you so much.

For the benefit of the national refuges and the benefit of the Tule elk, we believe the Secretary of the Interior should be the entity to decide on the carrying capacity in a national wildlife refuge. However, we certainly do not say that we want no cooperation with the State. The bill provides for cooperation with the State, and it is one of the many things that we salute and commend in the bill.

We find it strange to be told that there is no need to consider the Tule elk a rare or endangered species. When the Department of the Interior made its first list of rare and endangered species in 1964, the Tule elk headed the list of endangered mammals.

Interestingly enough, I am sure the Department of the Interior knew there were elk in Cache Creek. It named the two locations of

Tule elk to be the small captive herd here, which is indicated on the map at Tupman, and the Owens Valley wild, free roaming herd.

I believe that in itself is indication that the Department of the Interior recognized the Cache Creek hered not to be Tule elk.

If it is interesting to the subcommittee, we would like to submit this first list of the Department of the Interior's rare and endangered species also for the record.

Mr. DINGELL. I believe that is a public document.

Mrs. EDMISTON. It is.

Mr. DINGELL. The Chair will direct the staff to review it and ascertain its appropriateness for inclusion in the record.

Mrs. EDMISTON. Thank you so much. We would like to again just reiterate very briefly certain things.

The issue is habitat, a home on the public range. The rare species makes it a national concern as do the public lands.

We have heard that it is a resident California species, and so it is none of the Nation's business. We who are very much interested in the Nation's business cannot buy that, and all species are resident some place. Every State but four in our Union has a national wildlife refuge or more.

Mr. Chairman, all of those species are resident some place. We believe this would be one of the greatest refuges in the system because of the Tule elk, because of its location, because of the fact at least 22 additional threatened species share the habitat.

We would like to note that it requires no land acquisition, and it does not include the Indian lands which are immediately adjacent to the town of Bishop.

However, Indian lands would benefit by the ecologically and environmentally sound management of the adjacent refuge.

It will not take land off the tax rolls. You heard the department of water and power, and a member of our city council, say they are not about ready to give up the lands. It would only require ecologically and environmentally sound management of city of Los Angeles land.

In the light of that, the court has done some requiring lately. Only this summer, the Third District Appellate Court of California ordered the Los Angeles Department of Water and Power to cut back its Owens Valley ground water extraction to the 1970 level and prepare an impact statement. A temporary measure, indeed, but it indicates the urgent need for a permanent framework for "ecologically and environmentally sound maintenance" of the land as House Joint Resolution 204 provides.

House Joint Resolution 204 would, within the refuge, reverse the priority on the land, Tule elk first, and then the commercial cattle grazing.

I was disturbed today in learning that the first consideration must be where the cows are going to be in the summertime and where they are going to be in the winter, and be sure there is forage for commercial grazing.

Within the refuge we would like to see Tule elk first. There is not 100 percent competition. This measure does not shut out all grazing.

We would like to have whatever the carrying capacity under real-

istic sound management turns out to be with the priority over grazing. Assigned to the Tule elk.

We would like to commend the Forest Service for already having taken a step in that direction.

In 1963, I believe they testified—or maybe it was 1965, they withdrew small lease permits in the Goodale area which is Forest Service land in favor of the Tule elk. We commend that. It is a step in the right direction.

We also have heard, however, in the last 2 days about the Tule elk, bighorn bugaboo. The enemy of the bighorn sheep is man's encroachment, not the Tule elk.

Dale McCullough, independent biologist, and Ed Schneegas, biologist with the U.S. Forest Service, made a comprehensive report entitled, "Winter Observations of the Sierra Nevada Bighorn Sheep," published by the California Department of Fish and Game in 1966.

McCullough quotes from it briefly in "The Tule Elk: Its History, Behavior, and Ecology," pp. 139–141.

> The possibility of competition between two rare forms prompted examination of their relationship, which has been reported in detail elsewhere (McCullough and Schneegas, 1966). To summarize, it was found that bighorn sheep tended to use the steep rocky canyons where elk could not penetrate, and that only the fringes of their respective ranges overlapped. Therefore, there is little likelihood of competition between them.
>
> If the Goodale elk herd expands into the large bitterbrush stands between Independence Creek and Whitney Portal they will be adjacent to the winter range of the bighorn sheep of the Mount Williamson herd. Again, the possibility of competition seems slight. The tule elk is physically and behaviorally not equipped to invade the steep, rough, and rocky terrain which is the heart of the bighorn range.

Careful review of department of fish and game records show that man's invasion of the bighorn's last citadel, not any other animal, is responsible for the decline of the Sierra bighorn.

But man's courage, vision, and love of the living land can save the bighorn sheep, the Tule elk, and the unsurpassed natural beauty, diversity, and wonder of the Owens Valley.

We heard that 85 percent of the economy of the Owens Valley—this came from the county administrative officer—is the visitors' dollar.

This refuge, by the interest the public has in our national wildlife refuges, would bring people to the valley. And from an ecological standpoint, I am very happy that there are four delightful towns that dot Route 395 with all the goods and services a visitor needs, even overviews, places where you can park your car, and for the casual visitor, perhaps, see all they need to see in the refuge without expense or pressure on the land.

The refuge would save the biotic integrity. The refuge would afford visitor dollars for the economy. It would not displace very much cattle economy. It would not take land off the tax roll.

Dr. McCullough, so freely quoted, states in his Tule elk study that recreation is far and away the big resource of the Owens Valley, that the cattle industry is declining, not because of Tule elk, but because of other things. I was interested that Mr. Arnett quoted Dale McCullough as saying that there is no need for inviolate sanctuary.

All of us here know that a refuge is not an inviolate sanctuary, but the quotation ended right there—unfortunately.

We would like to suggest that it be fully read because it goes on with, perhaps, as eloquent a reasoning for this refuge as could be given, that it should be managed or might well be managed for naturalness, that the Tule elk is important to the biotic whole and for esthetic purposes, and that the economy of the valley is going to be its esthetic use rather than the cattle industry.

We have heard that everything is fine without the refuge. Fish and game likes Tule elk; the city council likes Tule elk. It is not necessarily so.

I have to have some empathy for the Bishop Chamber of Commerce man who said it is just like waiting for the other shoe to drop, and that is what it is at the present time.

The agencies decide this, and the interagencies maybe decide that, and the policies are fickle; they are changing; they are based on pressure.

Some one of the gentlemen of the county administrative office said all of the agencies' files are bulging with Tule elk controversy. That would indicate that all is not well. Two people have said the refuge might hamper some planned operations. This includes the county administrative office.

The water and power people seem unclear as to what it might disturb, which makes me wonder what things they have in the back of their minds for the Owens Valley that might be disturbed.

I am mindful that they have paid for a study of housing development in the Owens Valley, and I do not think the department of water and power is wasting my money without some reason. At water and powers' behest, the city council recently did a complete flip-flop re the refuge. In 1967, the city council authorized a refuge from the Tinemaha Reservoir down to Owens Lake on city land. The department of water and power scoffed at the idea and would do nothing to implement it.

In 1969 before the last Tule elk killoff was held, and Councilman Wilkinson said to me, "You remember, I was one of the leaders against that killoff." I said, "Yes, but the council's wishes were ignored and now you reverse yourselves.

Anyway, the council urged the department of water and power to post its land and not allow Tule elk hunting on it. It was not done.

The city did support Senate bill 722, and we are grateful. We are happy that all of the diverse segments seemed to come together. We wish they would come together for this measure for habitat to make that restoration possible, because without habitat we might not have much except beautiful words.

They are great words, sincere words, but without the habitat, the restoration of the Tule elk is not possible.

The city council, with all of its background of support of the Tule elk, and as late as last year, made a resolution in support of a resolution that is identical to those before us today, changed its mind. The city council has changed in the brief interval. While our distinguished mayor was off the city council and getting ready to take office as mayor, a big thrust was whipped up to change the council's endorsement.

The first vote failed. One councilman flip-flopped, asked for a reconsideration.

Another vacationing councilman got home, joined in, and you had presented to you today a resolution that the city council is not in support. That shows how fickle local action for habitat has proved to be, and how subject to pressure.

We heard the department of water and power say one of their main objectives is to please the city council. The city council of today said we are not in favor of the refuge.

The city council a year ago said we are. We cannot rely on luck or a constant tug of war.

The city council, twice before, urged upon the department of water and power a city refuge to no avail. We say this public land is a public resource, a public responsibility, and only the Congress of the United States can be expected to have the national viewpoint, the national perspective to safeguard our national heritage. It is a common cause whether we live in Bishop, or Los Angeles that pays 47 percent of that tax in Inyo County, whether we live in Maine, Hawaii, Alaska, or Texas public land.

We have members in all of the States, who know this is our land as well as everybody else's land, our common responsibility.

This Congress and the National Wildlife Refuge System is the appropriate means of securing habitats.

The State has established the policy. This is the means to fulfill it.

We are so grateful for all of the many people, 36 Congressmen who sponsored this bill, 32 of them in the State of California, for the 14 Senators that sponsored a similar bill—especially both California Senators.

For the hearing that you have given this issue—habitat for the rare Tule elk and open space in our State, the most populous State in the Union, where breathing space is also a vanishing commodity, as well as our vanishing species, we are deeply appreciative.

We urge that the status of national wildlife refuge be given for this Owens Valley habitat and to secure the additional habitats as the State law recommends and H.J. Res. 204 provides.

By the way, the State law says, "may". The State is not in position to mandate the Federal Government to do things. The Congress is.

We could accept 490 as a minimum number in the Owens Valley Refuge if it is the Secretary of Interior that is to make that determination.

It has been demonstrated here that the pressures on the State agency are substantial.

For a national wildlife refuge, we also believe it would be a dereliction of duty to put the determination on a different agency.

If there are any questions, I would love to answer them.

Mr. DINGELL. Thank you.

Mr. McCloskey?

Mr. MCCLOSKEY. Mrs. Edmiston, the concerns that you have expressed, I have shared many of them in the past.

Your concerns really relate to land use, do they not?

Mrs. EDMISTON. I am sorry, but I did not hear you.

Mr. McCloskey. The concerns that you have expressed really relate to land use, not to the elk question.

Mrs. Edmiston. The elk under State law are protected until they reach at least 2,000 in the State, which was unanimously adopted, by the way, by the State Legislature in 1971.

So the policy of restoring the species to at least 2,000 has been taken care of.

At least, I thought so until this morning. After listening to our director of the department of fish and game, where he began cutting down the need for 2,000, or the desirability of 2,000, I am having second thoughts.

I am wondering if our department of fish and game shares the enthusiasm of the legislature and the people of California.

Mr. McCloskey. But they do not have much option but to obey the laws of the State.

Mrs. Edmiston. Right.

Mr. McCloskey. This bill was initiated at the time when we were not all certain of what the policy of the State of California was, or even what the law was, and this committee initiated an investigation. I think it is to the eternal praise that people like yourself forced consideration of this policy a few years ago.

But, right now, we have a policy, a State law, and an existing circumstance which clearly protects the elk.

Mrs. Edmiston. Right, regarding policy, not habitat.

Mr. McCloskey. The question that you have raised in your statement is that only the Federal Government can protect the habitat of the elk.

Mrs. Edmiston. That is our belief.

Mr. McCloskey. But there has been no testimony here today of any threat to the habitat of the elk by any of the governmental agencies involved.

Presumably, if there were such a threat, there would be ample notice through public hearings of any changed land use or change in the Inyo County planning, and the owner could not change this without applying for a zoning change.

Is there any concern on your part that he would not have adequate notice here?

Mrs. Edmiston. I am very concerned that the department of water and power paid for a study of how to get a substantial housing development up there without the kind of air inversion we have in Los Angeles.

I do not think that was a meaningless study.

I heard them say, "We like open space." But I look at the hard facts put out by the study. I reviewed the study. I believe there is a threat.

I know that the Forest Service is right now pushing, as the Sierra Club testified yesterday, for declassifying a wilderness area immediately adjacent to this so as to accommodate heavy use.

The very land laws that control these withdrawn lands are somewhat in review and possible jeopardy.

A National Wildlife Refuge is a much bigger reason to defend the retention of the subject public lands.

Mr. McCLOSKEY. But it is also much more costly at a time when we are limited, frankly, in budget funds to pass a law that we could not implement because we could not get the funds for it under these circumstances.

I believe there was a budget deficit last year of $14 billion, and the year before of $23 billion.

We are searching for ways in which we can achieve these goals without the expenditure of money in a case where there is no immediate threat.

And all the threats you have enumerated have been potential.

Mrs. EDMISTON. Yes.

But, after it has happened, it is awfully late. It is spilled milk.

Mr. McCLOSKEY. That is why this committee exists, to sit on our agencies of government and monitor expected change.

Is there any immediate threat other than the potential threats you have enumerated that you feel would justify Federal intervention?

Mrs. EDMISTON. I think all of them, the whole bundle, are immediate and continuing threats. It is one conglomerate of pressures from every side. I am frequently in the Owens Valley myself.

One sign along the highway that is rather amusing says, "Subdivision Sewer Well Water." There is no comma between. To some of the people that live not too far away, and I think I heard testimony yesterday about a sewage problem, it seems to make sense.

There is an imminent threat at the preent time, and this interagency committee might be more interested in reciprocity than in the protection of the environment.

We heard what the Planning Commission of Inyo County recommends. I saw some of their recommendations and hailed them.

And I said how much authority does this planning commission have? None at all.

Mr. McCLOSKEY. Well, I still have not heard a specific threat to the land use.

Mrs. EDMISTON. Maybe I could provide it from the Inyo County master plan. Here it is.

This is the 1990 general plan for development in Inyo County.

I asked this year if it is current. It is. This is part of the threat.

> The primary objective of private enterprise is a provision of recreational opportunities to derive a monetary gain by the possession or control of some unique or otherwise interesting facility.
>
> This can normally be achieved through the exploitation of some unique natural condition or construction of special facilities which will satisfy the particular desires existing within the area.

Mr. McCLOSKEY. That does not distress me. That does not bother me.

Mrs. EDMISTON. But if we have the getting hold of unique and interesting characteristics such as on the public lands.

Mr. McCLOSKEY. Unique.

Is there evidence that this county has proposed to change that 97,000 acres of grazing land for elk and cattle?

Mrs. EDMISTON. Yes. This economic exploitation would sure make a lot of money by infringing on the watershed and wildlife habitat.

Mr. McCLOSKEY. Does the master plan for 1990 make any provision for changing the land use of any part of this acreage?

Mrs. EDMISTON. Yes; it does say while they cannot get fee title to the public land, leasing is possible.

Special service centers are identified as small settlements centered toward the commercial aspects of recreational activities.

These settlements provide service and facilities to the recreationist to be found in concentrated recreation areas and yes, it does go into concentrated recreation areas.

With time, these service centers may develop characteristics of retreat communities or second homes, or retirement communities.

Mr. MCCLOSKEY. Is there indication that these would be developed in the areas that would be inconsistent with the use of the elk?

Mrs. EDMISTON. Yes.

Mr. MCCLOSKEY. Do you have a map that shows?

Mrs. EDMISTON. I would be happy to make my copy available for the record, and it I believe will give you the information that you wish. I would be very happy to do so.

May I make this book available to the committee?

Mr. MCCLOSKEY. I would like to see the land use map of the county of Inyo by 1990.

Mrs. EDMISTON. Furthermore, I see as the greatest threat to this habitat the insistence today that the provision to give priority to the rare species would be liquidated.

It would not do to have too many Tule elk, because cows eat this in wintertime, and cows eat that in the summertime.

Mr. MCCLOSKEY. But you do not object to the balance between 17,000 cattle and 500 Tule elk, do you?

Mrs. EDMISTON. We heard some discussion today that they would have to be in the right place at the right time.

Mr. MCCLOSKEY. Let me be precise. The limitation to 490 Tule elk, is that acceptable to your group?

Mrs. EDMISTON. If that proves to be the carrying capacity of the land.

Mr. MCCLOSKEY. Wait a minute.

You see here we get into the question of whether the Federal jurisdiction should infringe upon the State, and that is State law that says that.

Mrs. EDMISTON. The State law does not say there cannot be more. 490 is the minimum number.

Mr. MCCLOSKEY. That is right, but that would not give us any reason to override the State law in this respect, would it?

Mrs. EDMISTON. In cooperation with State law, it would give you reason to provide habitat in the Owens Valley for 490 or more Tule elk. It said this is our policy: 490 or more Tule elk in Owens Valley, according to carrying capacity.

The State of California could not possibly say what the Federal Government has to do on its public lands.

Mr. MCCLOSKEY. Your argument, as I understand it, is that the Federal Government should override the State, and impose on the State as a matter of Federal law.

As I understood your testimony it was only the Congress who could guarantee this habitat.

This is the question, because the State is now providing a habitat under law for up to 490 of these animals, and under their own law

they have provision to exceed it, but I have not heard any witness suggest that more than 490 elk should be in the Owens Valley.

Mrs. EDMISTON. We suggest that the language of House Joint Resolution 204 is excellent. It says whatever the real carrying capacity may be, determines the number in the refuge.

Mr. MCCLOSKEY. Does not the State law say that, also?

Mrs. EDMISTON. No; the State law says, and by inference it could be determined to be that—well, I will read it to you.

It says the number of Tule elk in the Owens Valley presently a major habitat of such mammals shall not be permitted to increase beyond 490, or any greater number, hereafter determined by the department to be the Owens Valley holding capacity in accordance with game management principles.

Mr. MCCLOSKEY. That is exactly what we would put in the Federal law if we were to enact it.

Mrs. EDMISTON. Fine. Then if you would put in the provision that the carrying capacity would be determined by the Department of the Interior that would be excellent.

Mr. MCCLOSKEY. But why should we, unless there is some indication that the State is insensitive to this?

Frankly, I cannot find any record in any State that has been as advanced in this area as the State of California.

As you know, we represent all 50 States here in the Congress. We do not intrude on State law unless there is some threat, and in this instance there is protection that the State is giving, admittedly under pressure of conservation groups, initiated perhaps by citizens' interest. I cannot honestly tell you that I, as a dedicated conservationist, find any threat from the State of California.

Mrs. EDMISTON. We heard yesterday in testimony of people of Inyo County saying all the agencies files bulge with Tule elk controversy.

The love expressed for the Tule elk is very recent.

Mr. MCCLOSKEY. It may not be love, but merely the judgment of those in Government, that if they want to stay in Government, they had better adhere to public opinion.

Mrs. EDMISTON. I believe that to be the fact.

Mr. MCCLOSKEY. But nevertheless, that is the policy that you ask us to replace, whether to replace that with the business of one's heart, or because one is obeying the law, the issue is, is the law of the State of California, and the policy inadequate?

Mrs. EDMISTON. The law does not say that this habitat must support only 490 Tule Elk or that it must not be required to do more. The State law does not and cannot mandate protection of the land.

Mr. MCCLOSKEY. Neither can we.

Mrs. EDMISTON. What was that?

Mr. MCCLOSKEY. We cannot mandate it either.

Mrs. EDMISTON. The National Wildlife Refuge mandates protection of the land.

This, as we see it, is completely a habitat bill. I would like to say that Senate Bill 722 was introduced after the introduction of an identical bill in the 92d Congress, and it was done not to undercut the bill, but to give statewide impetus.

This is a good thing. We now have the policy. But the policy of the number and the State's intent cannot be achieved without permanent habitat. I think this is a beautiful opportunity for cooperation, because we have these Federal lands that can, by transfer of jurisdiction, without cost, provide the Tule Elk National Wildlife Refuge.

Mr. McCloskey. Quite frankly, from the testimony that has occurred these 2 days, it seems to me that you have won your point, at the county level, at the State level, and certainly you not only have Federal cooperation, and Federal agencies, but you have the oversight of this committee.

That makes the only question whether the Federal Government should acquire land. If we were to acquire that land, we would be spending money in competition with lands all over the United States that are threatened by development.

Take the Gettysburg Battlefield, and what we are trying to protect. You are suggesting that we give priority in this acquisition of Federal lands that we do not have to acquire because it is no longer under any threat, because you have won your battle.

I really just ask you this specific question.

Is there any conceivable threat that you would not have adequate warning of, of the change of this habitat, that you ask us to address in this bill?

Mrs. Edmiston. I think I have done my best to explain the threats.

Mr. McCloskey, I would like to say at last I have your question now in focus. I am sorry I did not have it earlier.

This bill does not require acquisition of any land. We stated in testimony, and I know it is a fleeting moment of speech, that the provision says simply that land under the jurisdiction of the BLM, shall be put under the fish and wildlife service's Bureau of Sport Fisheries and Wildlife for a Tule Elk National Wildlife Refuge, and requires the Department of Water and Power to operate its land in an ecologically sound manner.

We do not suggest one penny of acquisition. We do not want to acquire the city's land. We simply want to have the mandate for the Los Angeles Department of Water & Power to straighten up and fly right, ecologically speaking.

It was conceded by the Department of Water and Power this afternoon that it is now under mandate of the court to use a little more discretion in its water extraction.

Mr. McCloskey. Let me ask a question of counsel, if I may, because I am not aware of this.

Mr. Everett, those six elk herd grazing primarily in the Department of Power and Water land, do we create a wildlife refuge only on existing Federal land, grazing them outside the refuge itself?

Mr. Everett. I would say, Mr. McCloskey, we could establish a refuge consisting of any lands that are available in this case, BLM with a view toward, or the National Forest lands, with a view toward adding to the refuge any additional areas that may be acquired, or on which easements were obtained in the future.

They would not necessarily have to be done simultaneously. We

could establish a refuge for whatever purpose and importance it may be at this time, consisting only of Federal lands.

Naturally, it would not be complete in its emphasis, but it would be done with a view toward getting the program started, and adding to it as the situation would permit.

Mrs. EDMISTON. I have enough faith in our city, that with this Federal refuge established on the public lands, I think you could get a cooperative agreement, I believe we have people of reason enough to come in with a cooperative agreement to maintain the city land in ecologically sound manner to further the purpose of the refuge.

After all, this would help nail down these Federal lands, which is our watershed. That is a matter that we in Los Angeles have a personal stake in. The refuge will nail down the watershed better for us, and wildlife is eminently compatible with watershed.

That was established by testimony, I believe, by the city councilman and by the Department of Water and Power.

Mr. McCloskey, at last I understand your question. We are not urging land acquisition. We feel the transfer of these Federal lands already under the Department of the Interior to Bureau of Fisheries & Wildlife for the Refuge is the issue. With the substantial oversight or other clout that this committee has to see to it that the city of Los Angeles does manage its land in an ecologically and environmentally sound manner, no acquisition of Los Angeles lands will be necessary.

Mr. MCCLOSKEY. I have to tell you I do not know any other city that has imposed a billboard removal such as they have.

Mrs. EDMISTON. We commend it. Credit goes to scenic highway status, not the city of Los Angeles.

Mr. MCCLOSKEY. But you see you are still urging that we take over that authority from the city.

Mrs. EDMISTON. Not the city lands, not one penny of it.

Mr. MCCLOSKEY. Wait just a minute.

Did you not just testify that you felt Congress should enact into law the requirement that the city of Los Angeles manage its land in an ecologically sound manner?

Mrs. EDMISTON. Right.

Mr. MCCLOSKEY. And yet, there is no testimony before us that at the present time they are not doing so, and there is no testimony before us that they threaten to change this management that is now acceptable.

Mrs. EDMISTON. I would submit that this testimony that the county of Inyo gave is.

Mr. MCCLOSKEY. For the record, you are referring to the Inyo County land use plan.

Mrs. EDMISTON. Right, and the city of Los Angeles is one of its consultants.

I believe it to be valid testimony that the State Department of Fish and Game has left out any reference to Tule elk as a threatened species, and left it completely out of its protection program.

I believe that it is valid testimony that the county of Inyo people yesterday said this refuge might interfere with some of our plans, might hamper our operations.

If we all believe in open space we all want to see water quality and protection of watersheds and wildlife, then why would ecologically and environmentally sound management hamper our operations?

Why did the department of water and power come to the city council and individually say the refuge is really not the threat of the Tule elk but that it might interfere with something we might want to do sometime?

Why did the department of water and power spend $10,500 to study a housing development of the Owens Valley, if it is not a threat?

Mr. McCloskey. This is the first that I have heard about the housing plan. May I ask the department of water and power, and may we have a copy for the record of this housing study?

Mrs. Edmiston. Do you wish me to provide it?

Mr. McCloskey. Let me direct the question to the witness behind you, if I may.

Mr. Georgeson, is there such a study of potential housing in the Inyo Valley by the department of water and power?

Mr. Georgeson. The School of Architecture at ULC received some financial assistance from the department of water and power, $10,500, sounds about right, and the thrust of that study has to do with studying environmental considerations in designing houses, in some sort of an abstract sense.

Mr. McCloskey. I have never seen an abstract house.

Mr. Georgeson. This will leave you pretty abstract.

Mr. McCloskey. Where are the houses to be built?

Mr. Georgeson. The houses are hypothetical.

The Owens Valley was used merely as an environmental setting, and the conclusions have primarily to do with the design to provide for energy conservation in residential construction. There was no proposal for any residential development in the Owens Valley at all.

Mr. McCloskey. Would it be proper to ask you to submit for the record of this committee not only the study, but the documents under which the study was made?

Mr. Georgeson. I will be happy to do so.

Mr. McCloskey. I ask permission, Mr. Chairman.

Mr. Dingell. Without objection they will be inserted in the record.

The Chair would also like to receive a policy statement from the water and power board as to whether they propose to engage in housing.

Mr. Georgeson. If you are going to accept the Inyo County general plan into the record, there is a statement I presented on the behalf of the department of water and power pointing out, in the development of the Inyo County master plan, the city's or the department of power's position that provided for little change in land use.

I think I could probably provide documentation from the board of water and power commissioners to go along with that statement that will be included in the general plan.

[The documents were not received at time of printing.]

Mr. McCLOSKEY. I think our concern would be this, if there is any objection at all as to the expansion of any of those towns, reasonable expansion of those town, we would honor your assistance to that.

If there is any part of that master plan, or any part of your plans that would develop this land we are talking about, it very seriously ought to be before this committee.

Mr. GEORGESON. I would agree with you, Congress, but I would be happy to provide any further documentation for the committee's record.

Mr. McCLOSKEY. Thank you, Mr. Chairman. I have no further questions.

Mr. DINGELL. Mr. Everett?

Mr. EVERETT. Just one question, Mrs. Edmiston.

I think Mr. McCloskey has covered it, but I wanted to make sure we understand the answer.

If the bill is amended to limit the Owens Valley area to the carrying capacity of the herd, and we also make sure that the bill is written in such a way as to not authorize the acquisition of any city-owned lands, and if this committee instructs the Department of the Interior to enter into a mutually cooperative agreement with the city of Los Angeles and the State and the Interior Department and the Agriculture Department to carry a program to manage the Tule elk in such a way as to provide the type of land habitat to which they need, would this meet the concerns you have about the legislation?

Mrs. EDMISTON. Did I understand you to say that you would really report a bill that would authorize additional wildlife refuge that would tie down the land?

