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SAN CARLOS MINERAL STRIP

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HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 4414

TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO
PURCHASE PROPERTY LOCATED WITHIN THE SAN CARLOS
MINERAL STRIP

HEARING HELD IN WASHINGTON, D.C.

MAY 10, 1973

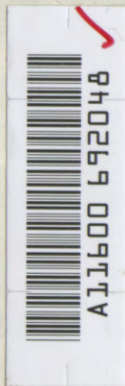
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NOTE.—The chairman of the full committee is an ex officio voting member of this subcommittee. The first listed minority member is counterpart to the subcommittee chairman.

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SAN CARLOS MINERAL STRIP

THURSDAY, MAY 10, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON PUBLIC LANDS
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m. in room B-374, Rayburn House Office Building, Hon. Morris K. Udall presiding.

Mr. UDALL. The Subcommittee on Public Lands will be in session.

This hearing this morning has been called for the consideration of the bill H.R. 4414 by Mr. Steiger of Arizona and also for the consideration of related bills, including one that I introduced yesterday, which is H.R. 7673.

Without objection, a copy of the bill, H.R. 4414 will appear in the record at this point.

[The bill, H.R. 4414 follows:]

[H.R. 4414, 93d Cong., 1st sess.]

A BILL To authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized, in his discretion, under such regulations as he may prescribe, to acquire through purchase from permittees or lessees having grazing rights within the so-called San Carlos Mineral Strip as of January 24, 1969, any or all of their privately owned property, both real and personal, located within such area, taking title thereto in the name of the United States in trust for the San Carlos Apache Indian Tribe.

SEC. 2. The Secretary of the Interior is authorized and directed to compensate the owners of range improvements of a permanent nature placed, under the authority of a permit or agreement with the United States, on the lands restored to the tribe for the reasonable value of such improvements, as determined by the Secretary. Persons whose grazing permits, licenses, or leases on lands within the area restored to the San Carlos Apache Tribe were canceled because of such restoration shall be compensated in accordance with the standard prescribed by the Act of July 9, 1942, as amended (43 U.S.C. 315q).

SEC. 3. For the purpose of purchasing such real and personal property and payment of compensation as provided above, there is hereby authorized to be appropriated, from any funds in the Treasury not otherwise appropriated, sums sufficient to defray the costs as determined by the Secretary.

Mr. UDALL. We have a great deal of ground to cover this morning. We are indebted to the chairman of this subcommittee, Congressman Melcher of Montana, to make available this time. Mr. Melcher indicated that he was unable to be here today because of other pressing business, and he has asked me to preside in his absence.

Our first witness is the gentleman on my right, a distinguished member of the subcommittee, and the author of the principal bill, Mr. Steiger.

The subcommittee will be happy to hear from you.

STATEMENT OF HON. SAM STEIGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. STEIGER. I will not burden the committee or the record with a lot of invective, but I would call to the chairman's attention that his bill is identical to H.R. 4414.

Mr. UDALL. I am happy to join as a cosponsor of this.

Mr. STEIGER. We will hear from the next witness, who is Mr. Conlan, who represents the principals in this matter, and I would like to submit at this point for the record what I consider to be a very accurate summary of the chronology and general effect of the facts in this matter.

This is a copy of a letter submitted to Secretary Morton on behalf of the lessees in this matter, and with your permission Mr. Chairman, I would ask that it be placed in the record at this point in the hearing.

Mr. UDALL. Without objection, the statement will appear in the record at this point. It consists of eight pages as it is presented to us. [The information referred to follows:]

An order issued by former Secretary of the Interior Stewart L. Udall on January 16, 1969 (just four days before he left office), will shortly, in effect, evict twenty-six Arizona ranchers and their families from their homes and deprive them of substantial property without compensation. We are sure that if you know all of the facts in this case, you will prevent this injustice from occurring. For this reason, we ask your indulgence and request that you study carefully that which follows and conduct whatever investigations you feel are necessary to verify the claims made.

The 232,320 acres of land in southeastern Arizona now known as the San Carlos mineral strip were originally given to the Apache Indian Tribe when the San Carlos reservation was established by the Federal Government in 1872. On February 25, 1896, the Indians ceded the mineral rights invested in this land back to the United States Government. It was thought at that time that coal fields existed in the area; the Indians were to receive royalties on the earnings of any mineral developments.

Subsequent use of this area was not restricted, however, to the development and exploitation of its mineral resources. The Federal Government allowed the lands to be homesteaded, patented, and grazed by individuals and deeded to the state for school grant selection an indemnity lieu bonds under the Arizona Enabling Act. This Arizona Enabling Act gave the state four designated sections in each township for support of the common schools. The act itself was considered to be a legal transfer, and no documentary titles were required. The General Land Office (predecessor to the Bureau of Land Management) certified that indemnity lands selected within the strip were open to the state because equivalent school lands outside the strip were not available. Grant selection lands were reserved for the benefit of twelve designated state institutions. The Department of the Interior, through the General Land Office, issued "clear lists" which contained Federal certifications that these lands were free from conflicts or adverse claims of title. The state of Arizona owned 23,000 acres of this land. The Coronado National Forest, created by presidential proclamation in 1908, included another 12,000 acres. The Bureau of Land Management administered 199,561 acres and collected grazing fees on it under the authority of the Taylor Act. Various individual ranchers have, over a period of about seventy-three years, paid grazing fees to the government according to regulations, have bought and sold range rights and leases, and have homesteaded or bought land within the strip. To the best of their knowledge, this has all been done legally and honorably. Some of the land has changed hands several times through such transactions,

and ranchers have, typically, invested their total resources. They have improved the land by the development of reservoirs, springs, trails, fences, roads, ranch buildings, and dwellings. Some still owe large amounts on their purchases to individuals and banks.