The habitat is the issue, Mr. Everett.

Mr. EVERETT. Putting in the refuge the Federal lands involved at that time.

Mrs. EDMISTON. I feel that is the way the resolution is really written, Federal lands at this time, with the possibility of other actions only if it becomes necessary to do so to carry out the purpose of the refuge.

We fully support the bill in that meaning, and if 490 is the figure, as to carrying capacity, we would like it spelled out as a floor, as a basement, a bottom figure not a top figure, with reasonable study of habitat for ascertaining the carrying capacity, and we thoroughly concur with all that have spoken on the desirability of wild, free-roaming herds that do not need artificial sustenance, and there are additional habitats in the State.

I would like, for the benefit of Mr. McCloskey, as well as others, to state that part of the necessity of this bill is not only the Owens Valley lands, but additional Federal lands, the San Luis Wildlife Refuge, Point Reyes, and we very vigorously oppose any fencing at Point Reyes. It is not necessary.

From the 64,000-acre Point Reyes National Seashore, there is no place for the elk to go except to the Golden Gate Recreation Area, 34,000 acres of additional habitat. We believe that without the mandate of Congress, suggested relocations will never occur.

We all have heard that we have the authority if, when, and but,

while habitat for threatened wildlife is forever lost. With the mandate of law as in House Joint Resolution 204, we not only will tie down the habitat in the Owens Valley and, yes, we can abide 490 as a bottom figure, we provide additional habitats.

Mr. EVERETT. One other question.

You heard the objections of the city of Los Angeles and the county of Inyo. Do you think, after taking into consideration all of the expressed concerns, that the city of Los Angeles, the State, and the Federal Government can get together with a mutually cooperative agreement that would give the protection to the Tule elk that they would be entitled to?

Mrs. EDMISTON. I have been accused of being a congenital optimist, so with that qualifying statement, I will say I feel somewhat optimistic.

It appeared to me that people came closer together yesterday and today than I have ever seen. The gentleman from the school district said to me over here we are not so far apart. The councilman leaving the room said we are not so far apart.

I have not heard that from certain other sources. I have not conferred, but I believe there has been great misunderstanding of H.J. Res. 204.

It is my belief as I listened to the testimony that I read the bill differently than some, some saw 2,000, and put the period right there. I went to the end of the sentence, and I was not at all startled by 2,000, when I got to the end of the sentence and saw it was 2,000 at least in the State, not mandating 2,000 in the Owens Valley.

I look at things that developed in testimony as clarifications rather than amendments.

Mr. DINGELL. You are saying you do not read the language at page 3, lines 16, 17, 18 and 19 meaning we are going to bring 2,000 elk into Owens Valley, is that correct?

Mrs. EDMISTON. No; because I read clear on until it comes to a period.

Mr. DINGELL. That is the way I read the statute also.

Mrs. EDMISTON. I never conclude, at least until I come to the end of a sentence, and being somewhat curious, I usually read the whole thing, H.J. Res. 204, as I read it, says 2,000 in the State, not Owens Valley.

The Owens Valley Tule elk population is to be premised upon carrying capacity, which I believe we all agree is correct.

It mandates establishment of the Tule Elk National Wildlife Refuge on the Federal lands which means only transfer of jurisdiction within the Department of the Interior and not acquisition.

It does hold the clout over the city of Los Angeles to operate its lands so as to not interfere with the purpose of the refuge. That is my reading of the measure.

Then it further provides for the relocation of the animals, to appropriate additional habitats and without the absolute provision that it be done, we wonder if it would ever be accomplished.

Mr. DINGELL. Mrs. Edmiston, the question has arisen on several occasions in the hearing that the bill provides for hunting in conformity with the State law.

I assume that meets with your general overall approval.

Mrs. EDMISTON. I think that is frequently a part of the provisions in the National Wildlife Refuge System.

If there be hunting and fishing, and it is a great fishing area, it is appropriate that it be done with a State license.

Mr. Chairman, that is another one of the provisions which we feel is highly appropriate.

Mr. DINGELL. I wanted to be sure that Mr. Arnett was heeding this.

Mr. ARNETT. I always obey the law, John.

Mr. DINGELL. She has indicated her general support in that line.

Mrs. EDMISTON. Then that makes two points of agreement does it not, Ray?

Mr. DINGELL. Mrs. Edmiston, we thank you. You have come a long way.

Mrs. EDMISTON. Thank you so much for giving our Tule elk and our equally threatened open space consideration.

Mr. DINGELL. The Chair notes we have four witnesses remaining. We are running a little late.

Please identify yourself fully for the record for our reporter, and we will receive your statement.

Before you go, Mrs. Edmiston, the Chair notes you submitted to us a number of maps and so forth. Will you submit them to the committee, and we will have them reviewed for purposes of inclusion in the record?

The next witness is Lawrence R. Emme, chairman, Committee to Protect the Owens Valley.

Mr. Emme, you may proceed.

STATEMENT OF LAWRENCE R. EMME, CHAIRMAN, COMMITTEE TO PROTECT THE OWENS VALLEY

Mr. EMME. Mr. Chairman, my name is Lawrence Emme. I live at 2221 Park Drive, Los Angeles, Calif. I am here here today to speak as Chairman of the Committee to Protect the Owens Valley.

Our committee was formed some time ago in order to preserve what we think is valuable in the Owens Valley. All of us know the valley well, either through residence there or through frequent visits and long-standing interest in the area. One of our first tasks was to list the particular values; that is natural values, which we wanted to preserve. Of those we identified, I would like to discuss the four which are most important to me. They are beauty of landscape, pure water, solitude and wildlife.

The members of the subcommittee may not all be aware of Owens Valley's unique beauty. The valley is a long narrow depression running for 75 miles between two lines of giant mountains, the Sierra Nevada range on the west and the Inyo and White ranges on the east The mountain walls on both sides tower fully 10,000 feet above the valley floor. Storm clouds stream out from the Sierra crest in winter and the valley is lightly covered with snow. Deeper snow pack on alpine slopes lasts until late spring and supplies pure melted water for the Owens Valley Aqueduct. Belly flowers sprout everywhere in

warm weather, and in the fall rabbitbrush covers alluvial fans and glacial moraines with gold blooms. Streams pure enough to support the delicate golden trout pour down to mineral-laden Owens Lake. The valley is not merely pretty. It is awesomely beautiful. Congestion, smog, noise and litter can only detract from that beauty.

The water of the Owens Valley is literally "as pure as the driven snow." It melts on the peaks, courses through short, steep stream beds, and pours into the meandering Owens River. From there it is taken into the water system of the city of Los Angeles. The operation of the city's system is simplified by the fact that its water supply is free of leached salts, fertilizers, human wastes and other pollutants. If development goes unchecked in the valley, this situation cannot last.

The addition of more people, roads, subdivisions and other construction projects can only pollute and silt up the region's streams. Development there would threaten the quality of the water reaching the people of Los Angeles. As a resident of Los Angeles, this is particularly important to me.

There are only four small towns in the Owens Valley. All of Inyo County, in which the valley is located, has a population of under 20,000. Visitors from crowed San Francisco and Los Angeles respond as readily to solitude as to any of the area's other qualities—I know I do. Silence there can be almost a thing pressing in on you. I remember a winter walk at Fish Slough, near Bishop. My only companion was a lone goose who circled in toward the slough and then flew off at the sight of me.

The valley is a peaceful, quiet, uncluttered kind of place. It provides an experience of solitude that is all too rare for city residents.

The best known wildlife species in this vast area is the Tule elk. We are told that there are 340 of them, but they are hard to find.

Shy of humans, they learned their lesson in State-sponsored hunts which killed off over 500 animals. Locating the survivors is also difficult since they range over 300,000 acres of valley land. They are definitely few and far between.

Other animals, such as coyote, golden eagles, and deer are reasonably abundant, and the valley is visited by an occasional Sierra bighorn sheep and mountain lion in the winter. Numbers of waterfowl and other birds peak during migration. All of them, usually seen at a distance or only betrayed by their tracks or calls, repeat and reinforce the total effect on the city dweller. The Owens Valley is a a place of great beauty, sweeping views, and rich biological diversity. Its water makes life possible for most of the 3 million citizens of Los Angeles, yet it is a place where natural processes still run their course.

Our committee members recall the attempt by the Los Angeles Department of Water and Power in 1969 and 1970 to secure passage of Federal legislation giving them control over vast tracts of Federal land in the valley.

Our fear is that the department wanted, and still wants, control of the land to promote development in the region. We know that a study of ways to facilitate increases in the valley's population has been funded by the department, even though an increase in popula-

tion could only degrade the natural values of the area, and possibly even threaten the quality of the city's own water supply.

That someone would come up with development plans for the valley has been, and remains, predictable. The status of the Federal lands there is especially subject to change. The Bureau of Land Management administers those lands under the terms of congressional and Presidential withdrawals, and "withdrawn" lands are difficult to defend from exploitation. We all know what a national park or wildlife refuge is. The designation "park" or "refuge" is recognized as pertaining to great natural resources which need to be protected. Such units of land have armies of defenders because their importance is widely understood. This is not true of lands designated as "withdrawn."

The natural values of the Owens Valley, among which are beauty of landscape, pure water, solitude, and rare and endangered wildlife, are unique and important to the Nation as a whole. However, they remain vulnerable so long as the sizable BLM holdings there are protected only by Government withdrawals.

The best way to protect the unique values of the Owens Valley and the numerous rare and endangered species which find habitat there is to award national wildlife refuge status to the public lands which are described in House Joint Resolution 204. The alternative, we believe, is to stand by while the department of water and power, or some competing agency, or some private firm zeros in on the withdrawn land and converts it to some use incompatible with the preservation of natural values.

Mr. Chairman, thank you for the opportunity to make this presentation.

Mr. Chairman, I have brought with me a statement prepared by Prof. Roland C. Ross on the meteorological implications of development in the Owens Valley and how destructive they would be in the valley.

I also have a statement prepared by Frances Chitwood, secretary for the Committee to Preserve the Ecology of Inyo and Mono.

Mr. Chairman, I request permission to have both statements accepted for the record.

Mr. DINGELL. Without objection, it is so ordered.

[The statements follow:]

STATEMENT OF PROFESSOR ROLAND C. ROSS

Mr. Chairman and members of the subcommittee, my name is Roland C. Ross, Professor Emeritus from the California State University at Los Angeles. I was formerly a full time meteorologist for the United States Army Air Corps and Trans-World Airlines. I live at 388 Dearborn Street, Pasadena, California 91104.

There is a commercial threat to the wilderness aspect of Owens Valley. If the Los Angeles Department of Water and Power succeeds next time in "giving back" Federal Land presently withdrawn there will be big money ready to develop the scenic-recreation values of the Sierra foothill or piedmont. The Los Angeles Water and Power Department financed in part a study of housing types for Owens Valley made by the Architectural Department of the University of Southern California.

The long narrow trough of Owens Valley tends to capture smog and keep it aloft at the inversion level, between the steep bordering ranges—either side having peaks rising 10,000 feet above the valley floor.

Daily winds do not clear this sunken valley (a graben); they mostly lift the inversion higher, and under-run the visible smog. The north winds being colder hug the floor; the afternoon south winds do stir things up more—but no clean-out occurs; the smog stays until a heavy storm dominates for more than a day. Summer thunderstorms spill cold air down slope from the Sierra, underrunning the smog aloft, but not removing it.

Owens Valley is a smog trap. Approaching the north end (and Bishop) in the evening hours in summer gives an edgeview from Sherman Grade—being at smog level and looking down valley intensifies the smog layer under the inversion. One can also locate the inversion by passing thus down the highway into the north end of the valley, by both seeing and smelling it, and by feeling it by temperature contrast.

To delay setting up Refuge status might well make the valley a place stinking from human developments. Wildlife (and laboratory mice) subjected to smog pick up an array of radicals and compounds that make their response to medication and to tranquilizers unpredictable until housed in pure air several days before treatment.

Auto traffic increases over 5% a year on the only highway (395), with noticeable increases in smog, trapped and resident in the valley: 1964 [1]—2,600 daily average vehicles, 4,900 peak traffic; 1968—3,500 daily average vehicles, 6,400 peak traffic; 1972—3,900 daily average vehicles, 7,000 peak traffic (September).

There is no way to reroute Highway 395. There *is* a way to prevent human residence (and urbanization)—keep the wilderness a refuge.

STATEMENT OF FRANCES CHITWOOD, SECRETARY, COMMITTEE TO PRESERVE THE ECOLOGY OF INYO AND MONO

Mr. Chairman, and members of the Subcommittee on Fisheries and Wildlife Conservation and Environment, my name is Frances Chitwood, Secretary of the Committee to Preserve the Ecology of Inyo and Mono, a citizen action organization composed of residents of Inyo and Mono Counties and others who know and love this great citadel of unspoiled nature, a half day's drive from the teeming millions in the metropolitan areas of southern California.

We are keenly aware of the fragile ecology of this beautiful land, and cognizant of its environmental deterioration through overuse, inappropriate use, excessive pumping of ground waters by the Los Angeles Department of Water and Power, the alteration of stream courses, channelization of streams, roads in the wrong places, destruction of wildlife habitat, and deterioration of watershed and water quality.

Some 95 percent of the land in the Owens Valley is owned by governmental agencies, City of Los Angeles, State of California, or the federal government.

In spite of assertions to the contrary by the various agencies with self-interest in the status quo, all is not well with the Owens Valley. All cannot be well with the Owens Valley until one responsible federal agency has the Congressional mandate to make it so.

H.J. Res. 204 and companion measures and *S.J. Res. 6* provides that all essential Congressional mandate. It puts the charge with the Secretary of the Interior through the National Wildlife Refuge system, the system that has historically proved to be the means of restoring our threatened wildlife, and has the expertise and the authority to manage the land for the benefit of the Tule Elk, other threatened species, and the total life support system.

The ecology of this fragile and highly vulnerable area depends upon the enactment of *H.J. Res. 204* and companion measures, and *S.J. Res. 6*.

The provision that "the refuge shall be established and maintained in an ecologically and environmentally sound manner" is essential to the organic whole.

It will curb the excessive water extraction and vegetation destruction practiced by the Los Angeles Department of Water and Power, but will not interfere with necessary and proper aqueduct operations or usurp the legal water rights of the City of Los Angeles. These rights are secured by law.

It will prevent environmental degredation by unplanned or illplanned roads where none should be.

---

[1] Figures from "Traffic Volumes on California State Highway" published by the California State Department of Transportation.

It will add a much needed layer of protection to the withdrawn lands.

It will assign the rare Tule Elk priority over commercial grazing on the range within the refuge.

It will encompass an area of sufficient size and character as to allow natural predation, hence a healthy ecosystem to benefit all the beleaguered species of the area, and it will provide a place of natural beauty, diversity, and wonder for the visitor who seeks relief from the monotony, noise, and pollution of the urban scene.

Because special interests have mounted a giant misinformation campaign against the establishment of the Tule Elk National Wildlife Refuge, many people in Inyo County believe that *H.J. Res. 204* would crowd 2000 Tule Elk into the Owens Valley refuge regardless of ecological consequences. Nothing could be further from the fact. We commend the provision of the legislation that bases the number of Tule Elk within the refuge upon the actual carrying capacity of the land, requiring that Tule Elk in excess of actual carrying capacity (up to a total in the state of 2000) shall be relocated to additional appropriate habitats within California.

We commend the provision in *S.J. Res. 6* which names Point Reyes National Seashore as an appropriate additional habitat, and urge that at such time as it is necessary and appropriate to establish an additional herd, that a nucleus for a wild, free-roaming herd of Tule Elk be relocated to Point Reyes National Seashore.

While we base our support of the Tule Elk National Wildlife Refuge on its outstanding ecological merits, we wish to point out the fact that natural beauty is the major economic resource of the Owens Valley, and that unchecked ecological and environmental damage, lessens its irreplaceable economic wealth, as well. Pollution abatement is costly to the people of Inyo County.

When the Owens Valley Tule Elk National Wildlife Refuge is established, both from the standpoint of importance to the restoration of the Tule Elk and other threatened wildlife, and from the aspect of visitor appeal, we believe it will become one of the greatest National Wildlife Refuges in the nation.

We believe the present provisions of *H.J. Res. 204* and others, including *S.J. Res. 6*, to be of landmark significance, but respectfully suggest a crest to crest extension of its boundaries.

We propose that the boundaries of the refuge extend from the crest of the Sierra to the crest of the Inyos and the base of the Cosco Mountains. This would provide an important and meaningful link in tying together a large land mass to preserve for posterity a magnificent piece of western open space—now, while we can.

This extension of the boundaries of the Tule Elk National Wildlife Refuge would link together Kings Canyon, Sequoia National Park, the China Lake Weapons Center, and a Bureau of Land Management restricted area in the Panamint Valley, and the Death Valley National Monument.

To save this great landscape of the west, the life support system of the Tule Elk and many threatened species—including man, would be a fitting commemoration of our Bicentennial, and an ecological and environmental insurance for the years to come.

While we wholeheartedly support the provisions of the Tule Elk National Wildlife refuge measure in its present form, we request serious consideration of this proposal for crest to crest boundary extension.

Mr. EMME. Mr. Chairman, I do want to point out one thing in particular about the testimony of Mrs. Chitwood.

Mrs. Chitwood—I do not know whether she is in the minority in the Owens Valley or in the majority.

I do know that she is dependent, as are most residents of the valley, upon the good will of the city of Los Angeles and the department of water and power.

We have had testimony that most people there are dependent upon the DWP for their water. It also appears they are dependent on the DWP for their power.

It takes a particularly forthright kind of individual to advance Mrs. Chitwood's opinions in this kind of climate and the essence of what she has said is embodied in one sentence and one paragraph. The sentence, in the interest of brevity is, "All is not well with the Owens Valley."

The paragraph reads:

> We are keenly aware of the fragile ecology of this beautiful land and cognizant of its environmental deterioration through over-use, inappropriate use, excessive pumping of groundwater by the Los Angeles Department of Water and Power, the alteration of stream courses, channelization of streams, roads in the wrong places, destruction of wildlife habitat, and deterioration of watershed and water quality.

Earlier a member of the subcommittee asked about present threats to the ecology of the Owens Valley and I would submit Mrs. Chitwood's statement, that these threats are present; they are material; they are very serious.

In fact the county of Inyo, the board of supervisors in Inyo County, sued the Los Angeles City Department of Water and Power to restrain them from continuing to pump ground water out of the valley at such a rate that it seriously threatened the viability of the ecology in that area.

There has been a preliminary ruling ordering the department of water and power to cut back its water pumping in the valley to the level of 1970. This will probably lead to an environmental impact report on the subject.

But there is not any question at all that active destruction is going on now in the Owens Valley. It was serious enough for a court in the State of California to take it into consideration and to say, "No more until you can provide an environmental impact report justifying this kind of activity."

I would like to make a few short comments highlighting what is in the testimony and dealing with some of the things that have developed in testimony and in questioning before the subcommittee over the last 2 days.

As everyone seems to understand—I hope everyone understands and I am sure the subcommittee members understand—the issue here is habitat. It is true there is State legislation that prevents the killing of Tule elk for the time being. This is not going to do any good if there is not any food for the Tule elk, if there is no land for them to walk on, if they cannot calve, if there is a highway through the calving grounds, if there is no water for them and the water table drops away from the roots of the plants they eat.

Unless there is habitat, there will be no Tule elk. Habitat is critical. Fortunately, over half of the habitat we are talking about is already owned by the people of the United States, 197,000 acres.

All we are talking about for that acreage, all the bill is talking about, is a change in status.

The subcommittee members may be aware that in 1969 and in 1970 the department of water and power secured the introduction of legislation in Congress which would have given the department control over the use of these Federal lands in the valley, that is, the BLM lands to be included in wildlife legislation.

This legislation did not pass. It does point up the vulnerability of the withdrawn lands. The time will come when the department of water and power will need to ask for that control again and if they do not, another agency will; and if that does not happen, a private party will.

The land is desirable. The withdrawn status is nebulous. It is a quality of land status that is not well known among people.

People will recognize a national park or natural wildlife refuge as protecting a valuable natural resource. I do not think that one-tenth of a percent of the people in this country have ever heard of "withdrawn" land. They do not rally to the idea of protecting withdrawn land. If you say sell a national park or turn it over to someone, you have an immediate constituency of defenders; but if you talk about withdrawn land, it is very difficult to defend it.

I suggest that this land already in public ownership, that is the Federal land of 197,000 acres, be secured in wildlife refuge status.

It has also been questioned whether under present budgetary restraints, with wildlife refugees being closed or being cut back right and left and refuge proposals dying in Congress because of indifference in the executive branch, why should we impose another wildlife refuge on the already beleagured and burdened Bureau of Sport Fisheries and Wildlife?

The 197,000 acres in the valley now have some control coverage and some enforcement coverage by the State Department of Fish and Game, but I do not personally see the burden that is going to fall on the shoulders of Sport Fisheries and Wildlife if this refuge is created.

There is not a great deal being done to protect the animals on that land now and I think that until the budgetary restrictions are limited, until there is a change in the attitude of the executive branch, doing nothing with the land other than securing it in refuge status will be quite adequate. It will protect it for years and make the habitat safe for the Tule elk and other species in the area.

I hope the subcommittee members understand as well, or see this as I do. Creation of a national wildlife refuge does not in itself preclude managing the herd, although it is not a foregone conclusion that the herd needs to be managed.

In the area of Cache Creek others have testified that there are approximately 100 to 125 animals and that the animals are not increasing.

We have had testimony that the animals are in good condition.

I visited Cache Creek and they are. This is done without hunts of any kind.

The animals respond to their habitat and to natural predation and maintain a steady population. However, the wildlife refuge legislation as written provides for hunting and provides for management in a sound ecological and environmental manner. This does not preclude management.

Mr. Chairman, 2,000 is the figure in the valley as House Joint Resolution 204 now stands. We understand the bill does not mandate 2,000 in the valley but the possibility for management still exists; the possibility for decisions on what is overuse of habitat still exists and the possibility of hunting still exists in the wildlife refuge.

These possibilities are still there and the 197,000 acres would be managed in substantially the same manner as they are now.

It is only that their status would be secure from now on, Mr. Chairman. The possibility of the Tule elk and other resident species losing their habitat would be done away with.

Lastly, what seems to have been discussed in the committee in the last 2 days has been the possibility that the legislation be amended to create a wildlife refuge on the federally owned lands and only on those lands.

A statement has been made that if incompatible land use were to be imposed in the Department of Water and Power lands in the valley floor the Congress would have adequate notice and would be able to step in at that point. After all, the thinking goes, we do not have money now so why should we commit ourselves at this time to purchasing land we do not have the money to buy?

I would submit that the Tule elk in the valley make heavy use of the Federal lands, that is the BLM lands, but primarily they make use of the Department of Water and Power lands and unless this legislation includes some means of acquiring interest, either fee or easement interest or whatever in the DWP lands, it is not going to solve the problem of habitat for the Tule elk and other animals in the valley.

There has been some discussion of easements. As you know, the bill talks about acquiring land. I am not a lawyer. Acquisition is a simple thing for me to understand.

If the Department of Water and Power does not straighten up, stop pumping water at an excessive rate out of the land over and above what it is legally entitled to pump out, then the Department of Interior is authorized to purchase the lands.

I would be very interested in the definition of easement, and what easement would actually mean and what rights the Congress would authorize the Interior Secretary to acquire within the realm of easements rather than within the realm of acquisition.

I do not think that, in speaking for my committee, we could find it acceptable to create a refuge on the Federal lands only and let the city lands go in hopes that if the Department of Water and Power did go to a recreational or a second-home subdivision, motorcycle racing rinks or whatever, that Congress would then think about acquisition.

The time is now when we are thinking about the total habitat to at least create the potential for acquisition of lands or easements in the Department of Water and Power area.

I do not think we can turn away from it now because that is the major portion of the Tule elk habitat. It is the richest portion. It has the most water. The forage is the heaviest there.

I am perfectly satisfied with the wording of the bill as it stands.

I would be interested in the easement process, if it would simplify things.

I would be very curious about it and I suspect that the members of the subcommittee would be also, but I would not be at all happy, and I do not think most conservationists would, with the wildlife refuge established only on Federal lands without any authorization to protect the main habitat of the Tule elk which is on city lands.

26-390—74——14

I would like to thank you very much for hearing me out, especially at this late hour.

Mr. DINGELL. We are very grateful to you for a very helpful statement and we will certainly bear carefully in mind your comments and we do thank you.

Our next witness is Miss Marsha Kadesch, member of HELP—the Tule elk.

STATEMENT OF MARSHA KADESCH, MEMBER, HELP—THE TULE ELK

Miss KADESCH. Mr. Chairman, my name is Marsha Kadesch. I live at 811 Elm Avenue, Takoma Park. Although I am not an expert on the Tule elk I would like to speak on behalf of HELP—the Tule elk.

This is a national organization to help enact legislation to protect the Tule elk.

The principal office is located at 89 Marina Park, Ventura, Calif. with regional vice presidents in Michigan, California, Kentucky, Florida, and New Jersey.

We believe the restoration of our rare and endangered wildlife to be a matter of national concern and national responsibility. We believe the National Wildlife Refuge system is the appropriate means of supplying permanent habitat—the key to long-range survival.

We are glad to know that the provisions of this refuge measure require no land acquisition. It will merely transfer public domain lands from the Bureau of Land Management to the Fish and Wildlife Service for inclusion in the National Wildlife Refuge System.

This measure is the necessary complement to recent State law designed to restore the species to the number of at least 2,000 in California. However, since the State is not able to mandate Federal lands for habitat, H.J. Res. 204 and companion measures are vital to the Tule elk's chances of survival.

As well as to provide much needed habitat for the Tule elk and all resident wildlife, including a number of threatened species, the legislation will protect the land itself from encroachments and abuse.

"Ecologically and environmentally sound maintenance" will doubtless call a halt to the Los Angeles Department of Water and Power's immoderate ground water pumping that is draining the valley dry, and bring about grazing practices based on sound range use principles.

The city of Los Angeles has nothing to fear from the provisions of this measure, as the city's legal water rights are specifically protected in the bill.

We find the refuge resolution in line with good stewardship of the land, including the provision to give the rare Tule elk priority over commercial grazing on the public lands within the refuge.

We find the provision to base the number of Tule elk upon the actual carrying capacity of the land to be a sensible one. The further provision to relocate all Tule elk over the refuge's carrying capacity to additional appropriate habitats in California, cooperates

with the purpose of recent State law, and is essential to the species restoration.

In regard to relocation sites, we want to call attention to S.J. Res. 6 which names Point Reyes National Seashore first among possible additional habitats.

Whenever an additional habitat is required, we recommend that the Tule elk be reestablished at Point Reyes in a free, wild herd. Once, Point Reyes abounded with Tule elk. Here, as in the Owens Valley Tule Elk National Wildlife Refuge, the handsome Tule elk wild and free, will contribute to the biotic wholeness and to the esthetic quality of the living land.

We request adoption of the provisions of H.J. Res. 204 and companion House bills, and S.J. Res. 6.

Thank you very much.

Mr. DINGELL. You have given us a very helpful statement. We are impressed with the points you make, that the herd would not simply be fenced off on the far end of the peninsula.

Thank you very much.

Our next witness is Mr. Joseph T. Edmiston, member, Desert Protective Council.

STATEMENT OF JOSEPH T. EDMISTON, MEMBER, DESERT PROTECTIVE COUNCIL

Mr. EDMISTON. Mr. Chairman, the Desert Protective Council, Inc. supports and endorses House Joint Resolution 204 and its companion measures, which would establish a Tule Elk National Wildlife Refuge in Owens Valley, California.

The Desert Protective Council, Inc., is a nationwide conservation organization with membership throughout the United States, with the majority of our members in southern California and the Southwest. The primary mission of the Desert Protective Council is "to safeguard the wise and reverent use by this and succeeding generations those desert areas of unique scenic, scientific, historical, spiritual and recreational value." Given this charge in our bylaws, it is particularly appropriate that the council participate in these hearings, the result of which may well determine the fate of a unique scenic, scientific and recreational resource—the Tule elk, and the Owens River watershed.

There are three contentions that motivate the Desert Protective Council in its support for House Joint Resolution 204: (1) The Owens River watershed in a unique ecosystem which deserves specialized and coordinated land management; (2) existing government structures are inadequate to fully protect the habitat of the Tule elk, and (3) the Tule Elk National Wildlife Refuge is the only way to assure that this habitat is preserved.

I. OWENS RIVER WATERSHED IS A UNIQUE ECOSYSTEM DESERVING SPECIALIZED AND COORDINATED LAND MANAGEMENT

The Owens Valley (which will be used synonymously with the term "Owens River Watershed," as it is defined in a resolution) is unique in that a rain shadow from 14,000 foot peaks of the Sierra

Nevada, make this valley an arid semi-desert, although it can still export enough water for 80 percent of the Los Angeles population.

This valley is also unique in that almost all is in some form of public ownership. The Department of the Interior, Bureau of Land Management, administers 197,000 acres of Owens River Watershed which would be transferred to the jurisdiction of the Bureau of Sport Fisheries and Wildlife under this legislation. Public ownership has meant that normal land development pressures, which in other areas of the country have so seriously threatened wildlife habitat, have been kept at bay—although there is tremendous pressure for development this has been resisted thus far.

The result of public ownership has been a relatively stable ecosystem. Although the water extraction and export policies of the Department of Water and Power have altered the Owens Valley from a pristine state, over the last 40 years, since the major habitat of the Tule elk has been in the valley, there has been a stable and balanced ecosystem that has supported the elk well. Of the 22 transplants of Tule elk attempted, the Owens Valley is unique in that the Tule elk has prospered. In fact, the Tule elk have done so well that they have managed to survive the some 500 animals taken in special hunts authorized by the Department of Fish and Game.

Owens Valley is unique in being the habitat of 22 rare, endangered or depleted species in addition to the Tule elk.

In another respect, the Owens Valley is unique in that it is possible to preserve this very high quality undeveloped habitat with little or not public expenditure. In many areas, where this committee has been asked to set aside refuges for rare or depleted species, you have been called upon to balance species poleration against competing social values. In the case of the Owens Valley, policy makers are not put to such an election. The Congress is not being asked to roll back the course of civilization but merely to preserve the status quo, the establishment of the Tule Elk National Wildlife Refuge.

II. EXISTING GOVERNMENT STRUCTURES ARE INADEQUATE TO FULLY PROTECT THE HARITAT OF THE TULE ELK

Fully eight different governmental agencies control the Tule elk and its habitat. The Bureau of Land Management administers some 197,000 acres of public domain in a proposed refuge area. The Los Angeles City Department of Water and Power has fee ownership of 183,000 acres, mainly in the bottom lands of the valley. The California Department of Fish and Game and the State Fish and Game Commission have jurisdiction over the wildlife, but cannot authorize the hunt of Tule elk unless its numbers reach 2,000 in California or unless the State legislature determines otherwise. The U.S. Forest Service administers the land contiguous to that proposed for the refuge and one of the Tule elk groups, the "Goodale" herd (ranges partially on the Inyo National Forest). The county of Inyo has primary local government jurisdiction over all of the Tule elk range in Owens Valley. Because the Tule elk are a "rare" animal on the Department of the Interior rare or endangered species list, the Bureau of Sport Fisheries and Wildlife has an oversight function by law, and claims also to have an active interest in the fate of this

animal. In addition, the California State Water Resources Control Board and the Department of Water Resources has certain limited oversight jurisdiction over water management in Owens Valley.

This point of this long recitation of governmental agencies is to demonstrate the problem of attempting to coordinate policy regarding habitat with eight governmental agencies, each with a different legal mandate, and frequently with conflicting goals. At attempt at interagency coordination, the so-called Interagency Committee on Owens Valley Land and Wildlife, is a facade behind which the same interjurisdictional battles are fought. For example, several years ago the Department of Fish and Game attempted to move five elk from a Goodale area to around the base of Mount Whitney to establish a Whitney herd—that might have been all right (aside from the fact that three of the five animals were killed by the tranquilization process) except that the supervisor of the Kings Canyon in Sequoia National Parks bitterly complained that such a relocation would endanger the winter forage resources for the deer herd. This is just one example of interagency conflict and inability to resolve critical questions of habitat management.

Perhaps the greatest problem with inconsistency lies in the area of land disposal. In 1970, Congress was presented with a gigantic land swap measure endorsed by the Department of Water and Power, the Bureau of Land Management, the Forest Service, and Inyo County. That legislation (S. 3191, 91st Congress) would have removed the protective withdrawal on some 367,638 acres. The results of agency compromise, this bill grants something for every agency but would have enabled entry and possible disposal of that land in Owens Valley between the city of Los Angeles holdings and the Inyo Forest—precisely the land that today is being considered for the refuge. Indeed, this bill was stated as an economic advantage to Inyo County because land would open up for development. Public pressure finally forced the sponsors of this measure to withdraw their support for it. Now, 3 years later, all the agencies involved, who swore in 1970–71 that they didn't need the withdrawn land and did not want it withdrawn, now tell everyone that it will be kept and managed to the Tule elks' benefit. I suggest that this land swap proposal is not dead, and that the agencies are like little children, crowding around a freshly baked pie, waiting for mama to turn her back so that the delicacy can be divided among them.

Fears that Owens Valley will be developed to the detriment of wildlife habitat are not just idle speculation. Because so much of the county is public property, Inyo County consistently is pressuring for additional land sales to accommodate a population that they would like to see expanded. The officially adopted general plan to 1990 of Inyo County (passed just 1 year before the introduction of the Land Swap Bill) called for the development of large scale commercial recreation. The general plan is remarkedly candid and states on page 37, "this can normally be achieved through the exploitation of some unique natural condition." Second home, retirement and planned community developments were also urged in this document. The only way for this to happen, Mr. Chairman, is for the city to give up some of its land for for the Bureau of Land Management to do likewise, and this is exactly what we fear.

The city of Los Angeles has sponsored some interesting planning regarding possibilities for residential development. In 1970, the Department of Water and Power sponsored a study by the University of Southern California, Department of Architecture, of the recreational-residential development possibilities of Owens Valley. I would like to think this money was spent on idle speculation, but I have observed that the Department of Water and Power seldom does anything without a purpose.

If the agencies tell this committee that the days of development thinking are behind them, then it is another example of flip-flop governmental policy, and a reminder that nothing prevents these agencies from resurrecting developmental proposals if they have their wish and House Joint Resolution 204 is not adopted.

III. THE TULE ELK NATIONAL WILDLIFE REFUGE IS THE ONLY WAY TO ASSURE THAT THE HABITAT IS PRESERVED

None of the eight governmental agencies charged in some way with habitat management have an explicit mandate to preserve and protect the Tule elk habitat in an ecologically and environmentally sound manner. The virtue of this legislation is that one agency, the Bureau of Sport Fisheries and Wildlife, will be given authority to consider ecological factors as a first and foremost mandate for the management of Tule elk habitat in Owens Valley. To be sure, the Bureau of Sport Fisheries and Wildlife can enter into cooperative agreements with other agencies, which can be done today, but it will be negotiating from a position of legal strength and explicit congressional mandate. With the adoption of House Joint Resolution 204, the problems I have identified will be resolved.

The Owens Valley will be given, by law, a specialized and coordinated land management necessary to build and sustain Tule elk to at least 2,000 in the State of California.

The Tule elk habitat will be free from the vagaries and policy changes that have characterized habitat management in the past. The threat of large-scale development of this magnificent valley will be removed.

Finally, and most important, these resolutions will free Owens Valley habitat from management by press release and pressure group.

Mr. Chairman, the Desert Protective Council thanks this committee for an opportunity to enthusiastically support House Joint Resolution 204.

Mr. Chairman, there have been several things introduced and the tenor of the comments this afternoon have gone to, No. 1, why a Federal refuge, and No. 2, what are the particular problems of land management in the Owens Valley that might necessitate some modicum of control over the department of water and power of the city of Los Angeles.

I would like to address myself to those two issues.

No. 1, as to why a Federal refuge. I think it is important to realize there are at least seven or eight governmental entities that have authority over this area.

My prepared testimony highlights this fact that there are problems of coordination.

Without a mandate of a Federal coordinating agency, which we think the most effective agency is the Bureau of Sport Fisheries and Wildlife, this type of unified coordination simply will not occur, and I gave you several examples there of where the coordination has failed in the past, and I would only note to you some discrepancies in testimony that we have seen in these 2 past days of hearings.

For example, the Forest Service said we are concerned about this because there are very significant problems with bighorn sheep.

I would like to introduce into the record, some statements from Mr. Dale McCullough, indicating that they are incorrect, that he has been on the scene, and his previous studies leading to his master's degree refuted that completely.

All is not well in terms of intergovernmental cooperation.

Mr. DINGELL. The Chair notes at this point that we will see to it that the matter referred to will be inserted in the record.

[The documents referred to follow:]

THE UNIVERSITY OF MICHIGAN
Ann Arbor, Mich., September 1, 1972.

Mr. JOE FONTAINE,
Regional Vice President, Sierra Club,
Tehachapi, Calif.

DEAR MR. FONTAINE: Your concern about possible competition between tule elk and Sierra bighorn sheep in Owens Valley has been brought to my attention by Beula Edmiston. I assume that this concern has been engendered by the attempt to establish a new herd of tule elk (the "Whitney herd") adjacent to the winter range of the Mount Williamson bighorn, which Sequoia-Kings Park has opposed.

I have written to the superintendent of the Parks expressing my dismay at his objections, and countering the points of objection one by one. I pointed out that his conclusions were based upon a brief and superficial hike over the areas in question by a Park Service biologist, and they completely ignored the more detailed and quantitative studies done by Edward Schneegas and I on the very same areas. These studies completely contradict the conclusions of the Park Service.

In a subsequent letter to me, the Superintendent graciously acknowledged my letter and stated his intent to continue opposition to the establishment of a tule elk herd, even though neither he nor any of his staff contested the facts that I put forward. That, of course, is his prerogative, and I respect his right to support his own opinion. What I objected to was the assumption in his letter to the Owens Valley Interagency Committee that the biological facts supported his viewpoint. They do not. I encourage you to examine the evidence yourself. The reference on bighorn is McCullough, D. R. and E. R. Schneegas. 1966. Winter observations of the Sierra Nevada bighorn sheep. California Fish and Game, Vol. 52, No. 2. Pages 68–84. The reference on tule elk is McCullough, D. R. 1969. The tule elk: its history, behavior, and ecology. Univ. Calif. Publications in Zoology, Vol. 88. pages 209.

My concern for the Sierra bighorn goes back at least as far as my concern for the tule elk. I am pleased that I had something to do with its being recognized as a threatened form. In my opinion the situation in Sierra bighorn is more critical than in the tule elk. In all, the tule elk situation is under control. and active measures are being taken which will substantially improve its status. I certainly would not support the establishment of the Whitney elk herd if it were likely to impinge upon the welfare of the Mount Williamson bighorn herd.

Briefly, the studies by Schneegas and I showed that the prime bighorn winter areas were in the steep, rocky canyons where tule elk could not venture. Adjacent to these canyons there is a very marginal area where a slight overlap of ranges occurs. Tule elk use these areas only sporadically, and then

mainly in the spring and early summer when sheep are at higher elevations. At this time they are feeding on annual forbs, which are dried out and unpalabable by mid-summer and, hence, are never available to bighorns when they are on the range. Thus the conclusions are, 1) prime areas of the two species do not overlap: 2) there is only marginal overlap on the fringes; 3) the use of the fringe areas is sporadic, and tends to be separated in time; and 4) utilization studies on the key browse species (bitterbrush) and key grass (Stipa) show insignificant utilization in the marginal areas by both species, plus, at the time of the study, trespass cattle! Subsequently a drift fence has been constructed, and all domestic livestock have been excluded from the Goodale elk area and Mt. Baxter bighorn area.

It is valid criticism of scientific studies that they sometimes overlook important relationships which are significant in the actual situation. A recipe may sound good, but the proof is in the pudding. Again, let's look at the facts. Nearly everyone concedes that the Mt. Baxter bighorn herd is the only one which is holding its own, indeed, thriving. This is the sheep herd which has lived adjacent to the Goodale tule elk herd for years. What better proof of their compatability than that each species had done so well in the *only* area where they come together?

There is great concern for the Mount Williamson bighorns herd. Some people believe that it is declining. There are no genuinely valid census results to demonstrate this decline, but I'm willing to assume that they are in order to generate studies which will determine their status with reliability. This decline, if real has occurred in the absence of tule elk. It is obvious that the canyons used by the Williamson herd are inferior to those of the Baxter herd, and this is the basic problem. Whatever is responsible, it certainly is not forage competition that is involved.

The tule elk will use the fringe areas in the Williamson bighorn range much less than those of the Baxter herd. They use those in the Baxter herd range because they are open with good visibility, a condition that the tule elk prefers. The Williamson canyons are surrounded by pinyon-juniper, and visibility is restricted. This will serve as a definite inhibitor of use by tule elk.

Thus, I conclude that tule elk will use the *fringe* areas of the Williamson bighorn sheep winter range only very sporadically, and will consume a negligible amount of vegetation. In view of the fact that competition is not a problem with the declining bighorn (or low stable population as the case may be) the impact of elk on sheep will be nil.

I propose that the rational course of action now is not to setup straw elk, and interfere with doing what should be done to improve the status of the tule elk. My studies were done from 1963 to 1965. I spent the summer of 1970 in Owens Valley, reviewing the situation to see if my conclusions were incorrect. I could find no reasons to revise my earlier conclusions. Not that my studies were the final word. I am happy to know that the Department of Fish and Game and the Bureau of Land Management are continuing to refine our knowledge of the tule elk. I propose that the way to serve the needs of the Sierra bighorn is to generate the funds to put a first rate biologist to work; to give him the support and assistance necessary to find out how many we have and where, and what is limiting their numbers. Then, finally, we might actually do something to benefit the bighorn.

Sincerely,

DALE R. MCCULLOUGH.

THE UNIVERSITY OF MICHIGAN
Ann Arbor, Mich., February 23, 1972.

Mr. JOHN MCLAUGHLIN,
Superintendent, Sequoia and Kings Canyon National Park,
Three Rivers, Calif.

DEAR MR. MCLAUGHLIN: Recently I received a copy of your letter of December 27, 1971 to Mr. Everett L. Towle, Supervisor of the Inyo National Forest, expressing opposition to the establishment of a "Mount Whitney" herd of tule elk. I am in total disagreement with the conclusions reached in that letter.

I have been concerned about the status of the Sierra bighorn for many years and in a 1964 letter to Dr. Durwood Allen, I encouraged him to include the Sierra bighorn in his discussion of rare and endangered animals in "Future Environments of North America". I have repeatedly expressed my personal

opinion that the status of the tule elk was far more satisfactory than that of the Sierra bighorn, and that tule elk should not be favored at the expense of bighorns. Thus, I think I can establish that I have not ignored the welfare of the Sierra bighorn.

I have supported the establishment of the "Mount Whitney" herd of tule elk based upon evidence gained in scientific studies of both species which supports the conclusion that competition is trivial. These studies were conducted full-time from July, 1963 to July, 1965. During the summer of 1970 I returned to Owens Valley for three months during which time I had the opportunity to review my conclusions after a five year interval. In particular, I re-examined the situation around Black Canyon and Sand Mountain. I could find no reason to reverse my earlier conclusions.

Since the first two paragraphs of your letter are general in nature, I will begin my critique with the third paragraph. I was working in Owens Valley in 1963, and was aware of Mr. Riegelhuth's survey of bighorn winter ranges. I had begun my own work on the Mt. Baxter herd and became aware of his presence from his tracks before I met and discussed the situation with him. In fact, I had followed his and his assistants tracks around several canyons to ascertain what they might be doing since human tracks other than my own were virtually nonexistent at that time of year and I suspected poaching activities. Thus I became quite familiar with the degree of thoroughness of his studies.

When Mr. Riegelhuth's results were published subsequently in the Transactions of the Desert Bighorn Council I had reason to question his conclusions. Therefore, I designed the range studies I conducted in 1965 specifically to test those conclusions. My results were published in 1966 with Edward Schneegas of the Forest Service as co-author (California Fish and Game 52(2) : 68–84). I am enclosing a copy so that you may review the results.

The series of Stipa utilization transects up Sand Mountain (shown in Figure 4, page 80) do not substantiate the conclusion that elk use (or any other kind of use) is heavy from 7,600 feet downward. Use is heavier below about 5,400 feet but by most range management standards, the use would not be excessive, and there are indications that much of the use on *Stipa* was by domestic cattle, which were subsequently excluded by a drift fence. I don't think anyone has suggested that bighorns use those elevations on San Mountain except in the most sporadic fashion. I am completely bewildered by the inference that use of bitterbrush in the same area is heavy, since bitterbrush only occurs in patches below 5,200 feet and well above 7,000 feet. Thus there is no bitterbrush in this area where competition is most likely. In any event, the bitterbrush utilization transects placed in the bitterbrush patches in the supposed zone of competition hardly show excessive use (results in Table 5, page 79).

In the fourth paragraph it is implied that competition is heavy in the area from Anton Grover Spring to the mouth of Black Canyon. The bitterbrush transects in those areas showed less than five percent utilization, hardly an alarming figure. Much of the bitterbrush in that area shows intergradation with the desert form, and it is relatively unpalatable.

In these two paragraphs it is boldly stated that competition occurs (". . . . it is clear that forage competition occurs." and ". . . competition for forage is assured") but there is not one shred of documentation. The quantitive data gathered by methods in general use in range and wildlife work lead to the opposite conclusions. I believe that most professionals in the range and wildlife fields would hope that the days of the "eyeball estimates" derived from a walk through the area were long since past. Apparently we are doomed to continue hoping for awhile longer.

I would also like to observe that simple overlap of ranges and even overlap of food habits do not constitute competition. There has to be a demonstration that some resource is in insufficient supply. For example, the major use of elk of the higher elevations occurs in spring and early summer when bighorns are on or near their summer ranges. Elk are feeding mainly on forbs at that season which are completely dried out by the time the bighorns come down in the following winter. Thus there has been overlap of range. But in what way has this use by elk resulted in detriment to the bighorn sheep? And when you consider the low use of both bitterbrush (the favored shrub) and Stipa (the favored grass) in the areas of overlaps, how can you state that overlap of food habits constitutes competition?

The first paragraph on the second page of your letter you state that the Tule Elk Habitat Management Plan documents competition between elk and bighorns. Since this plan is based almost completely on my studies or studies conducted jointly by Ed Schneegas and I, and since I was involved in the writing from the first draft to final copy (even the cover photo is mine) it came as something of a surprise to me that the plan documented competition between bighorns and elk. I have looked the plan over again and the caution on page 17 is the nearest I can find to a suggestion of competition ("Competition may develop. This should receive close attention in future years."). I would point out that these sentences were written prior to my range studies on bighorn ranges reported in California Fish and Game. Thus, I believe that the situation did receive close attention. I would welcome further quantitive studies in the area, and applaud the studies being done at present by BLM and Fish and Game.

The second paragraph on page two concerning "spacial competition" is purely speculation. I probably have spent more time in the overlap areas than anyone, and I have no evidence of antagonism between the two species. Neither do elk respond aggressively towards mule deer with which they come into frequent contact. Of course, an elk would not tolerate any animal, including another elk (not its own offspring) within its individual distance, but in no way does this interfere with the use of general foraging areas. Even if elk did drive bighorns away, the contacts between the two species are so infrequent that the outcome could not be very significant.

Furthermore, I have been unable to locate in the literature the studies which show spacial competition between elk and bighorns throughout the continent. I would appreciate a list of such references, since I was unaware of this problem.

The coexistence of the Mount Baxter sheep herd and the Goodale elk herd without competition is the best demonstration of the compatibility of the two species. The probability of competition between elk and bighorns in the Mount Williamson winter areas is even less likely because of the pinyon-juniper cover in that area, which is generally less favored by elk.

To summarize, the letter presents conjecture and unsupported assertions for fact, and reaches conclusions which are totally unwarranted. It distorts the conclusions of published literature and completely ignores the only objectively collected data taken in the specific area. One expects this sort of letter from emotional, ill-informed preservationists. It is most discouraging coming from a resource managemnt agency.

Respectfully,

DALE R. MCCULLOUGH,
Chairman, Resource Ecology, Associate Professor of Wildlife Management.

LOS ANGELES, CALIF. *February 23, 1972.*

Mr. TODD WATKINS,
Publisher, Inyo Register,
Inyo Independent
Progress Citizen.

Dear Sir: Do Tule Elk compete with Bighorn Sheep? After careful study, the experts answer, "No".

Dale McCullough, independent biologist, and Ed Schneegas, biologist with the U.S. Forest Service, made a comprehensive report entitled, "Winter observations of the Sierra Nevada bighorn sheep", published by the California Department of Fish and Game in 1966.

McCullough quotes from it briefly in *The Tule Elk: Its History, Behavior, and Ecology*, pp 139–141.

The possibility of competition between two rare forms prompted examination of their relationship, which has been reported in detail elsewhere (McCullough and Schneegas, 1966). To summarize, it was found that bighorn sheep tended to use the steep rocky canyons where elk could not penetrate, and that only the fringes of their respective ranges overlapped. Therefore, there is little likelihood of competition between them.

If the Goodale elk herd expands into the large bitterbrush stands between Independence Creek and Whitney Portal they will be adjacent to the winter range of the bighorn sheep of the Mount Williamson herd. Again, the possibil-

ity of competition seems slight. The tule elk is physically and behaviorally not equipped to invade the steep, rough, and rocky terrain which is the heart of the bighorn range.

Careful review of Department of Fish and Game records show that man's invasion of the Bighorn's last citadel, not any other animal, is responsible for the decline of the Sierra Bighorn.

But man's courage, vision, and love of the living land can save the Bighorn Sheep, the Tule Elk, and the unsurpassed natural beauty, diversity, and wonder of the Owens Valley.

S.J. Res. 84 and H.J. Res. 547—to establish a Tule Elk National Wildlife Refuge would do just that, and make the fabulous Owens Valley a showplace of national repute. (By the way, this legislation does *not* necessarily mandate that all 2000 of the Tule Elk in California must be located in the Owens Valley).

Sincerely,

BEULA EDMISTON.

Mr. EDMISTON. No. 2, I think this is rather crucial, and that is, that in managing the lands, you have a coordinated type of land management policy which has to be pursued.

If the city of Los Angeles thumbs its nose and says we are going to pursue whatever policy we want to irrespective of anything else, then that type of coordinated land management which we all recognize as essential simply would not exist. I would like to indicate in several areas where they have done this.

If you remember Mr. Wilkinson's testimony, he said in 1969 he was a member of the city council, and the city council itself said do not allow hunting of Tule elk but the board of water and power commissioners, which under the law is charged with the management of that agency, said we are going to go ahead and allow hunting.

That just indicates that good will on the part of politicians who are most responsive to the will of the people does not necessarily indicate what will be reflected in the management policies of the administrative agencies which are, by city charter, independent of the elected representatives.

No. 2, I think this is crucial: the Los Angeles City land management policies, and I am sorry Mr. McCloskey has left, because this is in point of questions he has asked, and I hope he will read the record on this point.

I was not going to bring it up in more detail, but I would like the staff to review for possible inclusion in the record the text of the opinion rendered in June of this year by the Court of Appeals, State of California, for the Third Appellate District in 3 Civil Number 13886, County of Inyo, versus the Department of Power and Water, City of Los Angeles.

I would like right now to make a quotation from a small portion of that opinion, and this talks about the water management policies of the city of Los Angeles.

Mr. DINGELL. Without objection, the Chair will direct the staff to review that document referred to for purposes of inclusion of all or portions thereof into the record.

[The document was placed in committee files.]

Mr. EDMISTON. The Desert Protective Council, which I represent, has no particular objection to any modification which would make sure that the water rights of the city of Los Angeles will not be condemned, whether they be subsurface rights or surface rights, but the

critical issue is that it has not been adjudicated under California law as to what the subsurface water rights of the city of Los Angeles are, particularly in relationship to the California Environmental Quality Act, which has been the subject of this litigation. Let us make it very clear now that if the city of Los Angeles goes through with its water management policies which are not necessarily their vested rights, and the opinion makes that very clear, then you are going to have substantial problems with the ecology of Owens Valley, and ths is where the quotation is directly in point.

I am quoting from page 27 of the opinion:

> The County, on the other hand, insists that a series of detrimental effects upon the environment necessarily must follow City's continued implementation of the groundwater management policy.
>
> It submits an "evaluation" prepared by its engineering staff describing such effects in the following language:
>
> The initial program of lowering the water table to eliminate the losses due to evapo-transpiration would also eliminate a large portion of our local natural vegetation which fall into the phreatophyte classification.
>
> Many of these types of plants, willows, salt grass, Tules, cattails, cottonwoods require a water table or capillary fringe of not deeper than ten feet.
>
> A continuing decline of the water table would eventually eliminate sagebrush, rabbit brush and bitterbrush, which make up the remainder of our

Continuing with the quotation again:

> natural vegetation.
>
> Eventually only the selected environmental areas and the areas adjacent to water courses would be able to sustain the natural vegetation of the Valley.

In other words, with a reduction of vegetation and available water, bird and animal population will diminish.

I would like to submit that for the record.

This does not talk about the legitimate water rights which may in the future be adjudicated to them, but let me indicate, as Frances Chitwood who lives there said, all is not well with the department of water and management.

If you amend the bill where there is no mention about the land, not saying taking the land, but no mention about an encouragement of environmentally sound management on the part of the department of water and power, there is nothing to say that successive administrations to this department are not going to do as they did to the Los Angeles City Council in 1969 and thumb their nose to the council.