Illustrative examples are provided by Keith Smith, Max Smith, H. Skeet Bowman, Burt McBride, Hollis Sanders, Ed Riggs, and Amron Sanders. Mr. Bowman had conducted ranching operations on the ceded lands since 1917. Keith and Max Smith purchased the Bowman Ranch for \$200,000. By 1969 they had paid about half of the agreed-upon price. Keith Smith and Burt McBride also purchased an adjoining ranch from Hollis Sanders and Ed Riggs (who still owed Amron Sanders for it) for \$195,000. By 1969, Smith and McBride had paid about \$50,000 of the purchase price of this ranch. Similar situations exist throughout the strip.

Because of the lack of mineral development, the Secretary of the Interior withdrew all entry to the lands in 1934. This, of course, indicated to the Indians that their possible source of royalties had been dried up artificially.

Also in 1934 (June 18), Congress passed the Wheeler-Howard Act, which authorized the Secretary of the Interior to restore to tribal ownership specific "surplus Indian lands" if he were to find it "in the public interest" to do so. No action relative to the mineral strip was taken at that time in connection with this act.

By 1945, the Indians were looking for ways to get more money out of the land they had ceded forty-nine years earlier. As a result, the Tribal Council passed a resolution on May 8 of that year recognizing the status quo, to wit: that since homestead entries had inadvertently been permitted on the strip, that since, due to problems of the patented land and appropriated waters, the balance of range land would be inaccessible to the Indians, that since the Indians had a balance of winter and summer range equal to their needs without including the "strip," and that since they were not in a position to administer the strip as rental property, they requested the General Land Office to administer it and credit rentals to the Tribe until such time as Congress would pay the Tribe \$277,966.37 for the land, as proposed in Senate Bill 114, and thus wipe out the Government's error in allowing it to be homesteaded.

This resolution did not eventuate in any significant Congressional action, and so in March 1958, the San Carlos Apache Council adopted another resolution asking for restoration of the mineral strip under the Wheeler-Howard Act.

The ranchers, upon learning of this resolution, began, naturally enough, to take steps to protect their holdings. They, as a matter of course, contacted their representatives in Washington. Senator Carl Hayden, in a letter to Keith E. Smith under date of August 11, 1959, stated that he had the assurance of the Secretary of the Interior Ernst that no action was then scheduled on the San Carlos Strip and that "... before any action is taken, everybody concerned will be given an opportunity to make his suggestions and recommendations."

In 1960, a hearing bearing on the matter was held in Globe, Arizona. At this hearing, Royal Marks, attorney for the Indians, conceded that the ranchers were on their lands "in good faith," that they were, in his eyes, "legal squatters," that they were there "under leases and permits by the Bureau of Land Management," but were, nevertheless, there "certainly without the consent of the tribe." At this hearing the Indians indicated that they wanted only the mineral rights and not the grazing privileges. They suggested that the ranchers might be willing to lease the ranges from the Indians.

In December, 1962, Secretary of the Interior Stewart L. Udall referred the 1958 Indian request for restoration of the strip to Under Secretary James K. Carr for a decision. Originally, Secretary Udall had intended to take immediate action to restore all rights, both surface and mineral, to the Indians. He abandoned this idea, however, when faced with an injunction to prevent its realization. Mr. Carr, after having the matter turned over to him, stated that he no longer had the Indians' request for surface rights under consideration but was thinking only of restoring the mineral rights.

The Indians managed an astute legal ploy in April, 1963, when they passed a resolution to withdraw their request for the restoration of surface rights but specified that the situation relative to such rights be held open until such time as the Tribal Council might reactivate their request. Two months after this resolution was passed (June 17, 1963), Under Secretary Carr ordered all mineral, oil, and gas rights restored to the Indians.

The ranchers, realizing that if the Department of the Interior could restore the sub-surface rights in this manner it might also restore the surface rights,

began a series of legal moves to test whether or not the Department in fact had the authority to restore such mineral rights. In a letter dated September 18, 1963, O. M. Trask, attorney for the ranchers, reported to Guy Anderson the results of a preliminary hearing on the matter to the effect that a court in the District of Columbia under a Judge Holtzoff had ruled that "... the lands in the Mineral Strip have not been an Indian Reservation since 1896 and are not now an Indian reservation." Also that "... the lands of the San Carlos Indians, including the lands in the Mineral Strip, have not been and are now held under individual allotment or the allotment system." This ruling was important in that it indicated that the lands, not being "surplus Indian lands" within the meaning of the Wheeler-Howard Act, could not be restored to the Indians under that act. Unfortunately, the issue was never finally tested, as the judge before whom the action was to be considered, decided that no trial was called for inasmuch as the ranchers were concerned only with the surface rights, which the tribe was not then contesting, having conditionally withdrawn their request for these rights in 1963.

All remained relatively calm until September 12, 1968, when the Tribal Council, very quietly, enacted another resolution asking restoration of the ceded area. No notice of the request was given to either the ranchers or the state. It was, however, used by Secretary Udall as the basis of his action on January 16, 1969, (without notice to those involved and without a hearing of any kind to give them an opportunity to present reasons why such restoration would not be in the public interest) restoring the surface rights to the Indians under the Wheeler-Howard Act as an action "in the public interest." Even this order was not publicized until the very last minute, having been filed January 23 and published in the *Federal Register* of January 24, 1969.

When the action finally became widely known, the general reaction in Arizona, except among the Apaches, was one of outrage and shock. On February 2, 1969, the Arizona Association of County Supervisors and Clerks requested Secretary Walter Hickel to reverse Secretary Udall's order. On March 6 of the same year, the Arizona House of Representatives, by a vote of 50 to 9, passed a resolution asking Secretary Hickel to rescind the order, set a hearing at which all interested parties could present their views, and study the case in order to find a more equitable settlement. Governor Jack Williams and Attorney General Gary Nelson also asked Secretary Hickel to rescind Udall's order so that "public hearings can be held in accordance with the law."