Now, I might conclude this particular portion of my testimony by saying that the failure of this committee to include in reported legislation any mention about that city land will merely mean that if something does occur in the future, then the complete onus would be upon the conservationists, the preservationists and the local public, to then come back to Congress and say well, we have a problem here, please help us out, and then the money aspect would be the controlling thing, because then everyone will say we would like to help you out, but there is no way in the world the President is ever going to sign a bill which might involve this type of tremendous acquisition.

Then the onus would be upon us, you see. I do not think that type of thing is wise legislation which would have the onus upon the conservationists that have taken the battle this far.

I am going to leave the department of water and power, and talk about some of the other features of this legislation which I think are very important, and I think it was very well drafted when the legislation said in section 2 that it will be in accordance with the laws and regulations of the National Wildlife Refuge System.

I might point out that the attorney for the department of water and power did not read, or omitted certain sections, and I would like to make reference to title 16, section 668, dd, subsection D, subparagraph 2 which says, "The Secretary is authorized under such regulations as he may prescribe to permit the use of, or grant easements in, over, across, upon, through or under any areas within the System for purposes such as, but not necessarily limited to powerlines, telephone lines, canals, ditches, pipelines, roads, including the construction, operation, and maintenance thereof."

Now, that is ample provision for the utilities operations of the city of Los Angeles. I think this is well written in the regulation.

There is also, and I would like to have this reviewed by the staff for inclusion in the record, a statement which was prepared, a legal analysis, prepared on the Tule Elk Wildlife Refuge proposal. It talks about issues such as the defined local agencies under the law, and it has an attachment which I think is critical, particularly in terms of the testimony of the department of water and power, to Senator Cranston, from the Office of the Solicitor of the Department of the Interior, and that opinion talks about what are the permitted uses of the land.

I think this is very critical to understand that if right now the department of water and power is so worried about Federal control over their lands, they should realize that a substantial portion of the utility system of the city of Los Angeles operates under permits of the Secretary of Interior, the very agency which would have to do this under the Wildlife Refuge System, and even now they cannot erect any sort of structure on BLM lands without his permission.

Mr. DINGELL. Without objection that will be reviewed by the staff for appropriateness for insertion into the record.

[The document referred to follows:]

DEPARTMENT OF WATER AND POWER,
Los Angeles, Calif., July 2, 1973.

MRS. BEULA EDMISTON,
Los Angeles, Calif.

DEAR MRS. EDMISTON: This is in reply to your two oral requests during the past week for information about this Department's administration of City-owned land in the Owens Valley.

Enclosed is a copy of Page 2 of the Tatum Lease covering approximately 3,000 acres to which you referred as the "earlier lease that had the contingency of Tule Elk being upon the land." The current grazing lease which was revised in March 1973 is also enclosed. The normal term of the grazing lease is five years. A lease may be reassigned to another party if the Board of Water and Power Commissioners approves of the terms under which the lessee sells his private property.

The following is in answer to your specific questions:

(1) How many acres of State school lands are in the Owens Valley? Approximately 10 acres.

(2) How many of the 183,000 acres of City-owned land within the proposed refuge are actual grazing lands? Approximately 153,000 acres are leased for grazing.

(3) How many cattle are on City lands this year and how much does this figure vary annually? Approximately 11,500 during the winter and less than half that number in the summer. This may vary 1,000 head dependning on the availability of feed.

(4) How many acres of desert, brush and grass, higher quality of grass, and irrigated lands are there? Desert—130,000 acres; brush and grass—40,000 acres; higher quality of grass—9,000 acres; alfalfa—2,400 acres.

(5) What is the revenue from the ranching leases in Inyo County? Approximately $225,000 for the lease of approximately 182,000 acres. This averages approximately $1.25 per acre although the per acre leasing price varied last year from 25¢ an acre to $37.50 an acre.

Sincerely,

PAUL H. LANE
Chief Engineer of Water Works and Assistant Manager.

THE TULE ELK NATIONAL WILDLIFE REFUGE PROPOSAL AND THE LOS ANGELES WATER AND POWER SYSTEM IN OWENS VALLEY

The Department of Water and Power has asserted that the management of the Los Angeles water and power system would be threatened by the establishment of a National Wildlife Refuge in the Owens River watershed. Because of the explicit provisions of the proposed joint resolution establishing the Tule Elk NWR, the laws governing the National Wildlife Refuge System, and the regulations adopted thereunder, this contention has no merit.

Water Rights are Secure

Section 2(a) of the resolution provides that "nothing in this Act shall be construed as authorizing the Secretary to acquire any rights to water which are held on the date of the enactment of this Act or may be acquired after such date by any State or local agency." Judicial interpretations of the term "local agency" make it clear that agencies of a City are included in this definition. See *Coakley* v. *Postmaster of Boston*, 1st Cir., 374 F.2d 209 at 210 (1967).

The Utility System Will Not Be Adversely Affected

The most important fact to remember is that none of the City land is automatically included in the Refuge—only land under the jurisdiction of the Secretary of the Interior. Many of the essential facilities of the City' swater and power system are already operated on land under the Secretary's jurisdiction. In fact, in his analysis of these resolutions in 1971 the City Attorney said: "In addition to its own lands, the City also uses federal lands, *under permits* from the Bureau of Land Management." (City Attorney's Analysis, 1971, p. 1 [emphasis added]) On the Federal land which would become part of the Tule Elk NWR permits are already required for any sort of structure or powerline. The Acting Solicitor of the Department of the Interior made this clear in a letter to Senator Cranston on this issue. He said, "no non-Federal entity or individual can erect any sort of structure on Federal land without prior permission of the Secretary of the Interior . . . ." (Letter, October 18, 1971, p. 1, copy appended as Exhibit "A") Specifically, "[t]he City of Los Angeles does not have the authority to drill wells or to construct power lines without the prior consent of the Secretary of the Interior." (*Ibid.*) Moreover, should the Secretary wish he could deny these permits in the exercise of the discretion granted him by law, as the Solicitor's letter makes clear (p. 2).

If the Department of Water and Power's fears were justified about the Federal government, then today the City would not be drinking Owens River water because the aqueduct itself flows over a right-of-way granted by the Secretary of the Interior. The facts are that the Department of the Interior and the DWP have a long history of cooperation—not conflict. The City uses public land extensively under the permit system because it knows that this is a safe reliable method of using valuable land without owning it in fee.

Specific Authority for Utility Operations in the Refuge

Were the Tule Elk NWR resolutions adopted by Congress nothing would change from the present permit system described above—permits would still be

necessary to use Federal land, and they would still be issued by the Secretary of the Interior. This is because there is explicit authority for the Secretary to grant permission for utility operations in units of the National Wildlife Refuge System. 16 U.S.C. §668dd(d)(2) provides in part that the Secretary is authorized to permit the use of, or grant easements in, over across, upon, through, or under any areas within the System for purposes such as but not necessarily limited to, powerlines, telephone lines, canals, ditches, pipelines, and roads, including the construction, operation, and maintenance thereof . . .

The above quoted section would apply to the Tule Elk National Wildlife Refuge because Section 2(a) of the authorizing resolution says that the refuge must be maintained "in accordance with the laws and regulations relating to the national wildlife refuge system . . ."

City's Uses Would be Compatible with the Refuge

Were the refuge established the City's use of the Federal land would be a compatible use of the land. Watershed, the purpose for which these lands are currently withdrawn (and indeed the major purpose for which the City owns 50 CFR §29.21(h) defines "compatible" as that which will not "interefere with land in Owens Valley) is not a conflicting use with national wildlife refuges. or detract from the purpose for which units of the National Wildlife Refuge System are established." The purpose of the TULE Elk NWR, as stated in the resolution, is to preserve the Tule Elk and its habitat. There is nothing incompatible about elk and the DWP, unless of course the City wanted to pave-over the valley or develop it for residential or commercial uses. Legitimate uses, for which the City has always used Federal land, would not be affected.

Conclusion

The laws applicable to the National Wildlife Refuge System particularly allow the use of facilities for water and power in refuge areas. Moreover, the City already needs to obtain permits from the Secretary of the Interior for current operations on BLM land. Under the refuge legislation the Secretary would still grant the permits, and under specific statutory enabling authority. See 16 U.S.C. §668dd(d)(2) quoted on p. 3 and a copy of which is attached as Exhibit "B". It is clear that only the uses which DWP has specifically disclaimed (residential housing, commercial development, etc.) would be affected by the refuge. Even in the unlikely event that City land were acquired, the only use that the Department of Water and Power has made of its lands that would be prohibited is the *hunting of Tule Elk.*

EXHIBITS

"A"—Letter to Senator Alan Cranston from Raymond C, Coulter, acting solicitor, Department of the Interior, dated October 18, 1971.

"B"—Section 668dd of title 16 of the United States code relating to the National Wildlife Refuge System.

"C"—Subpart of Chapter I of title 50 of the Code of Federal Regulations, entitled "Rights-of-way general regulations."

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washington, D.C. October 18, 1971.

HON. ALAN CRANSTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CRANSTON: An attempt shall be made to answer the questions you have posed in your letter of August 5, 1971. However, due to the multiplicity of public land laws, the special situations which you have in mind may be missed by the necessary generalities in these responses. If the enclosed answers give rise to more specific questions, please feel free to raise them and every effort will be made to meet your needs.

(1) The City of Los Angeles did not get title by virtue of Executive Orders 5843 and 6206 or the Act of March 4, 1931, 46 Stat. 1530. The City of Los Angeles owns a great deal of land in Owens Valley, Inyo County, California,

but none of it was obtained by virtue of any of these three authorities. Furthermore, Executive Order 5843 did not withdraw the land for the protection of the watershed for the benefit of the City of Los Angeles.

(2) The City of Los Angeles does not have the authority to drill wells or to construct power lines without the prior consent of the Secretary of the Interior. Public land laws are so specialized that we do not know to what you refer by the word "structures," but, in general, no non-Federal entity or individual can erect any sort of structure on Federal land without prior permission of the Secretary of the Interior unless it is concerned with prospecting and mining development or construction of certain types of rights-of-way. The lands withdrawn by Executive Orders 5843 and 6206 are withdrawn from all forms of appropriation other than prospecting for and location of metalliferous mining claims and mineral leasing. The lands withdrawn by the Act of March 4, 1931, 46 Stat. 1530, are subject to all forms of mining location and mineral leasing and to acquisition of easements or rights-of-way for railroads, highways, reservoirs, ditches, canals, electrical power plants, transmission lines, telegraph and telephone lines, and all other rights-of-way authorized to be granted under any of the laws of the United States. With certain exceptions to be discussed hereafter, most of these easements and rights-of-way required the prior permission of the Secretary of the Interior. Once permission has been granted by the Secretary to use public lands for the construction or erection of any of the foregoing facilities, the right to maintain such facilities continues for the life of the permit.

(3) Your third question deals with the discretion of the Secretary of the Interior to grant or withhold permits when requested by the City of Los Angeles. As indicated earlier, the land withdrawn by the Act of March 4, 1931, *supra*, is subject to the acquisition of rights-of-way. Highways may be constructed under the authority of R.S. 2477, 43 U.S.C. §932, on these lands without the prior permission of the Secretary of the Interior. These highways can not be constructed on lands withdrawn by Executive Orders 5843 and 6206. The discretion of the Secretary to refuse applications for permits to build railroads under 43 U.S.C. §§934 through 942, and irrigation works under 43 U.S.C. §§945 through 951, is somewhat limited. However, under these latter statutes, the use of water for purposes other than irrigation must be subsidiary to the primary purpose of irrigation.

The construction of reservoirs, ditches, canals, flumes, pipelines, and water plants for primary purposes other than irrigation must be requested and permitted under the Act of February 15, 1901, 31 Stat. 790, 43 U.S.C. §959. Under this act, the Secretary of the Interior does have sufficient discretion to refuse permit applications. In order to better understand the delineation of water rights under R.S. 2339, 43 U.S.C. §661 and the various statutes concerning rights-of-way for water, which are found in 43 U.S.C. §§946 through 959, see the opinion of the Acting Solicitor of July 16, 1942, 58 I.D. 29.

Rights-of-way for tramroads (which has been construed to include motor roads and railroads) is found in the Act of January 2, 1895, 28 Stat. 635, as amended, 43 U.S.C. §956. Rights-of-way for electrical poles and lines and for the transmission and distribution of electrical power, and for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay, and receiving structures and facilities are usually acquired under the Act of March 4, 1911, 36 Stat. 1253, 43 U.S.C. §961, because the 1911 act authorizes permits for a term of years rather than at will as is provided in the Act of February 15, 1901, *supra*. Under all these statutes the granting of permits is subject to the discretion of the Secretary of the Interior.

(4) Your fourth question concerns the authority of the Department to control new mining claims on these lands, especially if the claims are detrimental to grazing and forage. The Department's authority to control valid locations under the mining law is quite restricted. Section 4 of the Act of July 23, 1955 (30 U.S.C. §612), specifically reserved to the United States the right to manage surface resources on unpatented mining claims, but also authorized the mining claimant to use the surface to the extent needed for mining purposes. Moreover, section 4 expressly provided that the surface use must not materially interefer with the mining activities. The extent to which mining activity may be regulated for the protection of surface resources is a matter of present concern to the Department. These lands in Owens Valley, California, have not

been singled out for special study because the language of section 2 of the Act of March 4, 1931, will not support any special solutions on these lands. It is believed that the language authorizing the Secretary of the Interior to promulgate regulations to preserve the natural forage resources of the area relates to the recreational and grazing use of the land, not to the authorized mining exploitation of the lands.

(5) Within certain limits the Secretary can control land use within Owens Valley to protect grazing and forage inasmuch as he has express authority to regulate grazing and recreation and he has discretionary authority over most right-of-way permits. As already indicated, the Secretary's authority to regulate prospecting and mining is currently under review. However, in controlling land use, the Secretary would take into account more than just grazing and forage, as your fifth question suggests, He would also take into account watershed protection, erosion, wildlife habitat, etc. By virtue of the requirements of the National Environmental Policy Act of 1969, 83 Stat. 852; 42 U.S.C. §§4321–4347, the Secretary is obligated to ascertain whether any significant Federal action would have a substantial effect on the environment. That act simply reinforced the already recognized obligation to take a multitude of factors into consideration before exercising discretion. Particularly in an area like Owens Valley which is withdrawn for watershed protection, Secretarial consent to land use is given only after assurance that the primary purpose for which the land is held will not be destroyed.

It is hoped that the foregoing discussion is of some assistance to you. The degree of managerial discretion to be placed in the Secretary is a matter of Congressional policy; therefore it is also hoped that the foregoing discussion gives you some idea of the areas in which the Secretary lacks managerial discretion.

Sincerely yours,

RAYMOND C. COULTER, *Deputy Solicitor.*

§ *668dd. National Wildlife Refuge System—Designation; public land withdrawals; disposal of acquired lands; proceeds*

(a) For the purpose of consolidating the authorities relating to the various categories of areas that are administered by the Secretary of the Interior for the conservation of fish and wildlife, including species that are threatened with extinction, all lands, waters, and interests therein administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas are hereby designated as the "National Wildlife Refuge System" (referred to herein as the "System"), which shall be subject to the provisions of this section. Nothing contained in this Act shall restrict the authority of the Secretary to modify or revoke public land withdrawals affecting lands in the System as presently constituted, or as it may be constituted, whenever he determines that such action is consistent with the public interest. No acquired lands which are or become a part of the System may be transferred or otherwise disposed of under any provision of law (except by exchange pursuant to subsection (b) (3) of this section) unless (1) the Secretary of the Interior determines after consultation with the Migratory Bird Conservation Commission that such lands are no longer needed for the purposes for which the System was established, and (2) such lands are transferred or otherwise disposed of for an amount not less than (A) the acquisition costs of such lands, in the case of lands of the System which were purchased by the United States with funds from the migratory bird conservation fund, or (B) the fair market value of such lands (as determined by the Secretary of the date of the transfer or disposal), in the case of lands of the System which were donated to the System. The Secretary shall pay into the migratory bird conservation fund the aggregate amount of the proceeds of any transfer or disposal referred to in the preceding sentence.

Administration; public accommodations contracts; acceptance and use of funds; exchange of properties; cash equalization payments

(b) In administering the System, the Secretary is authorized—

(1) to enter into contracts with any person or public or private agency through negotiation for the provision of public accommodations when, and in such locations, and to the extent that the Secretary determines will not be

inconsistent with the primary purpose for which the affected area was established.

(2) to accept donations of funds and to use such funds to acquire or manage lands or interests therein, and

(3) to acquire lands or interests therein by exchange (a) for acquired lands or public lands under his jurisdiction which he finds suitable for disposition, or (b) for the right to remove, in accordance with such terms and conditions as the Secretary may prescribe, products from the acquired or public lands within the System. The values of the properties so exchanged either shall be approximately equal, or if they are not approximately equal the value shall be equalized by the payment of cash to the grantor or to the Secretary as the circumstances require.

Prohibited and permitted activities; application of mining and mineral leasing laws, hunting or fishing regulations, and State laws or regulations

(c) No person shall knowingly disturb, injure, cut, burn, remove, destroy, or possess any real or personal property of the United States, including natural growth, in any area of the System; or take or possess any fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or nest or egg thereof within any such area; or enter, use, or otherwise occupy any such area for any purpose; unless such activities are performed by persons authorized to manage such area, or unless such activities are permitted either under subsection (d) of this section or by express provision of the law, proclamation, Executive order, or public land order establishing the area, or amendment thereof: *Provided*, That the United States mining and mineral leasing laws shall continue to apply to any lands within the System to the same extent they apply prior to October 15, 1966, unless subsequently withdrawn under other authority of law. Nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife, including endangered species thereof, on lands not within the System. The regulations permitting hunting and fishing of resident fish and wildlife within the System shall be, to the extent practicable, consistent with State fish and wildlife laws and regulations. The provisions of this Act shall not be construed as affecting the authority, jurisdiction, or responsibility of the several States to manage, control, or regulate fish and resident wildlife under State law or regulations in any area within the System.

Use of areas; administration of part of migratory bird sanctuaries as game taking areas; easements

(d) The Secretary is authorized, under such regulations as he may prescribe, to—

(1) permit the use of any area within the System for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access whenever he determines that such uses are compatible with the major purposes for which such areas were established: *Provided*, That not to exceed 40 per centum at any one time of any area that has been, or hereafter may be acquired, reserved, or set apart as an inviolate sanctuary for migratory birds, under any law, proclamation, Executive order, or public land order may be administered by the Secretary as an area within which the taking of migratory game birds may be permitted under such regulations as he may prescribe; and

(2) permit the use of, or grant easements in, over, across, upon, through, or under any areas within the System for purposes such as but not necessarily limited to, powerlines, telephone lines, canals, ditches, pipelines, and roads, including the construction, operation, and maintenance thereof, whenever he determines that such uses are compatible with the purposes for which these areas are established.

Penalties

(e) Any person who violates or fails to comply with any of the provisions of this Act or any regulations issued thereunder shall be fined not more than $500 or be imprisoned not more than six months, or both.

Enforcement provision; arrests, searches, and seizures; custody of property; forefitures; disposition

(f) Any person authorized by the Secretary of the Interior to enforce the provisions of this Act or any regulations issued thereunder, may, without a

warrant, arrest any person violating this Act or regulations in his presence or view, and may execute any warrant or other process issued by an officer or court of competent jurisdiction to enforce the provisions of this Act or regulations, and may with a search warrant search for and seize any property, fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or nest or egg thereof, taken or possessed in violation of this Act or the regulations issued thereunder. Any property, fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or egg thereof seized with or without a search warrant shall be held by such person or by a United States marshal, and upon conviction, shall be forfeited to the United States and disposed of by the court.

Regulations; continuation, modification, or rescission

(g) Regulations applicable to areas of the System that are in effect on October 15, 1966, shall continue in effect until modified or rescinded.

Subpart B—Rights-of-Way General Regulations

Source: The provisions of this Subpart B appear at 34 F.R. 19907, Dec. 19, 1969, unless otherwise noted.

§ *29.21 Definitions*

(a) "Secretary" means Secretary of the Interior or his authorized representatives acting under delegated authority.

(b) "Bureau" means Bureau of Sport Fisheries and Wildlife or Bureau of Commercial Fisheries.

(c) "Regional Director" means the Regional Director for one of the Bureau of Sport Fisheries and Wildlife's five regions.

(d) "Project Manager" means the officer in charge of the land under administration by the Bureau of Sport Fisheries and Wildlife or the Bureau of Commercial Fisheries.

(e) "National Wildlife Refuge System land" means lands and waters, or interests therein, administered by the Secretary as wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas.

(f) "Easement area" means land, or interests therein, over which the Secretary administers an easement for waterfowl management rights to assure preservation of waterfowl nesting habitat.

(g) "Other lands" means all other lands, or interests therein, and waters administered by the Secretary through the Bureau of Sport Fisheries and Wildlife and the Bureau of Commercial Fisheries which are not included in National Wildlife Refuge System lands; e.g., administrative sites, research stations, fish hatcheries, fishery research stations, and biological laboratories.

(h) "Compatible" means that the requested right-of-way or use will not interfere with or detract from the purposes for which units of the National Wildlife Refuge System are established.

§ *29.21–1 Purpose and scope*

The regulations in this subpart prescribe the procedures for filing applications and the terms and conditions under which rights-of-way over and across the lands administered by the Bureau of Sport Fisheries and Wildlife and the Bureau of Commercial Fisheries may be granted.

(a) *National Wildlife Refuge System lands.* Applications for all forms of rights-of-way on or over such lands shall be submitted under authority of Public Law 89–669 (80 Stat. 926; 16 U.S.C. 668dd) following application procedures set out in § 29.21–2. No right-of-way will be approved unless it is determined by the Regional Director to be compatible. See § 29.21–8 for additional requirements applicable to rights-of-way for electric power transmission lines. Applications for rights-of-way for roads and highways included in the Federal-aid primary system, the Federal-aid secondary system, and the National System of Interstate and Defense Highways may be submitted in accordance with procedures set out in § 29.21–2, or at the option of the State Highway Departments, may be submitted to the Regional Director pursuant to title 23 U.S.C. in accordance with applicable provisions of 43 CFR Subpart 2821, which are hereby incorporated by reference in the regulations in this subpart.

(b) *National Wildlife Refuge System lands—easement interest.* Applications for all forms of rights-of-way across lands in which the United States owns only an easement interest may be submitted to the Regional Director in letter form. No map exhibit is required, however, the affected land should be described in the letter or shown on a map sketch. If the requested right-of-way will not adversely affect the United States' interest, the Regional Director may issue a letter stating that the interest of the United States to the right-of-way easement would not be affected provided there would be no objection to a right-of-way by the fee owner. If the interest of the United States will be affected, application for the right-of-way must be submitted in accordance with procedures set out in § 29.21–2.

(c) *Other lands outside the National Wildlife Refuge System.* Application for all forms of rights-of-way on or over other lands should be submitted to the Regional Director in triplicate in accordance with controlling authorities contained in 43 CFR Part 2800.

[34 F.R. 19907, Dec. 19, 1969, as amended at 36 F.R. 2402, Feb. 4, 1971.]

§ *29.21–2 Application procedures*

(a) *Application.* (1) No special form of application is required. The application should state the purpose for which the right-of-way is being requested together with the length, width on each side of the centerline, and the estimated acreage. Applications, including exhibits, shall be filed in triplicate with the Regional Director for the region in which the State is located. A list of States in each region and the addresses of the Regional Directors are contained in paragraph (c) of this section.

(2) All applications filed pursuant to this part in the name of individuals, corporations or associations must be accompanied by an application service fee of $10. The service fee will not be returnable. No application service fee will be required of States or agencies or instrumentalities thereof or of Federal agencies.

(b) *Maps.* A map or plat must accompany each copy of the application and must show the right-of-way in such detail that the right-of-way can be accurately located on the ground. Ties to Bureau land boundary corner monuments or some prominent cultural features which can be readily recognized and recovered should be shown where the right-of-way enters and leaves Bureau project land together with courses and distances of the centerline. The width of the right-of-way on each side of the centerline together with the acreage included within the right-of-way or site must also be shown. If the right-of-way or site is located wholly within Bureau project land, a tie to a Government corner or prominent cultural feature which can be readily recognized and recovered should be shown.

(c) *Regional or Area Director's address.* (1) For the State of Alaska:

Area Director, Bureau of Sport Fisheries and Wildlife, 6917 Seward Highway, Anchorage, Alaska 99502.

(1a) For the States of California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington:

Regional Director, Bureau of Sport Fisheries and Wildlife, Box 3737, 730 Northeast Pacific Street, Portland, Oreg. 97208.

(2) For the States of Arizona, Colorado, Kansas, New Mexico, Oklahoma, Texas, Utah, and Wyoming:

Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building and U.S. Courthouse, Post Office Box 1306, Albuquerque, N. Mex. 87103.

(3) For the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin:

Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

(4) For the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, Puerto Rico, and the Virgin Islands:

Regional Director, Bureau of Sport Fisheries and Wildlife, 809 Peachtree-Seventh Building, 50 Seventh Street, N.W., Atlanta, Ga. 30323.

(5) For the States of Connecticut, Delaware, Maine, Massachusetts, New Hampshire, New York, New Jersey, Pennsylvania, Rhode Island, Vermont, and West Virginia:

Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Mass. 02109.

[31 F.R. 16026, Dec. 15, 1966, as amended at 35 F.R. 11633, July 21, 1970.]

§ *29.21–3 Nature of interest granted*

(a) Where the land administered by the Secretary is owned in fee by the United States and the right-of-way is compatible with the objectives of the area, the right-of-way may be approved and granted by an easement or permit. Generally an easement or permit will be issued for a term of 50 years or so long as it is used for the purpose granted, or for a lesser term when considered appropriate.

(b) Unless otherwise provided, no interest granted shall give the grantee any right whatever to remove any material, earth, or stone for construction or other purpose, except that stone or earth necessarily removed from the right-of-way in the construction of a project may be used elsewhere along the same right-of-way in the construction of the same project.

* *29.21–4 Terms and conditions*

(a) Any right-of-way easement or permit granted will be subject to outstanding rights, if any, in third parties.

(b) An applicant, by accepting a right-of-way easement or permit, agrees to such terms and conditions as may be prescribed by the Regional Director including but not limited to any of the following:

(1) To comply with State and Federal laws applicable to the project within which the right-of-way is granted, and to the lands which are included in the right-of-way, and lawful existing regulations thereunder.

(2) To clear and keep clear the lands within the right-of-way to the extent and in the manner directed by the project manager in charge; and to dispose of all vegetative and other material cut, uprooted, or otherwise accumulated during the construction and maintenance of the project in such a manner as to decrease the fire hazard and also in accordance with such instructions as the project manager may specify.

(3) To prevent the disturbance or removal of any public land survey monument or project boundary monument unless and until the applicant has requested and received from the Regional Director approval of measures the applicant will take to perpetuate the location of aforesaid monument.

(4) To take such soil and resource conservation and protection measures, including weed control on the land covered by the right-of-way as the project manager in charge may request.

(5) To do everything reasonably within his power, both independently and on request of any duly authorized representative of the United States, to prevent and suppress fires on or near, lands to be occupied under the right-of-way, including making available such construction and maintenance forces as may be reasonably obtainable for the suppression of such fires.

(6) To rebuild and repair such roads, fences, structures, and trails as may be destroyed or injured by construction work and upon request by the Regional Director, to build and maintain necessary and suitable crossings for all roads and trails that intersect the works constructed, maintained, or operated under the right-of-way.

(7) To pay the United States the full value for all damages to the lands or other property of the United States caused by him or by his employees, contractors, or employees of the contractors, and to idemnify the United States against any liability for damages to life, person or property arising from the occupancy or use of the lands under the right-of-way, except where a right-of-way is granted hereunder to a State or other governmental agency which has no legal power to assume such a liability with respect to damages caused by it to lands or property, such agency in lieu thereof agrees to repair all such damages.

(8) To notify promptly the project manager in charge of the amount of merchantable timber, if any, which will be cut, removed, or destroyed in the construction and maintenance of the project, and to pay the United States in advance of construction such sum of money as the project manager may determine to be the full stumpage value of the timber to be so cut, removed, or destroyed.

(9) That all or any part of the right-of-way granted may be terminated by the Director, Bureau of Sport Fisheries and Wildlife for failure to comply with any or all of the terms or conditions of this grant, or for nonuse for a 2-year period, or abandonment of the right-of-way granted. In the event of noncompliance, the Regional Director will notify the permittee in writing of the corrections needed, and the permittee shall have a period of 60 days from the date of the notice to complete corrective action. However, in the event of extenuating circumstances such as adverse weather conditions, disturbance of wildlife during periods of peak concentrations, or other compelling reasons, the Regional Director may grant an extension of time which in his judgment is reasonably necessary. In the event of termination of an easement or permit for noncompliance, nonuse, or abandonment, a written notice of termination will be furnished to the permittee.

(10) To restore the land to its original condition to the entire satisfaction of the Bureau, so far as it is reasonably possible to do so upon revocation and termination of the right-of-way, unless this requirement is waived in writing.

(11) To keep the project manager informed at all times of his address, and, in case of corporations, of the address of its principal place of business and the names and addresses of its principal officers.

(12) That in the construction, operation, and maintenance of the project, he shall not discriminate against any employee or applicant for employment because of race, creed, color, or national origin and shall require an identical provision to be included in all subcontracts.

(13) That the allowance of the right-of-way shall be subject to the express condition that the exercise thereof will not unduly interfere with the management, administration; or disposal by the United States of the land affected thereby, and that the applicant agrees and consents to the occupancy and use by the United States, its grantees, permittees, or lessees of any part of the right-of-way not actually occupied or required by the applicant for the purpose of the granted rights or the full and safe utilization thereof.

(14) That the right-of-way herein granted shall be subject to the express covenant that any facility constructed thereon will be modified or adapted if such is found by the Regional Director, Bureau of Sport Fisheries and Wildlife, to be necessary, without liability or expense to the United States, so that such facility will not conflict with the use and occupancy of the land for any authorized works which may hereafter be constructed thereon under the authority of the United States.

(15) That the right-of-way herein granted shall be for the specific use described and may not be construed to include the further right to authorize any other use within the right-of-way unless approved in writing by the Regional Director.

§ *29.21–5 Construction*

(a) If construction is not commenced within two (2) years after date of right-of-way grant, the right-of-way may be canceled by the Director of the Bureau of Sport Fisheries and Wildlife at his discretion.

(b) Proof of construction: Upon completion of construction, the applicant shall file a certification of completion with the Regional Director.

§ *29.21–6 Disposal transfer or termination of interest*

(a) *Change in jurisdiction over and disposal of lands.* The final disposal by the United States of any tract of land traversed by a right-of-way shall not be construed to be a revocation of the right-of-way in whole or in part, but such final disposition shall be deemed and taken to be subject to such right-of-way unless it has been specifically canceled.

(b) *Transfer of right-of-way.* Any proposed transfer, by assignment, lease, operating agreement or otherwise, of a right-of-way must be filed in triplicate with the Regional Director and must be supported by a stipulation that the assignee agrees to comply with and be bound by the terms and conditions of the right-of-way. No assignment will be recognized unless and until approved in writing by the Regional Director.

(c) *Disposal of property on termination of right-of-way.* In the absence of 6 months after termination to remove all property or improvements other than any agreement to the contrary, the holder of the right-of-way will be allowed a road and useable improvements to a road, placed thereon by him; otherwise, all such property and improvements shall become the property of the United

States. Extensions of time may be granted at the discretion of the Regional Director.

* *29.12–7 Payment required*

(a) Charges for use and occupancy of lands under the regulations of this part will be required and will be commensurate with the charges made for similar right-of-way privileges by private landowners in the vicinity, as determined by appraisal by the Regional Director. The charges may be periodic payments or a lumpsum payment, both payable in advance, at the discretion of the Regional Director.

(b) When periodic payments are used, such rates may be reviewed by the Regional Director at any time not less than 5 years after the grant of the permit, right-of-way, or easement or the last revisions of charges thereunder. After reasonable notice and opportunity for hearing, the Regional Director may impose such new charges as may be reasonable and proper commencing with the ensuing charge year. At the discretion of the Regional Director, Federal agencies, States or instrumentalities thereof, may be exempt from the payments of charges.

§ *29.21–8 Electric power transmission line rights-of-way*

Applications for electric power transmission line rights-of-way for the transmission or distribution of electric power and energy shall be made in accordance with the provisions of 43 CFR 2851.1–1 which are incorporated herein by reference.

[34 F.R. 19907, Dec. 19, 1969, as amended at 36 F.R. 2402, Feb. 4, 1971.]

§ *29.22 Hearing and appeals procedure*

An appeal may be taken from any final disposition of the Regional Director, to the Director, Bureau of Sport Fisheries and Wildlife, and, from the latter's decision to the Secretary of the Interior. Such appeals may be taken pursuant to 43 CFR Parts 1840 and 1850 except that (a) all references to the "Director" or "Director, Bureau of Land Management," are changed to Director, Bureau of Sport Fisheries and Wildlife and (b) all references to "Bureau" are changed to Bureau of Sport Fisheries and Wildlife. The above procedures for hearing and appeals, so provided and amended, are hereby adopted as procedures for hearings and appeals by said Bureau of Sport Fisheries and Wildlife.

Subpart C—Mineral Operations

§ *29.31 Mineral ownerships in the United States*

Where mineral rights to lands in wildlife refuge areas are vested in the United States, the provisions of 43 CFR 3103.2 and 3120.3–3 govern.

§ *29.32 Mineral rights reserved and excepted*

Persons holding mineral rights in wildlife refuge lands by reservation in the conveyance to the United States and persons holding mineral rights in such lands which rights vested prior to the acquisition of the lands by the United States shall, to the greatest extent practicable, conduct all exploration, development, and production operations in such a manner as to prevent damage, erosion, pollution, or contamination to the lands, waters, facilities, and vegetation of the area. So far as is practicable, such operations must also be conducted without interference with the operation of the refuge or disturbance to the wildlife thereon. Physical occupancy of the area must be kept to the minimum space compatible with the conduct of efficient mineral operations. Persons conducting mineral operations on refuge areas must comply with all applicable Federal and State laws and regulations for the protection of wildlife and the administration of the area. Oil field brine, slag, and all other waste and contaminating substances must be kept in the smallest practicable area, must be confined so as to prevent escape as a result of rains and high water or otherwise, and must be removed from the area as quickly as practicable in such a manner as to prevent contamination, pollution, damage, or injury to the lands, waters, facilities, or vegetation of the refuge or to wildlife. Structures and equipment must be removed from the area when the need for them has ended. Upon the cessation of operations the area shall be restored as nearly as possible to its condition prior to the commencement of operations. Nothing in this section shall be applied so as to contravene or nullify rights vested in holders of mineral interests on refuge lands.

PART 30—RANGE AND FERAL ANIMAL MANAGEMENT

AUTHORITY: The provisions of this Part 30 issued under sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, sec. 5, 45 Stat. 449, sec. 10, 45 Stat. 1224, sec. 4, 48 Stat. 402, as amended, sec. 2, 48 Stat. 1270; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 43 U.S.C. 315a; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.

SOURCE: The provisions of this Part 30 appear at 31 F.R. 16027, Dec. 15, 1966, unless otherwise noted.

SUBPART A—RANGE ANIMALS

§ 30.1 Surplus range animals

Range animals on fenced wildlife refuge areas, including buffalo, elk, and longhorn cattle, determined to be surplus to the needs of the conservation program may be planned and scheduled for disposal.

§ 30.2 Disposition of surplus range animals

Disposition shall be made only during regularly scheduled disposal program periods, except in the event of emergency conditions affecting the animals or their range. Surplus range animals may be disposed of subject to State and Federal health laws and regulations and to the following:

(a) Live animals may be:

(1) Sold on the open market.

(2) Donated to public agencies or institutions that are entirely tax supported, for scientific, exhibition, or propagation purposes.

(b) Butchered, dressed and processed animals shall be sold on the open market.

SUBPART B—FERAL ANIMALS

§ 30.11 Control of feral animals

(a) Feral animals, including horses, burros, cattle, swine, sheep, goats, reindeer, dogs, and cats, without ownership that have reverted to the wild from a domestic state may be taken by authorized Federal or State personnel or by private persons operating under permit in accordance with applicable provisions of Federal or State law or regulation.

§ 30.12 Disposition of feral animals

Feral animals taken on wildlife refuge areas may be disposed of by sale on the open market, gift or loan to public or private institutions for exhibition or propagation, and as otherwise provided in section 401 of the Act of June 15, 1935 (49 Stat. 383, 16 U.S.C. 715s).

PART 31—WILDLIFE SPECIES MANAGEMENT

AUTHORITY: The provisions of this Part 31 issued under sec. 2, 33 Stat. 614, as amended, sec. 5, 43 Stat. 651, secs. 5, 10' 45 Stat. 449, 1224, secs. 4, 2, 48 Stat. 402, as amended, 451, as amended, 1270, sec. 4, 76 Stat. 654; 5 U.S.C. 301, 16 U.S.C. 685, 725, 690d, 715i, 664, 718(b), 43 U.S.C. 315a, 16 U.S.C. 460k; sec. 2, 80 Stat. 926; 16 U.S.C. 668bb.

SOURCE: The provisions of this Part 31 appear at 31 F.R. 16027, Dec. 15, 1966, unless otherwise noted.

SUBPART A—SURPLUS WILDLIFE

§ 31.1 Determination of surplus wildlife populations

The populations and requirements of wildlife species on wildlife refuge areas shall be determined by population census, habitat evaluation, and other means of ecological study.

§ 31.2 Methods of surplus wildlife population control and disposal

Upon a determination that wildlife are surplus to a balanced conservation program on any wildlife refuge area, the surplus may be reduced or utilized in accordance with Federal and State law and regulation by:

(a) Donation or loan to public agencies and institutions.

(b) Sale to public or private agencies and institutions.

(c) Commercial harvest of fishery resources.

(d) Official wildlife control operations.
(e) Public hunting or fishing.
(f) Trapping.

SUBPART B—TERMS AND CONDITIONS OF WILDLIFE REDUCTION AND DISPOSAL

§ *31.11 Donaeion and loan of wildlife specimens*

Wildlife specimens may be donated or loaned to public institutions for purposes of propagation or exhibit. All costs incurred shall be charged to the recipient. Donation or loans of resident species of wildlife will not be made unless the recipient has secured the approval of the State.

§ *31.12 Sale of wildlife specimens*

Surplus wildlife specimens may be sold alive or butchered, dressed and processed subject to Federal and State laws and regulations and the provisions of this part.

§ *31.13 Commercial harvest of fishery resources*

Fishery resources of commercial importance on wildlife refuge areas may be taken under permit in accordance with Federal and State law and regulation.

Mr. EDMISTON. Now, let me conclude.

When we talked about the numbers, and I call it the numbers game, and that is over how many elk should be in the valley, who should determine the carrying capacity.

The Desert Protective Council feels we should not legislate a numerical carrying capacity.

Several of the biologists have testified, I believe he is from the National Parks and Conservation Association, and the biologist, Dr. McCullough, this afternoon intimated this, that you do not need to legislate carrying capacity.

If, in fact, the capacity is only 490, then fine, so be it.

The legislation, as written, provides that the secretary may transfer out, or make the proper adjustments in herd numbers.

The history of determining carrying capacity on the part of the State of California is not that good.

Originally the carrying capacity we are talking about, the same land in Owens Valley was 125 to 275, and in those hearings I attended, those hearings before the Fish and Game Commission, the staff biologist of the Department of Fish and Game said this is the biological carrying capacity. They swore to it as biologists.

Well, a couple of years later they found that the biological carrying capacity was between 250 and 300.

Again the same representation was made, that this was a biological carrying capacity and not a political determination.

Now they say 490 or 500. The history of determining carrying capacity has not been that good on the part of the Department of Fish and Game.

We would hope that the carrying capacity, if you do not want to legislate later carrying capacity only in terms of the Federal Government, be mutually determined by the Bureau of Sport Fisheries and Wildlife and the State of California, and that would be an appropriate compromise.

I will conclude the statement by saying that we have been really unduly concerned about the numbers game, and the carrying capacity, because I did a little arithmetic, and I think the figures are correct as to the actual figures of the Tule elk that are there.

Remember that they say that 290 animals should be limited for the bottomlands, 100 for the Goodale herd, and 100 for the Whitney herd.

Now, if you count that up, what that means is, with Mr. Arnett's statement, that we have about 380 already, and what that really means is all you have left is expansion for 85 animals, and the Whitney area where the expansion would take place has only about 5 right now.

In terms of the bottomlands and the other lands, if we accept Mr. Arnett's statement that there are about 380 there, 340 which they counted, an additional 40 hiding in the bushes, then we have already reached the capacity, but yet not one single witness before this committee told you that the land was being depleted today, or that the elk were overrunning the current carrying capacity today.

That indicates that there is a significant margin at least for expansion within the Owens Valley, and that the legislation should be written in such a way to accommodate that expansion, and why we might not have such an expansion was very candidly brought out, and that is the fact that land is leased by the Bureau of Land Management to the cattle interests.

You will remember they said well, if we had a Federal refuge that would mean that some of the grazing leases might go, putting additional pressure on the city lands.

I think that that is at least by inference an admission that some of this cattle grazing territory on the periphery which you see which is now administered by Bureau of Land Management, which is the pink on the map in front of you, that that area is suitable to the Tule elk habitat and may, at the expense of a few cattle, be used for the elk.

I think that is a tradeoff even though we have a beef shortage, that this committee would gladly make for the benefit of having a Tule elk habitat.

Mr. DINGELL. The Whitney herd is the pink land, is that State land, or BLM?

Mr. EDMISTON. No; the pink land here is Bureau of Land Management.

The yellow shown here is the city of Los Angeles.

The green on either side is the United States Forest Service, and might I indicate something here which is in between it, and you will perhaps want to peruse the map a little closer.

You will notice at the top of the map, and this was not prepared by me, the original herd boundary in 1965, according to Dr. McCullough's statement, is considerably larger than the herd found in the outlined area in black.

Up here is the Bishop herd that used to go all the way up here, came down around here, the Tinemaha herd range around here.

You will notice also down here in the Goodale herd it used to range a little bit down here (indicating on map).

What this tells is that the elk have actually increased in number, and constricted their range. I think that is an important indication that larger numbers in the valley will not mean more spreadout herds, and I am sure the committee staff and yourself. Mr. Chairman,

will peruse this and compare the two studies between 1965 and 1970.

One thing further which I think is germane, and I am sorry to bring it up at this particular point but I was reminded seeing the map, that there was introduced legislation in Congress, S. 3191 in 1969 which was sponsored by the Department of Water and Power, which would have significantly altered the land ownership pattern, and Mr. Georgeson was deeply involved in that.

I have a copy of that bill here, and that legislation would have removed the withdrawal on that land, and I refer to it in my prepared statement, and they favored a removing of the withdrawal, and that was agreed to by the Bureau of Land Management and by all the other Governmental agencies involved.

It was a fortuitous circumstance that the conservationists got involved, and Senator Cranston subsequently withdrew the legislation.

Mr. Chairman, when the departments say we are going to keep in perpetuity, they are going to keep in perpetuity so long as there are conservationists around, and that is not the way you determine the proper capacity or future of the land.

They are in error when they say they have always wanted to hold onto this land, and that is not the case as the controversy over S. 3191 in 1970 proves.

Here is the bill for the staff to peruse. The agencies were burned on that one, but there is no guarantee that they are not going to come back two or three years hence and dispose of the land.

Thank you very much.

Mr. DINGELL. The committee thanks you very much for your most helpful testimony.

Our next witness is Mr. Tom Garrett, wildlife director, Friends of the Earth.

STATEMENT OF TOM GARRETT, WILDLIFE DIRECTOR, FRIENDS OF THE EARTH

Mr. GARRETT. Thank you, Mr. Chairman.

Mr. Chairman, I am Tom Garrett, wildlife director of Friends of the Earth. Friends of the Earth is a national organization committed to the preservation, restoration and rational use of the ecosphere, with active sister organizations in 12 other countries. Our Washington office is located at 620 C Street SE., Washington, D.C. 20003.

This subcommittee has spawned much landmark environmental legislation, it is therefore a particular privilege to be permitted to appear before it.

Friends of the Earth strongly supports House Joint Resolution 204. We commend the sponsors of this legislation, and the conservationists who have indefatigably labored in support of a refuge over the past decade.

It seems to us that the fight over an Owens Valley Wildlife Refuge mirrors a much larger question which will wrack the Nation and the Congress in the coming years: should decisions be made on the basis of the long-term interests of all the American people, or in

response to pressure generated by local and special interests, aimed at achieving short term advantages?

We believe that if we are to avoid a series of economic and biological cul-de-sacs, Congress must consider the long-term results of its actions. The long-term interests of this Nation are served by actions aimed at preserving the basic productivity of the land, and at preserving its major aesthetic resources.

Policies which permit the productive capacity of our farms, forests and waterways to be destroyed or eroded, and which jeopardize and degrade our aesthetic resources, betray the interests of all Americans and blight the prospects of succeeding generations.

Laws aimed at protecting wildlife, which do not guarantee habitat against destruction and degradation, are in this time futile. To protect wildlife we must preserve habitat. We must do it now while habitat is still intact. That is what House Joint Resolution 204 does.

Of the opposition to this resolution, we regard that of the Los Angeles Department of Water and Power to be the most significant and the most dangerous. In view of the fact that the legal water rights of Los Angeles are guaranteed under this bill, it appears that the Department's opposition is mainly aimed at the provision whereby the Refuge "shall be managed in an ecologically and environmentally sound manner."

The surface water resources of the Southwest, even without the egregious central Arizona project are over-allocated. This situation will certainly be exacerbated when the years of high runoff recently experienced are succeeded by years of lower than average runoff.

At the same time, the groundwater resources of the Southwest are, in many areas, exhausted after years of injudicious pumping. The U.S. Geological Survey concluded in 1963 that it would require over 100 years to restore the water table in southern Texas.

In Central Arizona, the groundwater table has dropped over 100 feet, and groundwater reserves in the Phoenix-Tucson area are being depleted at a rate of 2 million acre feet per year. Saline water has replaced fresh ground water in certain California counties.

Pumping by the Los Angeles Department of Water and Power has already resulted in the partial desiccation of the Owens Valley. Springs have dried up for the first time in memory over the past several years; trees are dying, and natural meadows are disappearing.

At the moment the Department has been enjoined from extracting water at above the 1970 level by court order. But this is a fragile reed. We do not entertain the least doubt that the Los Angeles Department of Water and Power will unhesitatingly suck the life blood from the Owens Valley without consideration of the effects on the Valley's ecology, or on its human and animal population, when this is required for the continued growth of the Los Angeles area.

The Department of Water and Power illustrates well the inherent danger in powerful bureacracies with narrow and specific mission. The function of this department is to secure water, not to assess the environmental results of its activities.

Rather than terminate unrestricted growth and curb wasteful uses of water, Los Angeles has chosen to engage in a ruthless struggle

for available water with other Southwestern interests, while promoting grandiose projects designed to deprive other region of water, such as the diversion of winter snow from the eastern to the western slopes of the Rockies, through massive cloud seeding, or pumping into the Feather river from the Colombia.

There is, in the attitude of those devotees of unending profit and growth, who have dominated the politics of the Southwest an echo of "Apres moi, le deluge," or perhaps more appropriatedly, "Apres nous, la secheresse"; after us, wasteland.

Many State game and fish commissioners apparently believe that rare and endangered species should be managed on a status quo basis, barely clear of the shadow of extinction. This, of course, is exactly how the Tule elk have been managed in the past. Such management avoids serious confrontations with vested interests, does not interfere with the management of standard target species, and precludes a requirement for Federal refuges wherein development is restricted, and State responsibility abridged.

This viewpoint materialized recently in the form of amendments to the endangered species on the Senate floor which would permit endangered animals to be managed in a status quo manner, and thus spike the thrust for endangered species refuges, thus eliminating—for practical purposes—any abridgement of State authority.

We believe that rare and endangered species should be managed so as to restore them to reasonable levels of population. We have little sympathy with those who oppose this goal, and who are interfering with preservation of threatened habitat, for no better reason than that they are reluctant to share responsibility for the future of the animals.

It seems singularly absurd to us that H.J. Res. 204 has been opposed as being "antihunting." It should be evident to any one that once the goal of 2,000 animals has been reached, far more will be available for hunting than has previously been the case.

As a former rancher, I am more than ordinarily sympathetic to the concerns of ranchers who may be affected by the refuge. I feel quite certain, however, that these concerns are exaggerated. The dispersion of the projected herd of 2,000 elk to as many points in the State as possible is an obviously desirable goal, especially from the standpoint of the many Californians who will want to have some of the animals as near to their place of residence as possible.

Even, however, if the bulk of the projected herd remains in the valley, it should entail only a limited curtailment of cattle raising. It should be possible to make up lost income in most cases by capitalizing on recreation, which is already the biggest industry in the Owens Valley.

There will, in any case, now be 2,000 animals under State law. If H.J. Res. 204 passes, those ranchers will have some real assurance that the Los Angeles Department of Water and Power will not further desiccate the valley floor through over-pumping.

If the Los Angeles Department of Water and Power does not abuse the land it presently owns in the valley there should be no need to acquire this land, and thus remove it from the tax roles. Laws governing operation of Federal wildlife refuges do contain an

"in lieu of property tax" compensation provision, which should ameliorate the situation if condemnation eventually proves necessary. However, we do not believe that acquisition will be necessary.

The opposition of the Department of the Interior to this, and other refuge bills which have come before this committee recently, must be considered in the context of the current situation within the Bureau of Sport Fisheries and Wildlife. The Bureau is demoralized by OMB impoundments, evidently part of an effort to effect the dismemberment of the Federal wildlife system, and turn it over to the States.

Moreover, an internal struggle between reformers and conservationists has paralyzed positive decision making inside the Bureau.

Under these conditions it is not surprising that Interior is negative toward assuming fresh responsibilities. However, there is far too much at stake to be deflected by bureaucractic torpor. You have had the foresight to authorize adequate appropriations for this refuge in your resolution, and this committee can be counted upon to see that the Department of the Interior performs its duty in future administration of the refuge.

In closing, I would like to express again the esteem in which we hold this subcommittee, and the esteem in which we hold those fine conservationists who have struggled for years to insure the future of the Tule elk.

Friends of the Earth will work vigorously for the passage of this crucial legislation.

Thank you.

Mr. DINGELL. Mr. Garrett, it is always a pleasure to have you before the committee.

Thank you for your very helpful testimony and your assistance. It is always a pleasure to have you.

Are there any further witnesses to be heard?

The committee thanks all who have been present with us who have attended this hearing.

If there is no further business to come before the committee at this time, the committee will stand adjourned, subject to the call of the Chair.

[The following was submitted for the record:]

COMMUNICATIONS RECEIVED FOR RECORD

Approximately three thousand communications were received in support of H. J. Res. 204 from individuals and organizations across the country. Fewer than one hundred persons and groups wrote in opposition to the legislation; however, almost all of those doing so were residents of the general area within or surrounding the proposed wildlife refuge.

DAVIS, CALIF., *October 2, 1973.*

CHAIRMAN,
Subcommittee on Fisheries and Wildlife Conservation, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Washington, D.C.

DEAR SIR: I would like to make a comment in addition to my previous statement and request that this also be included in the Hearing Record for H. J. Res. 204, the proposed Tule Elk National Wildlife Refuge.

The California Tule Elk are classified as "rare" by the California Department of Fish and Game. This means that the animal may become endangered

should modifications in habitat or population occur. We must, therefore, realize that we are dealing with an animal which though was once historically numerous, is now on the verge of being endangered with extinction.

For this reason alone, the creation of a Tule Elk Wildlife Refuge is highly desirable. As I have indicated in my previous testimony, the size of the elk herd found at the Tule Elk State Reserve in San Joaquin Valley and the herd found at Cache Creek in Yolo and Colusa Counties is not large enough to insure continued protection of the species. Also, the Tule Elk State Reserve is viable only due to artificial treating, feeding, and watering of the Elk. In order to protect this magnificent species, we need to protect not merely the lives of a few museum specimens, but the genetic viability of the entire race. This means that a large area must be set aside to provide habitat for this animal.

There has been some talk that a better site for the refuge would be in the great Central Valley of California. While this was the original range of the Tule Elk, most of this area has been so greatly modified by man, and of value for agricultural purposes, as to preclude the possibility of re-introduction of the species there. If a large enough area could be acquired, and extensive habitat improvements made, it could be conceivable. But, we do not need to do this, since the Owens Valley does provide suitable habitat already in public ownership.

Such a Wildlife Refuge would finally solve once and for all the struggle of many years between cattlemen and the elk. The Elk will have a good chance, if they are given a habitat which can be managed specifically for them, rather than having to compete with cattle for forage. Also, Owens Valley is big enough to provide room for *both* the rare Tule Elk and the production of livestock. This is only possible through a zoning type procedure such as a refuge; if current management by the state of California continues, the conicts will only worsen. Let us end this conflict between the elk and the cattle by providing space for both. Since this species is threatened, and is of significant historic and aesthetic value, it deserves attention from the federal level.

Under scientific management by the federal government, where the habitat itself can be managed (unlike the inability of the state department of fish and game to legally manage property not specifically under its jurisdiction), the Tule Elk will be able to increase their numbers to a genetically viable level. The need for habitat is essential to the welfare of *any* species, and the lack of habitat for the Tule Elk has been the major cause for its demise. Present management is not and cannot properly do the job; habitat requirements necessitate the establishment of a national Wildlife Refuge. Such a refuge will not need recourse to artificial feeding, since the land can be managed to produce the proper forage. This has been the case for many refuges, and has proved highly successful. Since man has been a detrimental factor in the welfare of this species for so long, it is necessary to give it the special protection this Resolution would provide.