Representative Sam Steiger met with the Indian attorney, Royal Marks, to discuss the problem. He reported to Max Layton in a letter dated May 27, 1969, that Mr. Marks had assured him that the Indians were willing to negotiate a cash payment for the surface rights. Senator Barry Goldwater also talked with Mr. Marks with similar results. In a letter to Mr. Layton dated June 3, 1969, he reported that Mr. Marks had stated that the Indians were in a frame of mind to accept a cash settlement.

Mr. Marks was quoted in the *Arizona Republic* of March 9, 1969, to the effect that "The Indians are not going to take action against the ranchers as far as I can see, ... I'm sure they'll be agreeable to continuing the present leases as far as the law allows."

All of these assurances to the contrary, it is now apparent that the Indians are really interested only in forcing the ranchers from the land. They are not negotiating; they are sitting tight and, as evidenced by their increasing grazing fees to the point of absurdity, are planning to drive the ranchers out of business. Actual grazing fees illustrate what is happening. For the 1970-71 year, Keith Smith was charged \$2,590.29 for grazing 427 head of cattle on one ranch. For 1971-1972 his bill for 377 head on the same ranch was \$4,158.03. Reduced to a per-head basis, these charges were equal to \$6.07 per head in 1970-1971 and \$11.03 per head in 1971-1972. Other ranchers report similar experiences. Additional increases are expected by the ranchers for the next year.

Secretary Udall's restoration order specifically exempted the patented lands within the strip. The Indians say they are not after these lands at the present times. If they are able to take all the rest, however, a ridiculous dog-in-the-manger situation will result. Without the patented lands and their associated water resources, the grazing lands will be practically useless to the Indians. On the other hand, the patented lands will be of no service to the ranchers if they do not also have the range lands.

The results of the action thus far taken will decidedly not be in the public interest. The ranchers will lose their homes and their entire life savings. The banks and the individuals to whom the ranchers are now indebted will lose their expected payments and will find it necessary to write them off to loss—even though the ranchers and their estates will remain under obligation indefinitely for what they have legally purchased but will be unable to possess. Thousands of cattle and extensive improvements will be removed from the tax rolls. Cattle grazing values, considered to be in the neighborhood of \$3,000,000 will be lost. Families will be uprooted and forced to find new homes without the resources to purchase them.

Individuals will be deprived of constitutional rights by having their property taken without compensation or due process of law.

The ranchers do not hold the Indians entirely to blame for the present situation. They do feel that the Government is almost completely responsible for the conditions that exist. They are on the land as a result of legally constituted actions by the Federal Government. If impartial, legal inquiry indicates that the land is rightfully the property of the Indians, the ranchers are willing for the Indians, to have it, but they do not see any justice in depriving people of their property without fair compensation. If, on the other hand, it is found that the land is rightfully that of the ranchers, it seems only fair that the Indians' interest should be recognized and should be compensated equitably. During the time required to reach the decision, the ranchers should not be charged exorbitant grazing fees.

Since the error, if error there was, was without question made by the Federal Government, it would seem that the compensation to either party should be at the hands of that same government.

All of the above presents a complex and delicate problem. And yet, somewhere within the maze lies justice. Justice is all that we seek. Our search to date has encountered only disinterest, neglect, inaction, delay, frustration, high legal fees, and even, we believe, chicanery. God only knows why Mr. Udall acted as he did. He has not made his reasons clear to anyone else that we know. We appeal to you at this time, Secretary Morton, in the belief that you are now the only person who can see that justice is done in this matter. We respectfully request that you have it studied thoroughly and then that you act appropriately on your findings.

Mr. STEIGER. Also for the purposes of the record I would like to submit Arizona House Concurrent Memorial 2004. This is a memorial by the State of Arizona, memorializing the Congress, in effect, to implement the bills that you have introduced and that I have introduced and that Mr. Conlan has introduced.

With your permission.

Mr. UDALL. Without objection, this memorial representing the collective wisdom of the Arizona State Legislature will be a part of the record.

[The information referred to follows:]

STATE OF ARIZONA, HOUSE OF REPRESENTATIVES, THIRTY-FIRST LEGISLATURE,
FIRST REGULAR SESSION

HOUSE CONCURRENT MEMORIAL 2004

A CONCURRENT MEMORIAL URGING THE CONGRESS OF THE UNITED STATES TO PASS H.R. 4414 AND THE SECRETARY OF THE INTERIOR TO ARRANGE FOR THE SURRENDER OF PROPERTY HOLDINGS WITHIN THE SAN CARLOS MINERAL STRIP AND PROVIDE COMPENSATION FOR SUCH HOLDINGS

To the Congress of the United States, and to the Department of the Interior of the United States

Your memorialist respectfully represents:

Whereas, in 1871 and 1872 the President of the United States by Executive Orders set aside a reservation for the San Carlos Apache Indians a part of which is now known as the San Carlos Mineral Strip; and

Whereas, in the late nineteenth century it was believed that certain portions of these tribal lands contained valuable mineral deposits, particularly coal; and

Whereas, by agreement with the Indians February 25, 1896, ratified by an Act of Congress June 10, 1896, the San Carlos Apaches agreed to the cession of an area of approximately two hundred thirty-two thousand acres to the United States for no payment; and

Whereas, the act ratifying the agreement called for the United States to place in the Treasury of the United States to the credit and for the sole benefit of said Indians the net proceeds accruing from the disposal thereof and for the lands to "be open to occupation, location, and purchase under the provisions of the mineral land laws only"; and

Whereas, from 1896 until 1931, the Tribe received net revenues amounting to only twelve thousand four hundred thirty-three dollars from the disposal of lands in the Mineral Strip under the mineral land laws; and

Whereas, because of the insignificant financial returns, the First Assistant Secretary of the Interior, on March 30, 1931, withdrew the lands in the Mineral Strip from all forms of entry or disposition pending the enactment of legislation to authorize the restoration of the area to the Tribe; and

Whereas, the United States Government has since let thousands of acres of the Mineral Strip to patent, withdrawn a forest reserve therefrom, and permitted thousands of acres of grazing to be done under the Taylor Grazing Act; and

Whereas, the residents and ranchers now living on the Mineral Strip and their ancestors have lived on these lands and worked them as their homes and ranches for many years, thereby investing, in many cases, their entire lives' efforts and savings toward the building of these ranches and the construction and maintenance of extensive improvements thereon; and

Whereas, these improvements are located on both tribal lands which were under lease at the time from the Bureau of Land Management and on lands which had been patented under the Homestead Act; and

Whereas, on January 16, 1969, the Secretary of the Department of the Interior signed an order restoring surface rights in the San Carlos Mineral Strip to the San Carlos Apache Indian Tribe; and

Whereas, the San Carlos Apache Tribal Council recently passed a resolution to the effect that, "it is in the best interest of the San Carlos Apache people to graze their own cattle on the land involved"; and

Whereas, the removal of the non-Indian ranchers from the Mineral Strip without just indemnification for the value of their lands and improvements would place upon them an unfair and unjust financial burden; and

Whereas, these ranchers were allowed to reside on the land and make these improvements with the express consent of the United States Government. Wherefore, your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

1. That the Congress of the United States give immediate and positive consideration to H.R. 4414 which would "authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip"; and

2. That the Secretary of the Interior arrange for the surrender of the home and ranch holdings involved to the San Carlos Indians and provide for payment of compensation to the residents and ranchers for property losses sustained by the surrender of such holdings.

3. That a copy of this Memorial be transmitted by the Secretary of State of Arizona to the United States Secretary of Interior and to each member of the Arizona Congressional delegation.

Mr. STEIGER. I also have a document here that I will ask to be made part of the record, but not at this point in the hearing. This is a statement in lieu of appearance by the State land commissioner of the State of Arizona.

I would, if I might—and I know with your generosity you will permit me to read one paragraph here because I feel that it is both demagogic and emotional enough to boggle the mind. It is one of those interesting demagogic phrases that—

Mr. UDALL. The chairman likes to avoid bogging the minds of the participants in these hearings, but we will make an exception here.

Mr. STEIGER [continuing]. These are not my words, but they certainly sum up my feelings. They are the words of the State land director, Andrew Bettwy, and I quote:

I would hope that our Congress does not conclude that this is another case for living white men to atone for some of the sins, if any, of his ancestors by throwing the life work of the innocent families into a sacrificial cauldron which would only prove that we can be equally unjust to the Indian and the non-Indian alike.

Mr. Chairman, as I say, I would reserve for a moment the insertion of this entire statement in the record. That sums up my feelings in this matter, Mr. Chairman. I will yield back the balance of my time to our colleague from the Fourth District of Arizona.

Mr. UDALL. I thank you, gentlemen.

Without objection, I would like to insert in the record of the hearings at this point a speech that I put in the Record yesterday on this subject which appears at E3056 of the record of May 9, but I want it in this hearing record.

Without objection, so ordered.

[The information referred to follows:]

[From the Congressional Record, May 9, 1973]

SAN CARLOS INDIAN TRIBE PLACED IN AN UNFORTUNATE DILEMMA

Mr. UDALL. Mr. Speaker, an old controversy in Arizona involving the San Carlos Apache Indian Tribe, several ranching families, and the Department of the Interior is proceeding to final settlement. Unless Congress takes affirmative action, however, the settlement cannot be said to be acceptable or just. I am speaking about a controversy surrounding over 200,000 acres in Arizona known as the San Carlos Mineral Strip and a long history of Government mistakes which have placed the San Carlos Indian Tribe as well as a group of ranchers in an unfortunate dilemma. While both the Indians and the ranchers have acted in good faith, the Government made some mistakes many years ago and it is time for the Government to provide a remedy.

The dilemma we face today has its roots in actions taken during the last century. Briefly, the history goes like this: The area now known as the San Carlos Mineral Strip was originally a portion of the San Carlos Indian Reservation established in the 1870's. Believing the land to be suitable for mineral development pursuant to congressional authorization, the area in question, which comprised over 230,000 acres, was ceded to the United States in 1896 to be held in trust by the Government with net proceeds resulting from disposal thereof to be paid to the Indians.

The belief that the Indians would profit from the transaction was apparently ill-founded as 35 years later the net revenue totaled only \$12,433 and the lands were withdrawn from mineral entry or disposition. Instead of restoring the area to the tribe, however, a number of actions by the Secretary of the Interior resulted in the lands being opened for grazing and permits were issued. During this period, the present occupants of Mineral Strip, or their predecessors, undertook the back-breaking job of ranching and it is these individuals who now stand to lose the benefits of their lives' work.

Obviously, the tribe was not satisfied with the situation, and the tribal government continued to press for restoration. After a couple of false starts and a short-lived lawsuit, the Secretary of the Interior recognized the validity of the tribe's claim and January 16, 1969, the lands were restored to the San Carlos Apache Tribe.

The tribe has decided that the land is now needed for its own people and has ordered that the 20 or so non-Indian ranchers vacate the premises by June 30 of this year. If they are to comply with this order, the ranchers will walk away from their homes, barns, corrals, and other ranching improvements that represent the bounty of years of plain hard work.

The story is obviously more complicated than indicated in this brief outline and I am sure that those familiar with the controversy can point to many specific

occurrences to reinforce the notion that the Government's actions were often misconceived and substantial rights, on both sides, were frequently ignored. Without belittling the value of the lessons we can learn by focussing on the unfortunate history of the situation, I think we should point out that such discourse is, indeed, history and the relevant question is what we can do about it now?

It has long been apparent to me that both the Indians and the ranchers have significant rights in the area. Thus, should the question of superior rights to the land be resolved in favor of one side, the other side is entitled to compensation. The basic issue now having been resolved in favor of the San Carlos Tribe, it becomes incumbent on Congress to follow through and authorize payment to the ranchers for their losses. My colleagues, Sam Steiger and John Conlan, have taken that step and introduced a compensation bill. Today, I join them and indicate my full support for this measure by introducing my bill to provide relief in terms of dollars, although I recognize that money alone cannot fully compensate a man who is forced to abandon a way of life built by his own sweat and determination.