I would like to point out another value of this wildlife refuge in addition to protection of the species. A properly managed herd will provide excellent opportunity for interpretive and educational use. The story of the Tule Elk—from historical extirpation, and the efforts of a few to insure its survival, to modern resource management, is of significant value. Only through such educational and interpretive efforts can the value of conservation of natural resources be transmitted to succeeding generations of urbanized people. The enjoyment of visitors who may visit the wildlife refuge is an intangible value, but nonetheless important. Such tourism will also more than offset any economic disadvantages which may temporarily accrue to the local people of Owens Valley.

To be able to have a site for the interpretation of the natural history of native wildlife is in itself a too-rare phenomenon. The appreciation of wildlife is becoming more evident every day, and our people need the provision of such resources and the important role they play in the diversity of the environment areas. The Tule Elk have undoubtedly played an instrumental role in developing the ecological richness of the Central Valley which resulted in the creation of such fine agricultural soil. To lose this understanding would be nearly as bad as to lose the example of it that the species illustrates. The relationship between the Tule Elk and their habitat illustrate the interdependence of living things and the necessity for preserving a diverse biota.

The current management situation of the Tule Elk is counter-productive to the continued preservation of such a diverse biota, since there are only a very few hundred of the species in existence of a type which once existed in the thousands. We cannot go back to the old days of thousands of Elk, but we can at least attempt to provide one area of sufficient size to insure the survival of the species despite natural and man-made potential catastrophes.

I urge your recommendation of passage for the establishment of a Tule Elk National Wildlife Refuge in Owens Valley, California.

Thank you.

Sincerely,

HAROLD WM. WOOD, JR.

INTER-AGENCY COMMITTEE ON OWENS VALLEY LAND AND WILDLIFE.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Fisheries and Wildlife Conservation and the Environment, House of Representatives, Washington, D. C.

DEAR CONGRESSMAN DINGELL: The Inter-Agency Committee on Owens Valley Land and Wildlife, composed of federal, state, county and city agencies, adopted a position on May 25, 1973, opposing the establishment of a Tule Elk National Wildlife Refuge in Owens Valley as called for in House Joint Resolution 204. The position was adopted without dissent.

The OVIAC sent you personal notice on July 5, 1973, of their opposition. We now wish to reiterate this position for the record of testimony on House Joint Resolution 204 being taken September 25 and 26:

(1) Under excellent existing inter-agency coordination ond cooperation, and existing State law, Tule Elk *are* being adequately protected to insure their survival.

(2) Public enjoyment of "The Deepest Valley" is best served by the present policy of multiple-use rather than the single-purpose policy proposed by a Refuge.

(3) The need for a Refuge is not supported by fact. Tule Elk have increased from 55 in 1934, when they were first introduced in the valley, to an estimated 300 under the multiple-use of the habitat and the past limited hunting (hunting is now prohibited). They have established themselves in five distinct herds, and there is little data to suggest that much competition exists between livestock and elk use of the habitat.

(4) Current intensive studies by the Bureau of Land Management, the California Department of Fish and Game, and the Department of Water and Power, City of Los Angeles, will soon provide the data needed to support biologically sound elk habitat management.

(5) Subsequent to the 1971 legislation proposing a National Wildlife Refuge, State law was enacted which prohibits the taking of Tule Elk until 2,000 elk exist Statewide (California Fish and Game Code Sections 3951 and 332).

(6) No environmental impact report has been prepared on the effects of the proposed Refuge, and since this is a major Federal action, we feel one is required.

Furthermore, on August 20, 21, and 22 the annual Tule Elk census was conducted by the Department of Fish and Game and it was determined that the numbers of elk have increased approximately 22%, from 280 actual count in 1972 to 340 in 1973. It is also known from direct observation by California Fish and Game and Bureau of Land Management personnel that about half of the Goodale Herd was not counted due to their being 7–9,000 feet up in the eastern slopes of the Sierras. The total Tule Elk herd in Owens Valley now numbers nearly 400.

The relevancy of this information and other preliminary data being analyzed indicates that the Tule Elk are in a healthy condition and that current management efforts are conducive to allowing the elk to expand their numbers and range.

The establishment of a refuge is not necessary since the elk and their habitat are obviously being managed toward objectives similar to the provisions of the proposed legislation. And, multiple use of the habitat as now allowed has little, if any, impact on the elk.

In a pragmatic sense, the introduction of legislation over the past few years to establish a refuge has, in effect, secured a dedication by the land managing agencies and the Fish and Game of Tule Elk protection and habitat enhancement. Since the objectives have essentially been focused in agency plans, it is our opinion that Tule Elk can be protected and increased to sound, biological limits under the existing land management policies and within the close-knit coordination arrangements that now exist.

For the record, the Inter-Agency Committee on Owens Valley Land and Wildlife was formed in 1970 to increase public awareness and appreciation of the fish and wildlife resources and recreation in the Owens Valley. In this effort the Committee serves as the focus of inter-agency management and development coordination, and undertakes discrete projects clearly requiring an inter-agency effort in preserving the natural resources of the Owens Valley. The Committee is composed of the following agencies who are responsible for management and administration of public and private lands and policies within the Omens Valley: U.S. Bureau of Sport Fisheries and Wildlife; U.S. Bureau of Land Management; U.S. Forest Service; California Department of Fish and Game; California Department of Conservation; California Department of Transportation; County of Inyo; County of Mono; University of California; Department of Water and Power, City of Los Angeles.

The Owens Valley Inter-Agency Committee wishes to strongly urge this House Subcommittee to reject House Joint Resolution 204 and all similar measures which would establish a Tule Elk National Wildlife Refuge in the Owens Valley.

Sincerely,

LOUIS A. BOLL, *Coordinator.*
MICHAEL AND JOLENE WEEGE,
San Diego, Calif.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Fisheries and Wildlife, Conservation and Environment, House Office Building, Washington, D.C.

MY DEAR MR. DINGELL: As fellow landwatchers, we would like to take this opportunity, for purpose of the record, to voice our complete support of H.J. Res. 204 and companion bills to establish a Tule Elk National Wildlife Refuge on Public Lands in the scenic Owens Valley of eastern California for the rare Tule Elk and all resident wildlife (including 22 threatened species) and to provide additional habitats to maintain a statewide total of 2000 Tule Elk.

The passage of such a bill would accomplish what this country and especially California is long over-due for: a land ethic.

A brief history would perhaps enhance our feelings concerning this bill and the insight the bill contains in supporting the land ethic—a new concept which is in need of recognition by us all.

When the Pilgrims set foot on this vast new land, to them it seemed "but a hideous and desolate wilderness, full of wilde beasts and wilde men." Dedicating themselves to conquering it they invaded the pristine American continent. New waves of immigrants continued this conquest so effectively, that now, three and a half centuries later, only remnants of the once vast wilderness remain. For most of these 350 years, Americans on the whole were convinced that nature was alien to man and that wilderness was his natural enemy; that the way to civilize a land was to push the wilderness back. As for the value of the land as a resource, its vastness created the illusion of inexhaustibility. The thing to do was to use it for immediate profit. For tomorrow, and all the tomorrows to come, there would still be plenty.

Although the first European settlers were concerned about the husbandry of the resources of their new homeland, they soon became wasteful in the midst of such plenty, and they brought with them the concepts of private property and of the land as a commodity to be bought, sold, wasted, or utilized at will and without restriction. This profligate use of the land became increasingly common near the end of the long colonial period as Thomas Jefferson noted of his fellow tobacco planters: "the indifferent state of agriculture among us does not proceed from a want of knowledge merely; it is from our having such quantities of land to waste as we please."

After the colonies gained their independence, the seven states that claimed lands west of the Appalachians ceded their titles to the Federal Government. This act created a "public domain" and the need for a governmental policy for its control, distribution, and use. Under the Land Ordinance of 1785 and 1787, Congress devised a scheme for surveying and selling this land to private citizens. Initially, however and unfortunately, Congress regarded the land primarily as a source of revenue rather than as a public trust, and it was the land speculators, not the general public, who profited.

Eventually the policy was changed somewhat; and by the nineteenth century the Preemption Act of 1841 enabled pioneers to settle on land without having legal title to it, and acquire ownership of 160 acres by cultivating them and paying a small fee. This was followed by the Homestead Act, and Congress also provided extensive land grants to promote railroad construction and to regard veterans of American wars.

These land laws ran counter to the interests of many Westerners who not only resented interference from Washington, but desired larger acreages than the law allowed in order to develop profitable business enterprises. Lumbermen, ranchers, railroad companies, speculators, and many others devised ways to circumvent the purpose of the laws, which they considered unfair and not adapted to the needs of the West. For example, timber interests and land speculators took advantage of the Homestead Act by hiring "dummy entrants" who claimed 160 acres and then transferred them to their employers. Most of the other land laws led to similar abuse.

During its first hundred years of independence, the United States permitted many of the most valuable parts of the public domain to fall into the hands of speculators and profiteers, and wasteful use of natural resources increased in the latter half of the nineteenth century with the growth of industry, the rise of large cities, and the construction of transcontinental railroads. With the advent of the circular saw and steam mill, lumbering became a major industry —loggers moved from New England, New York, Pennsylvania to the Great Lakes and through yellow pine forests of the South to reach the West Coast. As soon as one forest was cut, logging operations were moved to a new area— a waste from strip-and-run combined with frequent fires.

Other resources were depleted by waste and misuse—in the West hydraulic mining washed away hillsides, silted the rivers and flooded valleys. Wildlife, of course, was expendable: the passenger pigeon once the most numerous of all the species of birds in the U.S.—wiped out—and the buffalo nearly met the same fate. Then the protective grasslands of the dry areas of the Great Plains were plowed to grow grain, leading to the Dust Bowl disaster of the 1930's.

Not all the men who laid waste the land were land raiders—despoilers who saw no reason to utilize the land with care. Many were honest, hard-working settlers who did not foresee their destructive consequences of their actions. And so long as the government's attitude toward the land was laissez-faire, it was unlikely that any considerable number of individuals would practice restraint and good husbandry. Surrounded by abundance, Americans began only slowly to realize the need for conservation. To most people, limiting the use of resources was contrary to the American tradition.

Throughout the rise of conservation as a national policy in the United States, it is *individuals* who have led the way by awakening the American people to the need of caring for the land, and whose writings and political efforts have fostered effective government policies. All of the major problems, issues, and conflicts in the development of an enlightened attitude toward the land can be traced through the lives of these persons whose perception, foresight, and determination have pointed the way.

Even as this history does not include our lifetimes, chronologically, we feel that we can relate to it because if effects our current lifestyle and our future. So the actions we make and take during our lives will effect those in coming generations. Do we have the right to say that future generations should have a little of what we enjoy now so that they can decide as to what is to be done with it? Should they have the right to choose, as have we, what should be done with the land, and should they have the right to choose what laws should govern what they may cherish most? Should we give them something to work with or is it up to us to make all their decisions—not thinking that they too may have progressive ideas regarding land use. Will we formulate and pass unprogressive laws which depict the selfishness of our past or progressive

laws that can guarantee a life for those to come as we have experienced in the past—in a land of plenty? We believe that H.J. Res. 204 lends a progressive answer.

During the course of my lifetime, I, Jolene Weege, can testify to having lived and travelled through 48 states and 5 countries, moving 50 times in 19 years. Never in the course of this travel have I ever seen the motivation for land waste as depicted in our pioneer history as I have here in California. This state was truly "the last frontier". Returning to California for vacations at frequent intervals, I can bear witness to the change, and like the natives who live in Southern California, I did not like what I saw. California can boast of having the most automobiles of any other state. It can also boast of having the most people. It used to boast of having the most open space, but that is a myth supported by its geographical size.

Why do we need H.J. Res. 204?

Much of California's wild land has been subjected to logging and mining activities, resort developments, and highway programs. The result—destruction of wildlife habitats, and fisheries, loss of topsoil through erosion, stream pollution, and the loss of valuable open space and recreational land. For example, the State Department of Conservation recently reported that more than 500,000 acres of foothill land had been subdivided between 1960 and 1970. Suburban development continues to devour large tracts of open land near our cities.

Such lands need preservation; they beautify the urban environment, provide urgently needed recreational land for city residents, protect valuable watersheds, and increase the capacity of airsheds over smog-choked cities. To think that the state with the most people has no real land preservation laws is appalling.

Six species of native animals have become extinct in the state during the last 75 years. Forty more are classified by the State Department of Fish & Game as rare or endangered. Three of these species are found in Owens Valley, including the Tule Elk. Owens Valley also harbors one of the last remaining stands of untouched native California plants, unique only to California lands. Over 500 species and varieties of California plants are classified as rare, endangered, or possibly extinct, by the California Native Plant Society. Will the day come when we have to fight for the last stand of chaparral?

Recreational facilities are inadequate in urban areas in California. Outlying park and wilderness areas are subject to overuse by urban populations. In many state parks, reservations for summer campsites must be made three months in advance. The number of days spent hiking and camping in California has more than doubled since 1955. Mt. Whitney in Owens Valley sees 150 people per day hiking the summit trail during the summer months. The Sierra-Nevada Mountain range and Owens Valley (on its eastern side) is the most popular site for hiking and camping in California, because it offers the largest expanse of wilderness and, therefore, the solitude desired for such an experience. The people who live around Owens Valley and recreate there do not want it to become another Aspen, Colorado. Already, Owens Valley houses one of the most popular ski resorts in the country (Mammoth), due to the consistant desirable snow conditions.

Californians are fortunate to have adequate weather conditions favoring just about any outdoor recreational activity. We do not feel that Owens Valley should suit one purpose and no other. It is an endangered specie in itself, due to that it is undeveloped, near the Sierras (year-round recreation), and about in the center of our state so that it serves everyone. It is the only one of its kind, and we like it the way it is with one exception: Owens Valley has no protection. H.J. Res. 204 can accomplish that protection.

We love Owens Valley. We visit every two months to participate in a local citizens committee with the purpose of preserving it, and we go there on extended vacations. There is barely enough time to scratch the surface as it would take years to see everything, for Owens Valley is 150 miles long. It takes us six hours to drive from our home in San Diego to its edge, but the drive is worth what is experienced there. It begs to be photographed, admired, painted, written home about, exclaimed over and, in some way, understood.

There is no more impressive scenic view in the west than the magnificent life of the High Sierra from the floor of Owens Valley. Each season of the year brings its own delights. Spring sees the spread of a variegated carpet of

wildflowers over its floor as the desert ephmerals open in patterns that rival the finest of Persian rugs. Along the gourged stream courses, the cottonwoods lace the scenery with a delicate silver-green on a dark brown mountain-colored background. The summer gives way to the rich gold of rabbitbrush whose silvery green stems and foliage mass the roadsides and wash bottoms in a prodigal display. It takes all summer for the snow to disappear, so by fall, the mountains are bare and the valley floor is covered with dried weers that lend a subtle-colored foreground for the brilliant yellows and oranges of the changing willows and cottonwoods and the steel blue of the Sierras. No one knows why the mountains change color with the seasons. It could be the unique cloud formations, which cause many lighting moods over the Sierras. These added lighting effects attract many photographers country-wide, and one in particular, Ansel Adams, who has made Owens Valley and the Sierras his workshop and his fortune.

Many different people come to Owens Valley for different reasons, but this rapidly growing group of people travels far for the natural scene: Many fishermen come for the rainbows and the brooks, the browns and the golden trout, native to the Sierra. Winter brings the ski enthusiasts for some of the finest skiing in the west, both downhill and cross-country. Nature enthusiasts enjoy information centers in Independence and the Alabama Hills (often used for TV and movie locales), the Bureau of Land Management and ranger stations, and national and state park headquarters. Indian history in the valley is prevalent, as evidenced in the local jewelry and petroglyphs in the mountains.

It is a fascinating experience to learn the geological and ecological stories of this deep valley and its two great ranges, the Sierra to the west and the Inyo-Whites to the east, both ranging up to 14,000 feet, but the Sierras are granite and the Whites are fault-block mountains. The Sierras receive more rainfall than the Whites, thus different vegetation is evidenced. There are pilgrimmages to be made to the bristlecone pines, the oldest living things yet known, in the Inyo-White Mountains on the eastern side of Owens Valley. Over in the Sierra are juniper, whitebark pine and, found nowhere else, the foxtail pine.

As if all this magnificent scenery, history, and geology is not enough, Owens Valley has lent itself to a new concept, as it has become a fitting home for the Tule Elk, the smallest of the North American elk, native to California and considered a very rare and endangered mammal. Fifty five were introduced to the Owens Valley in the 1930's under the sponsorship of an Owens Valley resident, and they have thrived and increased to 380 and have been divided into several groups, one of which is in the valley. Many conservationists believe that any species which has been so reduced in number should receive maximum protection. The City of Los Angeles, owner of much of the Owens Valley for its watershed, through its City Council has recently authorized part of the valley below Tinemaha Dam to be a wildlife refuge, primarily for the Tule Elk, but also to protect the other wildlife found here. We need H. J. Res. 204 to accomplish this permanently.

After three years of visiting Owens Valley, we had the privilege of seeing this herd, and its proud bull leader, head held high, telling us silently that we were trespassing. This dignity is a characteristic lent only to an animal in the wild. And this is what H.J. Res. 204 proclaims to us.

Man, not unlike that proud bull elk, needs to maintain his freedom to function at his best. Perhaps man has not found all answers regarding an ideal life in his environment, or whether a better goal would be the establishment of an equilibrium between ourselves and our environment—a living in harmony with the land.

The Tule Elk have long been overdue for a refuge and so has man. We here in California need Owens Valley; everyone in the country needs Owens Valleys if we are to survive the future.

If H. J. Res. 204 establishes Owens Valley as a refuge for the Tule Elk, then the first step will have been made in California, and perhaps the nation for an establishment of the preservation of all our lands.

For the record of the Hearing, September 24 and 25, 1973, we remain,

Very sincerely,

MICHAEL AND JOLENE WEEGE.

SEPTEMBER 17, 1973.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Fisheries and Wildlife, Conservation and Environment, Merchant Marine and Fisheries Committee, House Office Building, Washington D. C.

DEAR MR. CHAIRMAN: As a *former Director oftheCalifornia Department of Fish and Game* and a life-long friend of the California desert, I urge your committee to act favorably on H. J. Res. 204 to establish and maintain the Tule Elk National Wildlife Refuge. It is important to provide for these great animals and other species that would be provided protection, and it is also important to protect the fragile watershed from incompatible use and overuse.

The City of Los Angeles has rights to water that it diverts, and the Owens Valley source has been a mainstay in its supply for more than half a century. The city now participates in other programs to import water into Southern California and it should not be necessary for its demands within the proposed refuge to conflict with the purposes of H. J. Res. 204.

This is written for the record of the hearing, now scheduled for September 24 and 25, 1973.

Sincerely,

WILLIAM E. WARNE.

SEPTEMBER 8, 1970.

Hon. WALTER J. HICKEL,
Department of the Interior,
Washington, D.C.

DEAR MR. SECRETARY: On March 16, 1970, my Subcommittee on Fisheries and Wildlife Conservation of the House Committee on Merchant Marine and Fisheries, held hearings on H.R. 14603 and identical bills, to authorize the Secretary of the Interiorto study the desirability of establishing a national wildlife refuge in California and/or adjacent western states for the preservation of the tule elk.

During my Subcommittee hearings on the legislation, testimony was received indicating that a significantly larger population of tule elk is needed than now exists to assure the perpetuation of this species, being approximately 250–300 in number. In fact, the tule elk is carried on the list of "rare and endangered species" by your Department as well as the International Union for the Conservation of Nature and Natural Resources. It is a well established criteria among conservationists that any species with less than 2,000 in number is a vanishing one and one that is highly subject to extinction, particularly should an epidemic of a large magnitude occur.

Additional information developed at my Subcommittee hearings indicated that over 800,000 acres of public domain lands in Owens Valley, California, were withdrawn during the early 1930's to be used by the City of Los Angeles for the purpose of supplying the City water via the Los Angeles Adueduct. In addition, the City of Los Angeles has acquired fee title to most of the Owens Valley floor (approximately 302,000 acres) as part of its program of assuring the Los Angeles water supply. In addition to using these lands for water purposes, both the City of Los Angeles and the Bureau of Land Management have leased these lands for livestock grazing. The Owens Valley tule elk also range into the Inyo National Forest, surrounding the Valley, and these too are lands on which the Federal government has issued grazing permits. The issuance of these permits for domestic livestock by the two Federal agencies and by the City of Los Angeles has increased competition between livestock and tule elk for the range and has caused the carrying capacity of the range for tule elk to be severly limited.

I am greatly concerned that tule elk are not being given the maximum consideration to which they are entitled. In an effort to improve this situation, I feel that the tule elk herd should be increased to a minimum of 2,000 in number. As you are aware, there are a number of wildlife refuges in California, as well as other Federally-owned lands, and to assist in providing habitat for this stock, tule elk should be reintroduced in those areas where they can be maintained without unduly jeopardizing other wildlife resources in the

area. Also, I feel that in accomplishing this purpose grazing permits for livestock should be de-emphasized, particularly on Federally-owned lands, in the interest of upgrading this herd.

In his testimony before my Subcommittee, Assistant Secretary Glasgow said that the "real need is not for establishment of a refuge but for full-scale management of the present habitat." As Chairman of the Subcommittee on Fisheries and Wildlife Conservation, I would like to be advised of the steps being taken by your Department in this regard, as well as the steps being taken by other public land agencies which have as one of their main objectives the management of habitat suitable for tule elk. With proper "full-scale management" I am satisfied that the tule elk herd can be increased to the safe minimum of 2,000.

Please provide me, at the very earliest opportunity, with your plans—together with an analysis of the requirements for implementation—to increase the tule elk herd to this desired level. It is only in this way that we can ever hope to maintain an adequate stock of tule elk for the enjoyment of all future generations.

Sincerely,

JOHN D. DINGELL,
Chairman, Subcommittee on Fisheries and Wildlife Conservation.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 2, 1971.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Fisheries and Wildlife Conservation,
Committee on Merchant Marine and Fisheries, Washington, D.C.

DEAR MR. DINGELL: In March of 1970, your Subcommittee on Fisheries and Wildlife Conservation of the House Committee on Merchant Marine and Fisheries held hearings on legislation that would authorize the Secretary of the Interior to study the desirability of establishing a national wildlife refuge for the preservation of the Tule elk.

In testifying before your committee, former Assistant Secretary Glasgow stated that the real need was not for a study to determine if a refuge should be established but for full-scale management of existing habitat. In later correspondence to you, we agreed that the present number of Tule elk should be increased to assure the preservation of the species, and we advocated that several small separated herds would afford more assurance of preservation than one or two larger herds.

A survey involving the Forest Service, Bureau of Sport Fisheries and Wildlife, Bureau of Land Management, National Park Service, and California Department of Fish and Game was conducted to locate and examine potential transplant sites for establishing new herds of Tule elk. A list of 23 candidate areas was developed, 22 located in California and one in Arizona.

The area in Arizona was deleted from the list because of potential conflict with the Rocky Mountain elk. Of the 22 areas suggested in California, 13 were eliminated because of conflicts with deer, problems associated with residents in rural areas, and insufficient habitat for a minimum size herd. A task force representing the above-mentioned agencies evaluated the remaining nine areas. These included:

(1) Point Reyes National Seashore, administered by the National Park Service.

(2) Thirty-ninth Street area in Lake County, administered by the Bureau of Land Management.

(3) Swanson Range area, private land adjacent to the Cache Creek area administered by the Bureau of Land Management.

(4) San Luis National Wildlife Refuge, administered by the Bureau of Sport Fisheries and Wildlife.

(5) Pixley Land Use Project lands, administered by the Forest Service.

(6) Tupman Elk Preserve, administered by the California Division of Beaches and Parks.

(7) Saline Valley lands, private area surrounded by public domain lands in Inyo County administered by the Bureau of Land Management.

(8) Vandenberg Air Force Base.
(9) Whitney Area, administered by the Forest Service and Bureau of Land Management in Owens Valley.

The evaluation resulted in the conclusion that the following four areas offered the greatest potential for developing additional herds of Tule elk.

(1) San Luis National Wildlife Refuge.
(2) Point Reyes National Seashore.
(3) Swanson Range (Cache Creek).
(4) Whitney Area (Owens Valley).

As a result of the above efforts, the Department plans the following actions:

I. SAN LUIS NATIONAL WILDLIFE REFUGE (BUREAU OF SPORT FISHERIES AND WILDLIFE)

The 7,422-acre San Luis Refuge was purchased in 1967 for the benefit of migratory waterfowl. It lies in the center of the Tule elk's original range and is a remnant of the better Tule elk habitat. The entire refuge is being grazed by cattle under a special use permit.

Plan of Action:

(A) Coordinate management plan with California Department of Fish and Game.
(B) Fence perimeter of refuge with elk-proof fencing to prevent depredation on private lands.
(C) Terminate cattle grazing permit in December 1972.
(D) Reintroduce Tule elk in 1973.
(E) Develop visitor interpretation facilities.

Anticipated effects on refuge program:

(A) Waterfowl production and use. No change.
(B) Public Use.—Refuge is located within a few hours drive of more than 6 million people. Annual visitor use is expected to increase greatly very shortly after the herd has been established.

II. POINT REYES NATIONAL SEASHORE (NATIONAL PARK SERVICE)

Point Reyes National Seashore is within the historic range of the Tule elk. Three sites are under study for the restoration of this species to the national seashore.

(A) Area A (see map): This area contains approximately 1,650 acres, of which 1,300 acres are currently in private ownership. Seven and one-half miles of fencing would be required to contain the elk.
(B) Area B (see map): This area would incorporate the lands proposed in Area A plus an additional 6,450 acres of mostly government-owned land. Total acreage would be 8,100 acres. Will require 18 miles of fencing, and the acquisition of private property.
(C) Area C (see map): This area is the most favorable in terms of economics and range size, and would encompass 8,960 acres of which 3,977.50 acres are contained in nine tracts of private holdings. Eleven miles of fencing and the acquisition of included private lands would be required.

Plan of Action:

(A) Private lands acquisition program is underway. It is anticipated that all inholdings of the proposed Tule elk ranges will be acquired through condemnation or otherwise by April 1973.
(B) Fencing (estimated at $7,000/mile) costs have not been programmed, but it is anticipated that the area selected will be fenced and ready for transplanting elk by January 1974.
(C) Comparative studies of sites, including range suitability, visitor access and visitor-elk relationships, and possible elk conflicts with domestic stock and other native ungulates, are continuing in cooperation with the California Department Department of Fish and Game.

III. OWENS VALLEY AND CACHE CREEK (BUREAU OF LAND MANAGEMENT)

The existing public domain situation is as follows:

(A) Owens Valley: Approximately 300 elk in five distinct herds covering approximately 200,000 acres. Trend of habitat condition is static.

(B) Cache Creek: Approximately 100 elk on about 24,000 acres of habitat. Competition with livestock. Some damage to crops. Lack of water during summer. Brush too dense.