Over the period of my involvement with this controversy and especially during the last few months, I have searched for solutions which would make possible to protect the ranchers' way of life and still grant appropriate recognition of the tribe's right to these lands. A fully adequate solution is, apparently, not to be found, so we are left with compensation which is certainly a justified, if minimal, remedy.

Mr. Speaker, I am hopeful that the Committee on Interior and Insular Affairs will be able to take early action on this bill and I am pleased that the chairman of the Public Lands Subcommittee, John Melcher, has scheduled hearings on this matter later this week. Compared to the major legislation now pending before that committee, I suppose that the importance of this legislation may not be readily apparent. Although, it is true that the number of the affected individuals is small, I would suggest that the principle involved is enormous, as it touches on the ability of the Government to deal fairly with its people and to remedy its mistakes.

A lawyer who represented mineral strip ranchers once wrote me that his clients were "skeptical of the possibility of securing an appropriation for the relief of a handful of Western ranchers," and in the nature of these matters this kind of pragmatism is probably warranted. I am hopeful, however, that the old injustices will not be left merely partially corrected with only the San Carlos Tribe receiving relief, but that the Congress will act to insure that this other group of affected citizens, this "handful of Western ranchers," also receive equitable treatment through enactment of legislation to fully compensate them for their losses.

Mr. UDALL. Now we will hear our colleague from the Fourth District of Arizona, the Honorable John B. Conlan, cosponsor of this legislation.

Without objection, the full statement of Mr. Conlan will be inserted in the record as if read in full.

[The statement of Hon. John B. Conlan follows:]

STATEMENT OF JOHN B. CONLAN, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF ARIZONA

The San Carlos Indian Reservation in Arizona, which includes 232,320 acres of land now known as the San Carlos Mineral Strip, was established by Executive orders of November 9, 1871, and December 14, 1872.

In the late 1800's, non-Indian interests exerted substantial pressures to take the Mineral Strip from the Indians because they believed the lands contained valuable mineral deposits, particularly coal. As a result, an item in the Appropriations Act of March 2, 1895, authorized negotiations with the San Carlos Indians for the cession of the area in question. These negotiations led to the agreement of February 25, 1896, which was ratified by the act of June 10, 1896, whereby the Indians ceded the San Carlos Mineral Strip to the United States.

No payment was made for the land, but the United States agreed to place in the Treasury of the United States, to the credit and for the sole benefit of said Indians, the net proceeds accruing from the disposal of the rights to land. The 1896 act which ratified the agreement provided that the lands would be

"open to occupation, location, and purchase under the provisions of the mineral land laws only."

Subsequent use of this area was not restricted, however, to the development and exploitation of its mineral resources. The Federal Government allowed the lands to be homesteaded, patented, and grazed by individuals and deeded to the State for school grant selection and indemnity bonds under the Arizona Enabling Act.

From 1896 until 1931, the tribe received net revenues amounting to only \$12,433 from the disposition of lands in the Mineral Strip under the mineral land laws. Because of the insignificant financial returns, the First Assistant Secretary of the Interior, on March 30, 1931, withdrew the lands in the Mineral Strip from all forms of entry or disposition.

In September 19, 1934, the Secretary of the Interior directed that all undisposed of lands of certain reservations, including the San Carlos Reservation, be formally withdrawn from disposal of any kind until the matter of their permanent restoration to tribal ownership could be given appropriate consideration.

On November 17, 1936, the Assistant Commissioner of Indian Affairs and the Acting Director of Grazing, stated in a letter to the Secretary of the Interior concerning the undisposed of lands in the Mineral Strip that these lands are within the exterior boundaries of Arizona Grazing District No. 4, established February 14, 1936, and it is hereby agreed that they may be placed temporarily under range management in accordance with the provision of the Taylor Grazing Act until final disposition has been made thereof.

In a memorandum from the Assistant Commissioner of Indian Affairs, the Commissioner of the General Land Office and the Director of Grazing, approved by the First Assistant Secretary of the Interior on June 21, 1941, the following was stated:

"In order to clarify the administrative authority of the General Land Office and the Division of Grazing the temporary administration of the ceded lands of the San Carlos Reservation, it is hereby agreed that the ceded lands of the San Carlos Reservation which lie within an established grazing district shall be placed temporarily under range management by the Grazing Service and that the ceded lands which do not lie within an established grazing district shall be temporarily administered under lease by the General Land Office, pursuant to the conditions set forth in the letters of November 17, 1936, and August 12, 1973."

Subsequently, the Bureau of Land Management administered 199,561 acres and collected grazing fees on it under the authority of the Taylor Act.

The San Carlos Tribal Council, on May 8, 1945, passed a resolution recognizing the situation, to wit: that since homestead entries had inadvertently been permitted on the strip, that since, due to problems of the patented land and appropriated waters, the balance of range land would be inaccessible to the Indians that since they were not in a position to administer the strip as rental property, they requested the General Land Office to administer it and credit rentals to the tribe until such time as Congress would pay the tribe \$277,966.37 for the land, as proposed in a pending Senate bill, and thus wipe out the Government's error in allowing it to be homesteaded.

This resolution did not result in any significant congressional action, and so in March 1958, the San Carlos Apache Council adopted another resolution asking for restoration of the surface and subsurface rights to the Mineral Strip under the Wheeler-Howard Act.

The ranchers who held the grazing permits on the strip, upon learning of this resolution, began, naturally enough, to take steps to protect their holdings. They, as a matter of course contacted their representatives in Washington.

Senator Carl Hayden, in a letter in response to an inquiry by Keith E. Smith, one of the ranchers, on August 11, 1959, stated that he had the assurance of the Secretary of the Interior that no action was then scheduled on the San Carlos Strip and that—"... before any action is taken, everybody concerned will be given an opportunity to make his suggestions and recommendations."

In 1960, a hearing bearing on the matter was held by the Secretary of the Interior in Globe, Ariz. At this hearing, Royal Marks, attorney for the Indians, conceded that the ranchers were on their lands "in good faith," that they were, in his eyes, "legal squatters," that they were there "under leases and permits by the Bureau of Land Management," but were, nevertheless, there "certainly without the consent of the tribe."

At this hearing the Indians indicated that they wanted only the mineral rights and not the grazing privileges. They suggested that the ranchers might be willing to lease the ranges from the Indians. Certain ranchers owning interests in the Mineral Strip, as well as Arizona State officials appeared and voiced their opposition to the proposed restoration.

In spite of the opposition on November 28, 1962, the Solicitor of the Department held that vacant, unappropriated and undisposed of portions of the Mineral Strip were "surplus lands" within the meaning of section 3 of the Indian Reorganization Act, and that the Secretary had discretionary authority to restore them to tribal ownership.

In December 1962, the Secretary of the Interior referred the 1958 Indian request for restoration of the strip to Under Secretary Carr for a decision. Originally, it was intended to take immediate action to restore all rights, both surface and mineral, to the Indians but, when faced with an injunction to prevent its realization, the idea was abandoned.

Mr. Carr, stated that he no longer had the Indians' request for surface rights under consideration but was thinking only of restoring the mineral rights.

Before any decision was reached on the tribal request contained in resolution No. 58-7, the tribal council, on April 2, 1963, adopted another resolution, requesting the restoration of the subsurface rights only. This resolution directed that the prior resolution, was to be held in abeyance by the Secretary until reactivated by the San Carlos Apache Council.

On June 17, 1963, Under Secretary Carr issued an order restoring all "mineral, oil, and gas resources" in the Mineral Strip to the tribe, "subject to any valid existing rights" and excluding any patented lands and the subsurface interests therein.

The ranchers, realizing that if the Department of the Interior could restore the subsurface rights in this matter, it might also restore the surface rights, began a series of legal moves to test whether or not the Department in fact had the authority to restore such mineral rights.

In a letter dated September 18, 1963, O. M. Trask, attorney for the ranchers, reported to Guy Anderson the results of a preliminary hearing on the matter to the effect that a court in the District of Columbia under Judge Holtzoff had ruled that "... the lands in the Mineral Strip have not been an Indian Reservation since 1896 and are not now an Indian reservation." Also that "... the lands of the San Carlos Indians, including the lands in the Mineral Strip, have not been and are not now held under individual allotment or the allotment system."

This ruling was important because it indicated that the lands, not being "surplus Indian lands" within the meaning of the Wheeler-Howard Act, could not be restored to the Indians under that act. Unfortunately, the issue was never finally tested, as the judge before whom the action was to be considered, ordered the case dismissed.

In ordering the dismissal, the court reasoned that there was no controversy because, first, the tribe had withdrawn its application for the restoration of the surface, and second, the Department of the Interior order of Undersecretary Carr had been made subject to valid existing rights and had also specifically excluded patented lands and the surface of the Mineral Strip.

All remained relatively calm until September 12, 1968, when the tribal council, enacted another resolution asking restoration of the ceded area. No notice of the request was given to either the ranchers or the State.

It was, however, used by the outgoing Secretary of the Interior as the basis of his action on January 16, 1969, without notice to those involved and without a hearing of any kind, restoring the Mineral Strip to the Indians.

This order was filed on January 12, 1969, and publicized in the Federal Register on January 24, 1969.

When the action finally became known, the general reaction in Arizona, except among the Apaches, was one of outrage and shock.

On February 2, 1969, the Arizona Association of County Supervisors and Clerks requested that the new Secretary of the Interior reverse the order of his predecessor.

On March 6 of the same year, the Arizona House of Representatives, by a vote of 50 to 9, passed a resolution asking the Secretary of the Interior to rescind the order, set a hearing at which all interested parties could present their views, and study the case in order to find a more equitable settlement.

Gov. Jack Williams and Attorney General Gary Nelson also asked the Secretary of the Interior to rescind the order so that "public hearings can be held in accordance with the law."

Unfortunately, these efforts were to no avail.

Representative Sam Steiger then met with the Indian attorney, Royal Marks, to discuss the problem. He reported to Max Layton in a letter dated May 27, 1969, that Mr. Marks had assured him that the Indians were willing to negotiate a cash payment for the surface rights. Senator Barry Goldwater also talked with Mr. Marks with similar results. In a letter to Mr. Layton dated June 3, 1969, he reported that Mr. Marks had stated that the Indians were in a frame of mind to accept a cash settlement.

Mr. Marks was quoted in the Arizona Republic of March 9, 1969, as saying that "The Indians are not going to take action against the ranchers as far as I can see, . . . I'm sure they'll be agreeable to continuing the present leases as far as the law allows."

At the time of the restoration of the surface, the grazing of the Mineral Strip lands was being supervised by the Bureau of Land Management. The San Carlos Agency subsequently assumed administration of grazing on the Mineral Strip. All of the grazing permits provide that the permit is terminable and revokable in whole or in part.

They also provide that any part of the area covered by the permit may be excluded from the range unit by the superintendent in the exercise of his discretion whereupon the permit shall cease and determine as to parts of the range units thus eliminated.

However, various individual ranchers have, over a period of about 73 years, paid grazing fees to the Government according to regulations, have bought and sold range rights and leases, and have homesteaded or bought land within the strip. To the best of their knowledge, this has all been done legally and honorably. Some of the land has changed hands several times through such transactions, and ranchers have, typically, invested their total resources. They have improved the land by the development of reservoirs, springs, trails, fences, roads, ranch buildings, and dwellings.

The San Carlos Apache Tribe has decided that the restored Mineral Strip lands are now needed by the tribe and its members for grazing their cattle. The notice sent to present users provides that improvements on the land should be left there when the property is vacated.