Plan of Action: Beginning in fiscal year 1972 the Bureau of land Management proposes a six-year program, which will include:

(A) Develop a habitat management plan for Tule elk in the Owens Valley in cooperation with the California Department of Fish and Game, City of Los Angeles, United States Forest Service, and Bureau of Sport Fisheries and Wildlife.

(B) Revise the habitat management plan for the Cache Creek area in cooperation with the California Department of Fish and Game and the Bureau of Sport Fisheries and Wildlife.

(C) Treat brush land in the Cache Creek area.

(D) Construct supplemental sources of water and truck trail to facilitate elk distribution and project work in Cache Creek.

(E) Construct Cache Creek Road for public access.

(F) Study land exchanges and acquisition needs in the Cache Creek area to acquire additional important elk habitat.

(G) Various habitat developments and improvements and elk transplants as necessary to implement the Owens Valley plan.

As to the timing of the above proposed actions, our plans must be considered to be tentative at best. Much depends upon availability of funds and sources of suitable transplant stock. *Also, where grazing permits are involved, arrangements will have to be made with the permittees for any necessary adjustments in livestock grazing.*

We are hesitant at this time to predict the numbers of Tule elk that should be carried on these areas. Total acreage under consideration amounts to more than 260,000 acres, but carrying capacities will differ greatly depending upon habitat conditions, competition with other species, etc.

In summary, we believe the above-proposed programs will insure attainment of your objective to preserve the populations of Tule elk. Four areas of native habitat offering the greatest potential for establishing new herds and expanding existing herds have been selected for the initial effort. Progress of this phase of the program will depend upon the availability of funds for acquisition and construction of fencing and other facilities and on the availability of suitable transplant stock. All efforts will be carried out in full cooperation with the California Department of Fish and Game.

We are enclosing a copy of the interagency task force report to provide you with additional details.

We hope that you and the Subcommittee will look favorably upon our proposal. If my staff or I can provide any assistance, please let us know.

Sincerely yours,

NATHANIEL REED, *Assistant Secretary of the Interior.*

SEPTEMBER 8, 1972.

Hon. ROGERS C. B. MORTON,
Secretary, Department of the Interior,
Interior Building,
Washington, D.C.

DEAR ROG: You will recall my previous correspondence with the Department of the Interior of September 3, 1970 (copy enclosed), in which I expressed great concern that tule elk were not being given the protection to which they were entitled. In an effort to improve this situation, I suggested, among other things, that the tule elk herd should be increased to a minimum of 2,000 in number.

In the Department's response to me of June 2, 1971 (copy enclosed), it was indicated that a survey had been undertaken involving the Forest Service, Bureau of Sport Fisheries and Wildlife, Bureau of Land Management, National Park Service, and the California Department of Fish and Game in which potential transplant sites were being examined for new herds of tule elk: San Luis National Wildlife Refuge, Point Reyes National Seashore, one in Arizona. Of these areas, the Department concluded that the following four areas offered the greatest potential for developing additional herds of tule elk: San Luis National Widdlife Refuge, Point Reyes National Seashore,

Swanson Range (Cache Creek), and Whitney Area (Owens Valley). The Department also indicated that it had a plan of action for each of the four areas.

It would be greatly appreciated if you would provide me with a detailed up-dated report on the success of this program. As you will recall, I had recommended the use of other Federally-owned lands in California, as well as other wildlife refuges, in order to assist in providing additional habitat for this stock. I had also recommended that grazing permits for livestock should be de-emphasized, particularly on Federally-owned lands, in order to assist in the upgrading of this herd.

In your report, please discuss in detail, among other things, the plan of action implemented at each of the four areas enumerated in the Department's letter of June 2, 1971, particularly as it would relate to the present number and location of herds (including those transplanted under the pilot program); the cost incurred thus far and estimated remaining cost to be incurred; and the termination of any grazing permits thus far and future plans for termination of such permits. Also, I would be delighted to receive any other comments you may care to provide in order to make this program a complete success.

Your anticipated cooperation in providing me with the above requested information will be greatly appreciated.

With kind regards,

Sincerely,

JOHN D. DINGELL,
Chairman Subcommittee on Fisheries and Wildlife Conservation.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., November 10, 1972.

Hon. JOHN D. DINGELL,
Chairman, Subcoommittee on Fisheries and Wildlife Conservation, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. DINGELL: The following information is provided in response to your letter concerning progress in management of the tule elk. Our efforts to develop the tule elk population are proceeding on four areas, as outlined below.

SAN LUIS NATIONAL WILDLIFE REFUGE, MERCED COUNTY

The Bureau of Sport Fisheries and Wildlife, in considering the reintroduction of tule elk on this area, has programmed the following actions:

(1) Cattle grazing, under permit, will expire in December of 1972 and will not be renewed.

(2) Initial costs for establishing a captive herd of tule elk within the refuge's 7,400 acres have been ascertained. They entail a basic investment of $75,000 for construction of 14 miles of fence which is necessary to keep the elk off cultivated croplands adjoining the refuge. The funding of this work will be fully considered among other competing demands in formulating the Fiscal Year 1974 budget. It is estimated that additional operating and maintenance costs required annually to manage the tule elk will be as follows: FY 1974—$2,500; FY 1975—$8,600; FY 1976—$11,000; FY 1977—$14,600; FY 1978—$16,000.

Construction and increased operation and maintenance costs will provide for suplus animal disposal and fence repairing. Also, it is possible that a residence on the area will be required to minimize vandalism. An office and visitor center and roads will be desirable to handle increased visitor load due to presence of tule elk.

(3) Before introducting tule elk onto this area, a policy of controlling the size of the tule elk herd by agreement with the California Department of Fish and Game must be consummated. Presently discussions are going on with that department to develop management plans, including the disposition of surplus animals. California fish and game regulations, set by the legislature, impose certain restrictions upon the taking of tule elk until a population of 2,000 animals is reached.

At this time the Bureau feels a maximum herd size somewhat under 100 animals might be maintained on the area. The management plan being prepared will include input from the Soil Conservation Service's range survey, to be completed this December. This survey will give us a better idea of the number of animals that should be maintained here in harmony with other refuge objectives.

POINT REYES NATIONAL SEASHORE, MARIN COUNTY (NATIONAL PARK SERVICE)

Actions by the National Park Service have been submitted as follows:

(1) Private lands within a modified Area B reintroduction site (see our June 2, 1971, letter) have now been acquired by the Park Service.

(2) An original Area B site of 8,100 acres was proposed but has been modified as a result of item 3 below. The programming cycle for a modified Area B site of about 5,500 acres has been initiated. We have no firm completion date for this project, as it will depend upon budgeting processes and availability of funds.

(3) Our analyses, including ongoing cooperative efforts with the California Department of Fish and Game, have resulted in significant changes to original proposals of the tule elk task force. Present programming of the Area B site has resulted from considerations of weather conditions, the park's proposed wilderness zone, access to adjacent private lands, visitor use and other master plan development proposals, prevailing topography, our desire to minimize intrusiveness of a fence to the overall scene, further discussions and evaluations by the park administrators with tule elk authority Dr. Dale McCullough, and related factors. This revision will require about 15 miles of fencing. The California Department of Fish and Game has gone on record favoring a galvanized chain link fence which we recognize will more adequately meet the following concerns:

(a) Potential uncontrolled dispersals, depredations of private properties and safety considerations through escapes of tule elk onto non-Government lands, roadways, etc. The need to fully recognize the proximity of several local communities, dairy ranches, and other lands highly susceptible to depredations cannot be minimized. The Point Reyes National Seashore and nearby land use patterns present public relations considerations which we believe will require total control of the park's future elk herd. This need is a major concern of both the State and our Department and has been reflected in the superintendent's programming efforts.

(b) The accelerated oxidation rates encountered in this humid seacoast area and a major maintenance program which would result, if woven wire or other lighter fencing were used.

(c) Other considerations such as the poaching protection needs for such a herd.

WHITNEY AREA, OWEN VALLEY, INYO COUNTY (BUREAU OF LAND MANAGEMENT)

This transplant area, recommended by the interagency task force in 1971, involves the management of tule elk by the California Department of Fish and Game. On December 27 and 29, 1971, personnel from that department transferred five tule elk from the Tupman Elk Reserve State Park to Owens Valley. The two spike bucks and three cows were tested for tuberculosis and the results proved negative. On January 8 they were put in an enclosure to allow them to adjust to new feeding conditions. Ten days later they were released into the wild.

A radio transmitter was attached to each of the three cows to record their movements. Since the release two calves have been born. The animals have been staying more or less in the Alabama Hills area, which is a part of the Whitney herd general area. The Department of Fish and Game is still tracking the animals, although one transmitter has ceased to function.

The complexity of the tule elk preservation program is, in our opinion, complicated by legislative management action, reflected in excerpts from the California Fish and Game Code. Section 3951 of the code states that the number of tule elk in Owens Valley shall not be permitted to increase beyond 490 or any greater number hereafter determined by the Department of Fish and Game to be the Owens Valley holding capacity in accordance with game man-

agement principles. Further, Section 332 of the code states that the California Fish and Game Commission may authorize the taking of tule elk only if the Department of Fish and Game ascertains that the statewide population of such mammals exceeds 2,000 and the department's efforts to relocate surplus elk pursuant to Section 3951 have been unsuccessful, or it is hereafter determined by the legislature—pursuant to reports required under Section 3951—that suitable areas cannot be found in California to accommodate such a population in healthy condition. As we understand the State regulations, however, tule elk from Owens Valley may be relocated to other suitable areas within the State at anytime to meet the department's responsibility under Section 3951. Also, department personnel may cull sick or inferior tule elk, when this is done for the protection, enhancement, and healthy increase of the species. Reference to these game code sections is of particular importance to the Bureau of Sport Fisheries and Wildlife in setting up a management program for this species on the San Luis National Wildlife Refuge.

CACHE CREEK, LAKE AND COLUSA COUNTIES (BUREAU OF LAND MANAGEMENT)

In this area of concern the Bureau of Land Management district biologist is cooperating with the California Department of Fish and Game to determine the carrying capacity of the land for tule elk. A six-month biological study led by the Bureau of Land Management in the area this past summer has taken into account the soils and vegetative cover. No conclusions have yet been made. It has been found that the Telegraph Ridge herd carrying capacity has been met and the loss of young has been indicated.

It has been found that a straight livestock fence has been adequate in most instances and creates a "psychological barrier," if the animals are not pressed to stay within the fenced area.

A Bureau of Land Management district study plan, with California Fish and Game personnel assisting, is the basis for a tule elk habitat management plan for this area. It may be a year before such a plan is completed. Recent information indicates considerable pressure to subdivide the Payne Ranch, which is a key private area in the Cache Creek area. If this important segment of tule elk habitat is lost it would put additional pressures on the remaining habitat and crowd this species.

We are glad to provide you with this progress report on our efforts to improve the status of the tule elk. Your continuing interest in this important matter is sincerely appreciated. If we can be of further assistance, please call on us.

Sincerely yours,

CURTIS BOHLEN,
Acting Assistant Secretary of the Interior.

COMMITTEE FOR THE PRESERVATION OF THE TULE ELK,
Los Angeles, Calif., December 7, 1972.

Hon. JOHN D. DINGELL,
Chairman, Subcommittee on Fisheries and Wildlife Conservation, Committee on Merchant Marine and Fisheries, House Office Building, Washington, D.C.

DEAR JOHN: Thank you for asking my review, thoughts, and comments on the November 10, 1972 Fish and Wildlife Service progress report on its efforts to develop Tule Elk populations.

This superficial plan for the expenditure of excessive amounts of money for the confinement and exhibition of captive Tule Elk is ecologically and economically unsound and totally unacceptable.

Indeed, it clearly indicates the urgent need for strong Congressional action to establish a Tule Elk National Wildlife Refuge plus additional habitats in California suitable to the Tule Elk and ecological integrity.

Since the introduction of *H.J. Res. 547*, two major pieces of legislation deal directly with the issue.

Of primary importance is *SB 722* which establishes the policy to restore the Tule Elk to the species level of at least 2000 in California. This bill was unan-

imously enacted by the California Legislature and signed into law on October 27, 1971. (Chaptered copy of SB 722 enclosed.)

You may wish to explore the possibility of introducing Congressional legislation to implement this now established state law.

A Tule Elk National Wildlife Refuge in the Owens Valley, the one place proved right for the Tule Elk, with assigned priority for Tule Elk and other resident wildlife over commercial grazing, plus additional habitats suitable to the Tule Elk, such as you propose, is the key to long term survival for the Tule Elk, the ecosystem, and total survival!

I talked Tule Elk with Roy Greenaway, Senator Cranston's Chief Counsel, while he was in Los Angeles recently. He will be in touch with your staff at an early date.

Needless to say, the Committee for the Preservation of Tule Elk, cooperating organizations and individuals hope for vigorous pursuit of strong Tule Elk National Wildlife legislation early in the 93rd Congress.

The shallowness of the Fish and Wildlife Service proposal makes plain the fact that the hope of fiscal and environmental responsibility rests in Congress. A heap of environmental integrity rests in your capable hands!

To comment briefly on the four Fish and Wildlife Service proposals:

SAN LUIS NATIONAL WILDLIFE REFUGE, MERCED COUNTY

The Bureau of Sport Fisheries and Wildlife is to be wholeheartedly congratulated for its decision to cut off cattle grazing on the Refuge this December.

While captive populations of wildlife are second best at most, under the circumstances, we take no issue with the Bureau's current plan to fence the *entire* Refuge with elk proof fence and commend its decision to introduce a small nucleus of Tule Elk into the Refuge by 1974. As the range recovers from the pressure of commercial grazing and the Tule Elk slowly increase in number, the actual carrying capacity of the land can be determined. From knowledgeable sources and from my own observation of substantial numbers of cattle on the Refuge, I believe the estimated carrying capacity of under 100 Tule Elk to be conservative.

In any event, budgeting for Tule Elk "disposal" in this decade is far-fetched, as is anticipated fence repair or need or desirability of an office, visitor center, and additional roads. Any and all of these developments would constitute an unjustifiable expense working to the detriment of the Tule Elk and the Refuge biota.

While travelling the fully sufficient roads within the Refuge with the resident Manager this spring, I was glad to learn that vandalism on the Refuge is minimal. Fencing is all the additional protection justifiable, and an informational leaflet such as provided in other National Wildlife Refuges, is all the interpretative service necessary or appropriate.

POINT REYES NATIONAL SEASHORE, MARIN COUNTY (NATIONAL PARK SERVICE)

The second piece of legislation with major bearing on the Tule Elk is *H.R. 16444*—which establishes the Golden Gate National Recreation Area, signed into law on October 27, 1972. This measure places practically all lands between San Francisco and the Point Reyes National Seashore in public ownership for the specific purpose of preservation of open space and environmental quality. (Map enclosed.)

Lack of water precludes potential development on small remaining areas. Senators Alan Cranston and John V. Tunney and Congressmen Phillip Burton and William S. Mailliard, sponsors of the Golden Gate National Recreation Area, are co-sponsors of the Tule Elk National Wildlife Refuge Resolution, and could be expected to join in insisting on bringing the nucleus of a substantial wild, free-roaming herd of Tule Elk home to Point Reyes where great herds roamed before their merciless extermination in the middle of the last century.

The great new buffer zone created by the Golden Gate National Recreation Area, plus ecological integrity, long standing National Park Service policy against captive animals, the Point Reyes wilderness area, and fiscal responsibility, make the captive Tule Elk proposal for Point Reyes unjustifiable.

To thoroughly understand the Fish and Wildlife Service proposal of modified Area B site of about 5,500 acres for a captive Tule Elk enclosure, to better assess the relevance of the Golden Gate National Recreation Area, and to refresh my own observations of the Point Reyes National Seashore, in preparation of this response, I spent a long day at the Point Reyes National Seashore with Bruce Keegan, Wildlife Subcommittee Chairman of the Bay Area Chapter of the Sierra Club, a man with long and intimate knowledge of the entire Seashore.

With the modified Area B site marked on my National Seashore map, and approaching the proposed enclosure from all directions, the best I can say for the Fish and Wildlife Service proposal is that it appears to be an excellent location to introduce the nucleus of a *wild, free-roaming herd of Tule Elk.*

The heavily wooded Inverness Ridge would tend to encourage this valley elk to remain on the coastward side where the proposed enclosure is located. A variety of forage, both open and protected areas, coastal plain and draws leading to higher open and secluded areas, should provide a most hospitable site for the reintroduction of free-roaming Tule Elk.

The planned chain link fenced area is near, if not invading the proposed wilderness area. Any fencing would be an unnecessary, incongruous disaster which would meet with strong opposition.

The expressed concerns, items A, B, and C in the progress report hark back to the thinking of a by-gone era, certainly before the land acquisition for the Seashore is practically completed, before the establishment of the Golden Gate National Recreation Area, and without regard for the ecological integrity of the land.

A few Mountain Lions remain on the Seashore. This cherished "Island in Time" must be preserved in organic wholeness, not desecrated by expensive, short-sighted public relations gestures to the cattle and dairy operations now living on borrowed time at the National Seashore. (15 to 20 year leaseback.)

What with hundreds of deer, both native and exotic species, roaming freely on the Point Reyes National Seashore, the fear of free-roaming Tule Elk is without substance.

The Point Reyes National Seashore, with its newly established vast Recreation Area buffer zone, should provide habitat for wild, free-roaming Tule Elk, second only to the Owens Valley.

WHITNEY AREA, INYO COUNTY (BUREAU OF LAND MANAGEMENT)

Since this area lies within the boundaries of your proposed Tule Elk National Wildlife Refuge, I'm sure you'll join with us in watching this nucleus of Tule Elk with considerable interest. These animals were restrained for only ten days on introduction by a makeshift fence that was constructed in one day.

Far from complicating Tule Elk management, *SB 722,* when reinforced with Congressional legislation to provide permanent habitat by a National Wildlife Refuge, the long respected role of the federal government, should make for sound restoration of the rare species. It is our hope to be able to work constructively with both state and federal bodies toward that end.

CACHE CREEK, LAKE AND COLUSA COUNTIES (BUREAU OF LAND MANAGEMENT)

There is substantial grounds to believe that the elk comprising the "Cache Creek herd" may have been hybridized with Rocky Mountain Elk in their various shifts and shuffles. Richard Fitter in *Vanishing Wild Animals of the World* and Kai Curry-Lindahl in *Let Them Live* concur in that belief.

In any event, we are watching the current study of the 75 elk in the Cache Creek herd with great interest. The Bureau of Land Management and Department of Fish and Game hosted a field trip for a Committee for the Preservation of the Tule Elk team last August. Our observers were impressed that in spite of the dry year and obvious over-grazing by livestock, the elk were in excellent condition; a very efficient organism!

Weather precluded a November follow-up trip which was posponed until spring. The biologist's observations as to fences are interesting.

While the Payne Ranch, up for sale, is key habitat, it is also overgrazed by livestock and "over-poached". Although any and all wildlife habitat is impor-

tant, under no condition, can the Cache Creek area be considered in the Tule Elk's first line of defense.

Of course, we'd love to host a trip with you to any or all of these areas. Failing that opportunity, say the word and I'll enplane for Washington or Michigan to discuss Tule Elk. Any information we can provide at any time will be our pleasure.

Again, thank you for your active concern for the Tule Elk and the integrity of California's living land.

With every good wish for Christmas and the New Year, I am,

Ever your friend,

BEULA EDMISTON.

[News Release of U.S. Department of the Interior, July 6, 1964]

INTERIOR DEPARTMENT STEPS UP FIGHT TO SAVE NEAR-EXTINCT WILDLIFE

The Department of the Interior announced today it has named a special scientific team in its Fish and Wildlife Service to make an intensive study aimed at preserving dozens of rare or endangered forms of American wildlife, ranging from the Nene goose of Hawaii to the polar bear of the Arctic.

In making its announcement, the Department released a long list of fast-vanishing American birds, mammals, fish, and reptiles and gave specific information regarding the nearly two-score birds and mammals that have disappeared from the American scene in less than 150 years. Of the extinct species, about half have vanished since 1900.

"The study to be undertaken by the Department is a firm step directed at halting the further disappearance of endangered wildlife," Secretary of the Interior Stewart L. Udall said. "We hope that with man's aid and understanding, the long list of threatened species can be narrowed. The scientific study, we believe, is essential if we are to reverse the trend that has witnessed such a heavy toll of some of our most valuable species since the turn of the century."

Specialists in the biology of birds, mammals, reptiles, amphibians, and fish—all from the ranks of the Bureau of Sport Fisheries and Wildlife—comprise the study team. Commissioner Clarence F. Pautzke of the Fish and Wildlife Service said they will advise Director Daniel H. Janzen of the Bureau of Sport Fisheries and Wildlife, which is responsible for Federal programs to protect and preserve rare and endangered American wildlife.

In its studies, the Federal team will work with private and non-Federal groups and will seek the counsel of prominent authorities concerned with wildlife management and preservation.

The serious situation facing so many American wildlife species is not peculiar to this Hemishphere, Commissioner Pautzke said. Many species of the African veldt—its great cats, elephants, and numerous other wildlife—are in danger. In the world's oceans, the blue whale and the great marine turtles also face extinction. These forms of wildlife can be saved only through the highest type of forward-looking conservation actions, according to Pautzke.

An important function of the study team will be the development of cooperative programs with non-Federal groups to propagate rare and endangered species. Another is the designating of exotic species that should be denied entrance into the United States under provisions of Federal laws that bar importation of undesirable species.

A species is considered "rare" when its numbers are small but its survival is not in jeopardy in the foreseeable future. When survival is seriously threatened, it is "endangered."

Bureau Director Janzen said many of the world's wildlife species are in trouble because complex forces of civilization are upsetting delicate life patterns—habitat is being destroyed; some species are being harvested beyond their reproductive capacity; and pollutants resulting from man's activities introduced into nature are silently attacking others.

"In some instances, the reason for the decrease of a species is more complex and obscure," Janzen added. "Many people are surprised to learn that as many as 35 or 40 kinds of animals native to the North American Continent have become extinct within the span of U.S. history."

Members of the special study team include Charles H. Lawrence, assistant chief, Management and Enforcement, Chairman; Drs. John W. Aldrich, Ray C. Erickson, and Richard H. Manville, Wildlife Research; Dr. Willis King, chief, Fishery Management Services; Lynn H. Hutchens, Fish Hatcheries; Gale W. Monson, Wildlife Refuges, Samuel E. Jorgensen, chief, Office of Foreign Activities; and Clifford Presnall, chief, Predator and Rodent Control, all of Washington, D.C.

In developing its recommendations, the study team will seek assistance from experts outside Government. In problems that arise in connection with the propagation of rare and endangered migratory game birds, such authorities as Carl Buchheister, president of the National Audubon Society, New York City; Dr. John A. Griswold, ornithologist and curator of birds, Philadelphia Zoological Garden; Jack Kiracofe, president of the Whooping Crane Conservation Association, Sierra Vista, Ariz.; and Dr. S. Dillon Ripley, zoologist and former curator of Yale University's Peabody Museum (now Secretary of the Smithsonian Institution), have agreed to assist the team.

The team also will consult with the Canadian Wildlife Service to insure full coordination of propagation and other management efforts undertaken to prevent the extinction of any American wildlife species. It also will ask other highly qualified representatives of private organizations prominent in the field of wildlife conservation and agriculture for advice on problems concerned with the preservation of rare and endangered wildlife.

A partial list of extinct and endangered species of the United States and Puerto Rico is attached.

* * * * * * *

ENDANGERED MAMMALS OF THE UNITED STATES AND PUERTO RICO

Tule or dwarf elk, *Cervus nannodes*—two small herds in San Joaquin Valley and Owens Valley, Calif.

* * * * * * *

CANOGA PARK, CALIF.,
September 19, 1973.

Hon. JOHN D. DINGELL,
Chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the House Merchant Marine and Fisheries Committee, U.S. House of Representatives, House Office Building, Washington, D.C.

DEAR MR. DINGELL: This letter and its attachments comprise my "statement" in opposition to the Owens Valley Tule Elk legislation matter, set for hearing before the above-named congressional subcommittee on September 24 and 25, and I will appreciate your personal consideration of its contents, also that you call it to the attention of the other members of the subcommittee, and also that you include my entire "statement" in the hearing's record, as I believe my opinions expressed herein are all very noteworthy and "thought-provoking" (to quote Senator Barry Goldwater, Jr. in his reply to copy I sent to him.

My within "statement" comprises this letter to you, also Xerox-copy of my letter of June 11, 1973, with attachments, which I sent to yourself and other congressmen, and also a letter of response to me from James W. Pulliam, Jr., Chief of the Division of Wildlife Refuges of the U.S. Department of the Interior, which states: "this Bureau recommended against these resolutions", and other very important relative statements, and which I am including as very vital evidence that even the chief concerned representative of the United States Department of the Interior,—referred to me as such by President Nixon, opposes the Owens Valley Tule Elk National Wildlife Refuge legislation.

Thus, it is conclusive that not only all of the local Owens Valley, California residents and property owners, and also all of their elected officials, chambers of commerce, and civic clubs, including the local branches of major environmentalist groups such as the Izaak Walton League, and the Sierra Club, the Los Angeles Department of Water and Power, the Los Angeles City Council, the California Board of Supervisors, the California Cattlemen's Association, all of the wildlife and environmental-control bodies of the State of California, but

also the head federal-government man of the U.S. Department of the Interior in charge of wildlife refuges, the said James W. Pulliam, Jr., as is so vehemently expressed in his attached letter to me of June 27, 1973,—is against such legislation, or idea.

Those who sponsor this legislation, then, comprise a very small minority, or namely, the two sponsoring U.S. senators, Cranston and Tunney, and the Southern California chapter of the Sierra Club, the latter which very unsteadily opposes its own sister-chapter, the local and surely much more knowledgeable and more involved Toiyabe chapter of the Sierra Club, which includes Inyo and Mono Counties of California,—envincing that the Sierra Club is strongly divided against itself in the matter of the Owens Valley of California Tule Elk Refuge legislation.

Therefore, and since the foundation of the government of our United States of America is "representation of the people, by the people, and for the people", —there is absolutely no basis, constitutionally or otherwise, for your subcommittee's, as well as the United States Congress' approval of Senate Joint Resolution 6, or of House Joint Resolution 204, or, in fact of any similar legislation, present or future, proposing a Tule Elk National Wildlife Refuge in the Owens Valley of Inyo County, California, and by which the now all too powerful federal bureaucracy proposes to capture, or usurp, complete control from the people for all time, and establish totalitarian control and ownership of this beautiful, fertile and resources-endowed, excellently located valey, in order to convert it irretrievably to the entire use of its own schemes,—for surely it does not propose to monopolize this otherwise so needfully usable valley solely for the propogation and conservation of a few hundred tule elk,—which is all that acknowledgeably could possible survive there,—also the detriment or possible extinction of the Bighorn Sheep, now native to the Owens Valley and thriving therein.

Yours most sincerely and respectfully,

Mrs. Mary T. Voight

[The attachments were placed in the Committee files.]

Department of Water and Power,
Los Angeles, Calif., October 10, 1973.