The results of the action thus far taken will decidedly not be fair. The ranchers will lose their homes and businesses and their entire life savings. The banks and the individuals to whom the ranchers are now indebted will lose their expected payments and will find it necessary to write them off as loss—even though the ranchers and their estates will remain under obligation indefinitely for what they have legally purchased but will be unable to possess.

Thousands of cattle and extensive improvements will be removed from the tax rolls. Cattle grazing values, considered to be in the neighborhood of \$3 million will be lost. Families will be uprooted and forced to find new homes without the resources to purchase them. Individuals will be deprived of constitutional rights by having their property taken without compensation or due process of law.

The ranchers do not hold the Indians to blame for the present situation. They do feel that the Government is almost completely responsible for the conditions that exist. They are on the land as a result of legally constituted actions by the Federal Government.

Since the error was without question made by the Federal Government, it would seem that the compensation to the innocent injured parties should be provided by the Federal Government.

Mr. Chairman, I do not offer H.R. 4414 as a precedent, but rather as an essential exception to general policy. The Indians have told the ranchers they must vacate their homes by June 30, 1973. The ranchers have replied that they have no money with which to purchase other homes and that they will of necessity stay on the Mineral Strip come hell or high water.

A potentially explosive situation looms on the near horizon. It seems that the Federal Government alone has the ability to correct the situation and avoid an inflammatory confrontation on the terrain itself. If the Indians are to have the land, the ranchers should have compensation.

It is for these reasons that I join with my distinguished Arizona colleagues in a bipartisan effort to bring about a peaceful and equitable solution by passage of H.R. 4414.

**STATEMENT OF HON. JOHN B. CONLAN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ARIZONA**

Mr. CONLAN. Let me just say, then, that in addition to the statement that I have just made here in the record, I just want to indicate my very strong personal support for this bipartisan effort that we are suggesting here to bring about a peaceful and equitable solution to the mineral strip controversy.

In summary, I feel that Washington is responsible for the plight of these hard-working families who are threatened with ejection from their lands and businesses, and I believe that Congress must make sure that the past mistakes of the Federal Government does not needlessly cost them their life's investment.

I believe the best action for the Congress, for the country as a whole, is to see that this bill is passed as expeditiously as possible, and before the end of the fiscal year. It has now happened by Executive fiat, that the rights of the ranchers have been terminated, and they have nothing. I feel that the legislation that we are sponsoring will rectify a grievous wrong against these people. I urge its speedy approval.

Mr. UDALL. Are there any questions?

Mr. STEIGER. No questions.

Mr. UDALL. Thank you, Mr. Conlan.

I might suggest, if you would like to, if you take one of these chairs up here at the table and sit with us for the balance of the hearing so you will be in a position to see the witnesses and suggest questions perhaps.

We will now hear from the representative of the U.S. Department of the Interior who has been asked to testify.

Do we have such a representative present?

Mr. TURCOTT. I am George Turcott, the Associate Director of the Bureau of Land Management, and I have with me as an aide today, Ms. Eleanor R. Schwartz of our legislative and regulatory management division to help me on details.

Mr. UDALL. We do have a report dated May 9, 1973, signed by Mr. Whitaker, Under Secretary, responding to our request on the Department's views on H.R. 4414.

Without objection, we will make the report a part of the record at this point.

[The information referred to follows:]

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 9, 1973.

HON. JAMES A. HALEY,
*Chairman, Committee on Interior and Insular Affairs, House of Representatives,
Washington, D.C.*

DEAR MR. CHAIRMAN: This responds to your request for this Department's views on H.R. 4414, "To authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip."

We recommend that the bill not be enacted.

H.R. 4414 would authorize the Secretary of the Interior to purchase privately owned property in a part of the San Carlos Indian Reservation, Arizona known

as the Mineral Strip from persons having grazing privileges in such areas as of January, 24, 1969. The land so purchased would be taken in trust for the San Carlos Apache Indian Tribe. In addition, the bill would direct the Secretary to pay such grazing permittees (1) for improvements placed on the land, and (2) compensation in accordance with the standard prescribed by the Act of July 9, 1942. That Act requires "fair and reasonable" compensation for cancellation of grazing permits resulting from the use of public lands for war or national defense purposes.

The "San Carlos Mineral Strip" is an area of some 232,000 acres which was originally part of the San Carlos Reservation in Arizona, but which in 1896 was returned to the United States pursuant to an agreement with the tribe. In 1969 this land was given back to the tribe "subject to valid and existing rights". As of that time about 8,000 acres had been conveyed into private ownership, and about 4,500 acres conveyed to the State. In addition, almost 200,000 acres were under grazing permit or lease. In June 1970, the tribe declared its intention to terminate all grazing rights on June 30, 1971. This was twice extended, so that the present termination date is June 30, 1973.

H.R. 4414 is in the nature of a private relief bill for the ranchers whose grazing permits would be cancelled by the San Carlos Indian Tribe.

The termination of grazing privileges on public land can present hardships to the permittees since it can reduce the economic value of their base ranch. Ranchers who make use of grazing privileges on Indian lands held in trust and public lands and who acquire or hold base ranches related to such use do so with the knowledge that the lands may be sold or dedicated to a higher use which is inconsistent with continuation of the grazing privilege. When this is necessary the Department makes every effort to give maximum advance notice so that the ranchers may phase out their operations on the lands affected with as little dislocation as possible. In the present case the ranchers have known since 1970 that their permits would be cancelled.

The principle has well been established that grazing permits confer no vested rights but merely a privilege which may be withdrawn without compensation. The Taylor Grazing Act is very explicit in this respect. It states that "... the issuance of a permit pursuant to the provisions of this Act shall not create any right, title, interest or estate in or to the lands", 43 U.S.C. 315b. The exception to this rule enacted by Congress in 1942 was narrowly limited to cancellation of grazing privileges because of war or national defense needs for the land and no other exception has been made in the subsequent thirty years. To now create an exception for a specific group of ranchers by compensating them for termination of their permits and purchasing their base ranches would establish a dangerous precedent which could expose the United States to substantial liability whenever it dedicates public land to use with which grazing is inconsistent such as a national monument or wildlife refuge. The precedent could also inhibit the future granting of grazing permits in many areas where the projected use is uncertain, as there would be a desire to avoid exposure to liability based on subsequent determinations.