Hon. John D. Dingell,
Chairman, Subcommittee on Fisheries and Wildlife Conservation and the Environment, House of Representatives, Rayburn House Office Building, Washington, D.C.

Dear Congressman Dingell: The Department of Water and Power of the City of Los Angeles greatly appreciates having had the opportunity to express its position on H.J.R. 204 at the hearings before your Subcommittee on September 24 and 25, 1973 in Washington.

I also enjoyed the opportunity to discuss this legislation with you and Ned Everett following these hearings.

While we recognize your desire to enact some form of legislation to protect the Tule Elk and insure inter-agency cooperation in that effort, we do not believe that creation of a Federal Refuge in the Owens Valley will properly accomplish this objective.

In response to Congressman McCloskey's request at the hearing, I am enclosing a copy of the agreement between the Department of Water and Power and the University of Southern California for an Owens Valley study for the amount of $10,500. Also enclosed is a news release by the Department of Water and Power as well as a copy of a letter from Professor Ralph Knowles to Councilman Gilbert W. Lindsay wherein Professor Knowles clarifies in the next to the last paragraph as follows: "Our purposes are related to research and education not to the development of the Owens Valley or any part of it." The research project has been completed by the University of Southern California School of Architecture and is to be published in the spring of 1974 by the Massachusetts Institute of Technology under the title of "Energy and Form."

The Subcommittee also requested certain additional information regarding Department of Water and Power management policies regarding City-owned lands in the Owens Valley and I am enclosing the following:

(1) *City of Los Angeles Lands in the Owens Valley*—Statement presented to the Inyo County Planning Advisory Committee, Independence, California, October 25, 1967.

The last sentence of the first paragraph on page 2 summarizes the Department of Water and Power's attitude towards future use of City-owned land in the Owens Valley and it reads: "The most probable result of the above policy considerations is that virtually all of the 187,000 acres of City-owned land presently devoted to ranching and stock grazing will continue in the same status for the indefinite future." I believe this three-page statement was included with the appendix to the Inyo County Master Plan adopted in 1968.

(2) Resolution No. 179 approved by the Board of Water and Power Commissioners of the City of Los Angeles on September 29, 1938. This resolution makes clear the intention of the Board to permit the sale of only certain business and residential properties within the existing communities in the Owens Valley.

(3) *Joint Memorandum—City of los Angeles Department of Water and Power and State of California Department of Fish and Game,* executed on October 11, 1966. "This is a working guide for cooperative fish and wildlife management activities on lands owned by the City of Los Angeles in the Owens Valley and Mono Basin."

(4) *Memorandum of Agreement Between Bakersfield District-Bureau of Land Management, Inyo National Forest-Forest Service, and the Department of Water and Power-City of Los Angeles for Joint Planning Within the Owens Valley-Mono Basin Area.* This agreement formalizes a long-standing policy of cooperation and communication between the two Federal agencies and the City of Los Angeles for the integrated planning of the land use management for the Owens Valley-Mono Basin area.

(5) *Plan and Program for Inter-Agency Committee on Owens Valley Land and Wildlife.*

I hope this information will be helpful in your reconsideration of this legislation and would be pleased to provide any additional information which you may need in this effort.

Thank you for your cooperation.

Sincerely,

DUANE L. GEORGESON, *Engineer, Los Angeles Aqueduct.*

No. 10098—AGREEMENT

This agreement, made and entered into by and between the Department of Architecture of the University of Southern California, University Park, Los Angeles, California 90007, hereinafter referred to as the "Contractor," and the Department of Water and Power of the city of Los Angeles, 111 North Hope Street, Los Angeles, California 90054, hereinafter referred to as the "Department";

Witnesseth:

Whereas The City of Los Angeles owns 302,000 acres of watershed lands in Inyo and Mono Counties for the development and protection of its water supply; and

Whereas the Department manages these lands under a policy which provides for a variety of uses compatible with that purpose; and

Whereas it is of great value to the Department and to the citizens of Los Angeles to protect the ecology and environment of the Owens Valley; and

Whereas the Contractor has undertaken "Owens Valley Study' 'to develop an awareness and appreciation of the valley's ecology and develop techniques to insure that environmental factors will be given proper emphasis in the construction of any facilities; and

Whereas the Contractor has completed the first half of this study under the sponsorship of the National Endowment for Arts and has requested sponsorship of the second half, which is estimated to cost $10,500; and

Whereas the Department would receive substantial benefit for the Contractor's study in regard to the management of the City-owned watershed lands in the Owens Valley; and

Whereas the performance of such services will involve the performance of professional, scientific, expert or technical services of a temporary and occasional character; Now, therefore, the parties hereto agree as follows:

1. The Contractor will complete the second half of "Owens Valley Study"

and provide the Department with ten (10) copies of the study before the end of the Fall Semester, 1970. Additionally, during the course of this agreement, the Contractor will provide the Department with such periodic reports as may be requested by the Department.

2. All such work shall be performed by the Contractor through or under the immediate and responsible direction of Professor Ralph Knowles, Principal Investigator for the Department of Architecture, U.S.C.

3. The Contractor will perform said services in its own way and as an independent contractor in the pursuit of its independent calling and not as an employee of the Department, and it shall be under the control of the Department only as to the result to be accomplished and not as to the means or manner by which such result is to be accomplished.

4. The Department will pay to the Contractor for its services herein the Contractor's direct payroll costs and its direct costs of materials, equipment, publication, and similar project-related items.

5. The sum of $10,500.00 is established as the maximum compensation to the Contractor under this agreement, and this sum shall not be exceeded without the prior written authorization of the Department.

6. The Contractor will, at the end of each calendar month in which services are performed or expenses are incurred under this agreement and prior to the tenth day of the following month, submit to the Department a verified and itemized bill therefor, in triplicate, stating therein that such services were performed and that such expenses, if any, were necessarily incurred. Such bill will be certified, audited and paid in the ordinary course of business.

In witness whereof, the parties hereto have executed this agreement the day and year first above written.

Professor SAM T. HURST, *Dean.*

[Department of Water and Power, Los Angeles, Calif. November 12, 1970]

IMMEDIATE RELEASE

An ecological study of Owens Valley by the University of Southern California today received support from the Los Angeles Board of Water and Power Commissioners.

The board agreed to a $10,500 contract with the USC Department of Architecture to sponsor the second half of the research project. The first section of the study, completed in September, 1969, was financed jointly by the university and the National Endowment for the Arts.

"The ecological method used in 'Owens Valley Study' is a unique approach to the problems of resource conservation," board president John W. Luhring said.

"By developing ways to evaluate interaction between components of the environment, the study will establish a framework to accommodate change without adversely affecting the area's ecology, he said.

Robert V. Phillips, chief engineer of water works and assistant manager, said the project is being conducted by Professor Ralph Knowles, principal investigator for the department of architecture, and a group of students in the graduate program for urban design.

Its purpose is to develop an awareness and appreciation of the valleys ecology and to develop methods by which environmental factors can be given proper emphasis in the construction of facilities, he said.

Phillips said the first volume described the historical and geophysical conditions of the Owens Valley and provided the framework for designing a man-made system on the basis of environmental stress. The second volume will provide ecological criteria for the type and extent of development, if any, which would be compatible with the valley environment.

AUGUST 12, 1971.

Hon. GILBERT W. LINDSAY,
Chairman, Water and Power Committee,
Los Angeles, Calif.

DEAR MR. LINDSAY: The fact has been brought to my attention that some questions have been raised about the intention of our work concerning the Owens Valley. The work was begun in 1968 under a grant from the National

Endowment for the Arts. The objective of that work was to develop alternative frameworks for settlement based on the natural ecology. The work was carried on by graduate students in our urban design program.

During the two years since the original study was completed, we have continued our efforts to develop ecologically sound planning techniques. The Department of Water and Power has been most helpful to us from the very beginning. During the initial study, they were helpful in supplying information about the Valley, and now they have provided funds for the documentation of our latest work. We believe that the efforts of the Department of Water and Power are unique and commendable. To our knowledge, there is no comparable support for attempts to develop ecologically based planning techniques.

We originally became involved with the Department of Water and Power by selecting the Owens Valley at a study site. It is an impressive valley and uniquely suited for such a case study. Our intention was to train students and to develop planning tools, not to advocate settlement in the Owens Valley. As the study has progressed, it becomes even more clear that there are several convincing reasons why intensive settlement should not take place there.

The first is that the Valley is a delicately balanced eco-system, and this balance would be disturbed by urbanization. Our study indicates that only a small portion of the Owens Valley could be safely settled, and even this would require great care. Many of the regions comprising the Valley are low-diversity domains requiring a long time to heal the scars which development inevitably brings. Thus, the rate as well as extent of development must be highly controlled. We do not have functioning tools to responsibly direct growth in such areas. This suggests that no development should be allowed until such tools are available.

A second reason that settlement is inadvisable relates to the Valley's role as a major water resource for the City of Los Angeles. Significant development would threaten the quality and quantity of this supply, and of even greater concern to us, would tend to unstabilize the watershed areas once again. These areas have stabilized following the construction of the Aqueduct. It is beyond the scope of our work to evaluate the original decision to withdraw Owens Valley water for Los Angeles, but the facts are that the Valley is once again stable and Los Angeles is now dependent upon a water source that has been available for seventy years.

Another major reason is that the Valley provides a fine recreational resource, primarily for the people of the Los Angeles region, but also for other urbanized areas of the western states. Such a resource is badly needed and provides, in addition to hiking, camping and sight-seeing, a major game preserve for several species, including the Tule Elk.

Finally, let me emphasize that for our purposes, the Owens Valley provided an excellent case study because of its strong ecological structuring. Our purposes are related to research and education, not to development of the Owens Valley or any part of it.

If you have any questions about our work, I hope this letter may answer them; and if it does not, please feel free to call or write to me.

Sincerely,

RALPH L. KNOWLES, *Professor of Architecture.*

STATEMENT PRESENTED TO THE INYO COUNTY PLANNING ADVISORY COMMITTEE, INDEPENDENCE, CALIF.

CITY OF LOS ANGELES LANDS IN THE OWENS VALLEY

The City of Los Angeles owns approximately 242,000 acres of land in Inyo County. This land was purchased to protect the City's water rights and is managed by the Department of Water and Power.

Article 22 of the Los Angeles City Charter requires that the Department shall not sell or otherwise dispose of these lands or water rights. This provision of the City Charter plus the Department's responsibility to provide maximum protection for this vital source of water for Los Angeles are the main considerations affecting the present and future uses of City-owned property in Inyo County.

Cattle grazing and most recreational activities are compatible with Department of Water and Power land and water managment objectives. Approximately 187,000 acres of land in Inyo County are leased for cattle ranching and stock grazing for packers and all of these leases require that at least 75 percent of the leased land be kept open to the public, thereby materially increasing the recreational potential of the Owens Valley. In 1966 the Board of Water and Power Commissioners signed a Joint Memorandum of Agreement with the State Department of Fish and Game which allows for the cooperative development of fish and wildlife enhancement projects on City-owned lands.

Leases of Department lands are subject to the City Charter limitations of 5-year terms. However, under the terms of the Charles Brown Act, Section 50300–50307 Government Code, successive lease renewals are granted without advertising for bids. This renewal policy promotes stability of the agricultural economy in Inyo County and encourages lessees to engage in ranch improvement programs. Another factor which will add additional stability to the agricultural economy on leased City lands in the future is the Department of Water and Power's plan to provide irrigation water to lessees on a more firm basis than in past years. The most probable result of the above policy considerations if that virtually all of the 187,000 acres of City-owned land presently devoted to ranching and stock grazing will continue in the same status for the indefinite future.

In addition to the ranching leases, the Department of Water and Power leases approximately 3,000 acres to governmental agencies for campgrounds, airports, and for scientific research such as Cal-Tech Radio Telescope and the White Mountain Research Lab of the University of California. These leases are possible because the land use is compatible with the Departments' providing maximum protection for the City's water rights and supply. Approximately 2,000 acres of City property is leased for industrial use in areas where there is no water pollution problem and where the industry will not detract from or deface the natural beauty of the countryside.

Within the City limits of Bishop and the town limits of Big Pine, Independence, and Lone Pine, the Department presently has several hundred residential and commercial leases. The Department most likely will continue in its role as a commercial lessor, due to the above-mentioned Brown Act which requires that existing lessees be given preference in the sale of any property whereas the Los Angeles City Charter requires that all sales be by open, competitive bidding—a conflict which precludes the sale of property under lease. Most of the existing residential leases are to Department employees, and it is anticipated that eventually all City-owned residences will be rented to employees. Since 1938 the Department has been engaged in selling surplus commercial and residential town lots to private parties. Approximately 1,000 lots have been sold during this period with an additional 50 lots scheduled for sale on October 25, 1967.

An important part of legislation now being studied by the Department and federal and local officials is the proposed exchange of lands between the City of Los Angeles and the Federal Government. The City would acquire federal lands essential to the protection of water supply facilities such as Haiwee Reservoir in exchange for the Federal Government's acquiring land for public use including parcels adjacent to Lone Pine, Independence, and Big Pine, which can be released for development as needed. Bishop, being an incorporated city, can provide for development by annexing property adjoining the present city limits.

This brief summary of regulations and policies affecting the management of Los Angeles' lands in the Owens Valley is presented to assist the County in its formulation of a Master Plan. It is believed that the adoption of a well-thought-out Master Plan and zoning ordinance are both essential for the orderly future development in Inyo County.

RESOLUTION NO. 179

Whereas as a necessary incident to the acquisition by The City of Los Angeles of water rights in the Owens Valley watershed for supplying said City and its inhabitants with water, there have been acquired by the City a great number of parcels of land in the communities, incorporated or unincorporated,

in soid Owens Valley, which land comprise business and residence properties and unimproved lots and are under the management and control of the Department of Water and Power of The City of Los Angeles; and

Whereas residents of Said Owens Valley desire to acquire title in fee to certain of said lands, and have made sundry applications to said Department of Water and Power to purchase the same; and

Whereas it is highly desirable that the existing spirit of good will and cooperation between The City of Los Angeles, as represented by the Department of Water and Power, and said communities in said Owens Valley, be in all proper ways promoted and fostered and, particularly, by such aid and encouragement to said settlement and development as The City of Los Angeles can afford through the disposal of its lands within said respective communities, on terms that, while safeguarding the interests of said City, will assure settlers and developers of permanency in their respective tenures and investments in said communities: Now, therefore, be it

RESOLVED, By the Board of Water and Power Commissioners of The City of Los Angeles, That the policy of said Department of Water and Power is and shall be, to offer for sale and to sell, to such persons, firms, and corporations as may desire to purchase the same (subject to reservations in favor of said The City of Los Angeles of any and all water or water rights constituting part thereof, or in anywise appurtenant thereto), lands and improvements by said The City of Los Angeles owned within said communities, at such prices as shall constitute the reasonable market value of said properties, to be determined in each instance by this Board (taking into consideration the reservations aforesaid), and upon such terms as shall be prescribed by this Board; and be it further

Resolved, That a copy of this resolution be published by one insertion each in the "Inyo Register", a newspaper published at Bishop, California, and in the "Inyo Independent", a newspaper published at Independence, Calif.

I Hereby Certify that the foregoing is a full, true and correct copy of a resolution adopted by the Board of Water and Power Commissioners of The City of Los Angeles, at its meeting held September 29, 1938.

(Signed) JAS. P. VROMAN, *Secretary.*

JOINT MEMORANDUM—CITY OF LOS ANGELES, DEPARTMENT OF WATER AND POWER, AND STATE OF CALIFORNIA, DEPARTMENT OF FISH AND GAME

This is a working guide for cooperative fish and wildlife management activities on lands owned by the City of Los Angeles in the Owens Valley and Mono Basin.

COOPERATORS

Department of Fish and Game, State of California, hereinafter called the "Department" and the Department of Water and Power, City of Los Angeles, hereinafter called the "City."

JUSTIFICATION

The Department has important responsibilities in connection with the conservation, protection, propagation and perpetuation of fish and wildlife within the State and for promulgating rules and regulations for their taking.

The City has important responsibilities for providing the City of Los Angeles with a safe and potable water supply and determining the proper use and management of City-owned lands to protect and control the watershed associated with this water supply.

Coordinated exercise of these responsibilities is essential to proper land and wildlife management.

This Joint Memorandum will serve as a guide to the Department and the City in developing fish and wildlife plans on identified City-owned lands in the Owens Valley and Mono Basin, State of California.

THE GENERAL PLAN

1. The Department, in cooperation with the City, will prepare fish and wildlife management and development plans for identified City-owned land where wildlife is an important factor. These plans will include existing and proposed

habitat developments and will be submitted to the City for their review and approval.

2. City and Department records will be available to each other to facilitate this work. Reports and copies of pertinent correspondence will be exchanged. Work and program progress also will be exhanged.

3. For any specific subdivision of land where the Department desires to make improvements or developments, the City will, if the proposal is in accordance with City plans, issue an appropriate instrument to provide the authority for such improvements or developments. Where lands required for such improvements or developments are leased, this authority will not be issued without the consent of the lessee. The Department will not install any improvements or proceed with any developments without such authority.

4. Wildlife species not presently on the area will not be introduced unless studies show that such introduction would be consistent with the programs of both the City and the Department for the area.

5. Representatives of the two agencies will meet jointly, at least once annually, for discussion of matters relating to the management of fish and wildlife resources in or affecting City lands; to provide for other meetings and field trips at various administrative levels for discussions, inspections, and exchange of information on such items as hunting, fishing and trapping seasons, hunting closures, fire detection and control, livestock control fences, brush control, water developments, water sanitation, and other management activities of the City, and such other uses as may be relevant to the fish and wildlife resource and its habitat.

6. All movable structures, facilities, and equipment placed on City lands by the California Department of Fish and Game under permit from the City shall remain the property of the State and may be removed by it at any time under the terms thereof.

MEMORANDUM OF AGREEMENT BETWEEN BANKERSFIELD, DISTRICT, BUREAU OF LAND MANAGEMENT, INYO NATIONAL FOREST, FOREST SERVICE, AND THE DEPARTMENT OF WATER AND POWER, CITY OF LOS ANGELES, FOR JOINT PLANNING WITHIN THE OWENS VALLEY-MONO BASIN AREA

Whereas the Owens Valley-Mono Basin Area easterly of the Sierra Nevada crest is a unique resource for watershed, recreation, and wildlife habitat, and

Whereas most of the natural characteristics have been retained while other areas in California are suffering from many forms of overdevelopment, and

Whereas more than 90 percent of the lands within the Owens Valley-Mono Basin Area, as shown on map identified as Appendix "A," are owned by the Federal Government and the City of Los Angeles and managed by the Bakersfield District of the Bureau of Land Management, the Inyo National Forest, and the Los Angeles Department of Water and Power, and

Whereas these three managing agencies are united in the goal of protecting the area and enhancing its features in a manner compatible with their respective responsibilities and recognize that achievement of this goal requires coordinated joint planning, and

Whereas the two federal agencies have integrated planning systems which use the multi-disciplinary approach in making resource inventories and program recommendations, and

Whereas the Department of Water and Power desires to integrate its planning into an overall coordinated land use plan, and

Whereas such joint planning by the three managing agencies will require cooperation with Inyo and Mono Counties, which coordinate local and regional planning efforts through their Planning Commissions, and with other federal, state, and local agencies and private parties, Now therefore be it

Resolved, That a joint multi-disciplinary land use planning effort will be undertaken by the signers of this Agreement for the protection, management, and enhancement of the multiple use values of the Owens Valley-Mono Basin Area, in accordance with the following principles and procedures:

1. Participants will cooperate fully with each other and coordinate with and seek information and assistance from other federal, state, and local governmental agencies having pertinent regulatory responsibilities within the Owens Valley-Mono Basin Area, private organizations, land-owners, and general public

in the inventory, analysis, formulation, and execution of a comprehensive integrated land management plan.

2. Each agency will be responsible for the coordinated planning affecting its lands in the Valley.

3. Interim management and development proposals will be coordinated with other agencies for pertinent regulatory responsibilities.

4. Planning costs, budgeting, and personnel utilization will be the responsibility of and subject to the regulations and policies of the Bureau of Land Management, Forest Service, and City of Los Angeles Department of Water and Power respectively.

5. Nothing in this Agreement shall alter, affect, or interfere with the obligations and rights of the parties hereto to manage the lands and programs administered by them, in accordance with their basic responsibilities. The Inyo National Forest signs this Memorandum of Agreement under the authority of the Act of July 24, 1919 (7 USC, 450b). No member of, or a Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this contract or to any benefit that may arise therefrom unless it is made with a corporation for its general benefit.

6. Each party may terminate or modify the Agreement by giving six months' written notice to the other parties.

LOUIS A. BOLL,
Bakersfield District of Bureau of Land Management.
EVERETT TOWE,
Inyo National Forest.
JOHN W. PHILLIPS,
Department of Water and Power.

APRIL 3, 1972.

PLAN AND PROGRAM FOR INTER-AGENCY COMMITTEE ON OWENS VALLEY LAND & WILDLIFE

The Owens Valley extends north and south, and lies between the Sierra Nevada on the west and the White and Inyo Mountains on the east. Both of these ranges have peaks attaining elevation in excess of 14,000 feet. The Valley floor ranges in elevation from about 4,200 feet at the north and 3,600 feet at the south. The Valley is a long, deep, narrow trough approximately 80 miles long, and varies in width from 6 to 10 miles.

Northwesterly of the Owens Valley is the Long Valley area which contributes water to the Owens River drainage, and northwesterly of Long Valley is Mono Basin, a separate basin with Mono Lake as its drainage sink.

More than 90 percent of the lands within the Owens Valley-Mono Basin area are owned by the Federal Government and the City of Los Angeles and managed by the Bakersfield District of the Bureau of Land Management, the Inyo National Forest, and the Los Angeles Department of Water and Power.

Due to the extremes in topography, there is a variety of habitat types, beginning with the alpine meadow at the Sierra crests down to the alkali sinks on the Valley floor. Consequently, there are numerous interesting and rare fish and wildlife species in the Inyo-Mono area, such as the Golden Trout, Paiute Cut-throat Trout, Pupfish, Tule Elk, California Big Horn Sheep, Kit Fox, Inyo Black Toad, and many others.

Fish and wildlife are among the most important resources of Inyo and Mono Counties and serve as highly popular recreational attractions. Use of these resources is primarily manifested in fishing and hunting, accompanied by a rapidly increasing appreciation of aesthetic values. Inasmuch as demand will alsmot certainly increase with time, it is essential that the various agencies responsible for the management of Owens Valley fish and wildlife populations and habitat develop an efficient and balanced program, giving full consideration to all recognized uses.

Committee Formation and Membership

In order to help obtain this goal, the Inter-Agency Committee for Owens Valley land and Wildlife was formed on January 20, 1970. Committee membership includes representatives from the following agencies: U.S. Bureau of

Sport Fisheries and Wildlife; U.S. Bureau of Land Management; U.S. Forest Service; California Department of Fish and Game; County of Inyo; County of Mono; University of California; Department of Water and Power, City of Los Angeles; California Department of Conservation; California Department of Transportation; National Park Service—Kings Canyon and Sequoia National Parks.

Committee Policy and Purpose

The prime purpose of this Committee is to coordinate the efforts of all member agencies in their respective responsibilities of land, wildlife and natural resource management. Joint meetings are held frequently to enable the various agencies to communicate on mutual land and wildlife management problems and to further general understanding and goodwill between agencies. Subsequently, the Committee extends its official responsibility to making recommendations on management and development efforts in line with the stated goals and policies of the Committee. Through communication and cooperation, programs have been initiated to protect and increase public enjoyment of all wildlife and multiple use values on 2.5 million acres of land in the Owens Valley-Mono Basin watershed in Inyo and Mono Counties. These programs are predicated on acceptance of a common set of four basic goals by the various agencies. These goals, set forth below, together with their supporting policies or objectives, have been used as the basis for developing habitat areas and for the construction of sites to enhance the public's appreciation of the areas natural environment. Recommendations for specific areas within the Owens Valley-Mono Basin watershed are intended to help achieve these overall goals and to set forth procedures and responsibilities for assuring their continuation.

I CONSERVE AND MAINTAIN THE QUALITY OF THE AREA'S NATURAL RESOURCES

Supporting policies

(A) Encourage management and development which inherently, or by design, enhances soil, water, air, vegetation and wildlife resources and values.

(B) Encourage the preservation of unique, outstanding and high public value resources, such as Sage Grouse habitat, critical deer range, Tule Elk Habitat, Big Horn Sheep habitat, wet meadows and riparian areas, fishery resources, scenic vistas, archaeological sites, etc.

(C) Encourage programs which restore a more natural character to the Valley, such as utility corridors or undergrounding, spacially dispersed camping and public use, rehabilitation of damaged and disturbed areas.

(D) Become actively engaged in any and all issues considered adverse to this goal and recommend or resolve toward compatible goal attainment. (Within legal and policy limitations of the respective member agencies)

II MAINTAIN THE DOMINANT NATURAL APPEARANCE AND CHARACTER OF THE AREA

Supporting policies

(A) Support projects only in those areas where the type and density of vegetation, the slope of the land and its location, when combined with appropriate site and development practices, will prevent the projects from visually intruding into the overall appearance of the natural setting.

(B) Attempt to confine building materials to natural materials, restrict colors to those which will blend into the natural surroundings, and confine landscaping to indigenous materials which will help extend and reinforce the natural appearance.

(C) Assist in providing special protection to those areas and elements which convey an understanding and appreciation of the natural history and related natural factors and processes of the area.

(D) Access into undeveloped areas should be kept to a minimum to protect the natural environment and wildlife habitat.

III PROMOTE, WITHIN THE CONFINES OF SOUND NATURAL RESOURCES MANAGEMENT PRACTICES, MAXIMUM PUBLIC USE AND ENJOYMENT OF THE AREA'S NATURAL RESOURCES

Supporting policies

(A) Recommend public access where compatible with the natural resources protection aims.

(B) Through coordination, balance the camping and day-use facilities so as to serve the recreational needs of a broader segment of the public.

(C) Assist in developing plans to broaden the spring, summer, and fall recreation orientation to emphasize activities other than fishing, thereby promoting greater public utilization and appreciation of the area's natural resources.

(D) Encourage individual agencies to set carrying capacities of recreational areas and limit use.

(E) Develop and promote information and education programs on Owens Valley land and wildlife.

IV INCREASE AND ENHANCE NATURAL WILDLIFE HABITAT AREAS

Supporting policies

A) Recommend programs which provide for the management and maintenance of sufficient populations of all forms of fish and wildlife to assure their continued existence.

(B) Encourage the development and maintenance of fish and wildlife habitat.

(C) Encourage the aesthetic and educational uses of fish and wildlife resources of the Owens Valley.

(D) Wherever possible, encourage the multiple use of the land and water resources of the Owens Valley toward the accomplishment of these policies and goals.

[Whereupon, at 6 p.m., the subcommittee adjourned, subject to the call of the Chair.]

○