Another dangerous precedent, in our view, is compensating ranchers for improvements made on public lands. This is also contrary to a well recognized principle. We understand that the tribe has agreed to let the ranchers remove any improvements which are removeable.

The final precedent which we view with alarm would authorize the acquisition of private inholdings for addition to the reservation. Congress has prohibited this practice in some States because it has the effect of taking land off the State tax rolls. Our primary concern, however, is that many other reservations contain sizable private inholdings. We know of no particular justification for acquiring inholdings on behalf of this tribe as opposed to any other tribe similarly situated.

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 C. WHITAKER,
Under Secretary of the Interior.

Mr. UDALL. We also have your statement. You may proceed as you see fit.

STATEMENT OF GEORGE L. TURCOTT, ASSOCIATE DIRECTOR,
BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR,
ACCOMPANIED BY ELEANOR R. SCHWARTZ, ACTING CHIEF
OF THE DIVISION OF LEGISLATIVE REGULATORY MANAGEMENT,
DEPARTMENT OF THE INTERIOR

Mr. TURCOTT. H.R. 4414 would authorize the Secretary of the Interior to purchase privately owned property in a part of the San Carlos Indian Reservation, Ariz., known as the Mineral Strip from persons having grazing rights in such areas as of January 24, 1969. The land so purchased would be taken in trust for the San Carlos Apache Indian Tribe. In addition, the bill would direct the Secretary to pay such grazing permittees, one, for improvements placed on the land, and two, compensation in accordance with the standard prescribed by the act of July 9, 1942. That act requires fair and reasonable compensation for cancellation of grazing permits resulting from the use of public lands for war or national defense purposes.

The San Carlos Mineral Strip is an area of some 232,000 acres which was originally part of the San Carlos Indian Reservation in Arizona, but which in 1896 was returned to the United States pursuant to an agreement with the tribe. In 1969 the land was given back to the tribe subject to valid and existing rights. As of that time about 8,000 acres had been conveyed into private ownership and about 4,500 acres conveyed to the State of Arizona. In addition, almost 200,000 acres were under grazing permit or lease. In June 1970, the tribe declared its intention to terminate all grazing rights on June 30, 1971. This was twice extended, so that the present termination date is June 30, 1973.

H.R. 4414 is in the nature of a private relief bill for the ranchers whose grazing permits would be canceled.

We recommend that the bill not be enacted. The termination of grazing privileges on public land can present severe hardship to the permittees since it can affect the economic value of their base ranch. Nevertheless, ranchers who make use of grazing privileges on public lands do so with the knowledge that the lands may be sold or dedicated to a higher use which is inconsistent with the continuation of the grazing privilege. When this is necessary, the Department makes every effort to give maximum advance notice so that the ranchers may phase out their operations on the lands affected with as little dislocation as possible. In the present case the ranchers have known since 1970 that their permits would be canceled.

The principle has well been established that grazing permits confer no vested rights but merely a privilege which may be withdrawn without compensation. The Taylor Grazing Act is very explicit in this respect. It states that "the issuance of a permit pursuant to the provisions of this act shall not create any right, title, interest or estate in or to the lands." The exception to this rule enacted by Congress in 1942 was narrowly limited to cancellation of grazing privileges because of war or national defense needs for the land. To create an exception for a specific group of ranchers would establish a dangerous precedent which could expose the United States to substantial liability whenever it dedicated public land to use with which grazing is inconsistent, such as a national monument or wildlife refuge.

The final precedent which we view with alarm would authorize the acquisition of private inholdings for addition to the reservation. Con-

gress has prohibited this practice in some States because it has the effect of taking land off the State tax rolls. Our primary concern, however, is that many other reservations contain sizable private inholdings. We know of no particular justification for acquiring inholdings on behalf of this tribe as opposed to any other tribe similarly situated.

Mr. UDALL. Thank you, Mr. Turcott.

Does not the Department feel that there are some equities in favor of these ranchers, that despite the fact that if you take the strict, rigid letter of the law, that there might be some equities in favor of these people, in light of the inconsistent action of the Government over this period of long years?

Mr. TURCOTT. I think in the opening statement we acknowledged the problem and the dependence of the ranchers and established organizations in the use of public lands tied to the base waters or base property.

So, it is acknowledged. But, at the same time, I feel ever since 1934 when the Indian Reorganization Act (48 Stat. 984, 25 U.S.C.) came into being, at least in theory the people in this community have known that this was still tribal land ceded to the United States, and that the use of it was probably temporary.

I think there was due warning.

Mr. UDALL. Suppose that the Congress makes a finding that the equities involved here are such in the judgment of the Congress that an injustice is done, is being done by the solution of this problem in the way that it was finally worked out, and feels that in such circumstance, in fairness to the citizens of the United States, that some compensation, some arrangement for compensation should be paid?

Why would the Department object to that if the Congress made such a determination?

Mr. TURCOTT. Well, sir, if it is the will of Congress and it is approved by the President, the Department would have no objection. It would be the law of the land.

Mr. UDALL. Has the Department made any study as to how many base properties would have to be purchased if this bill were enacted, the values involved, how many grazing permits were involved, and the approximate values of improvements?

Do you have any information that you can share with us for the record?

Mr. TURCOTT. To some extent I have.

There were 15 grazing permits issued under section 3 of the Taylor Grazing Act, out of the Safford District Office. There were also seven grazing leases issued under section 15 of the Taylor Grazing Act. I have material I can put in the record as of 1970 when the Bureau of Land Management terminated jurisdiction.

Mr. UDALL. We would appreciate that information.

Without objection, it will be made part of the record.

[The information referred to follows:]

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT,
Washington, D.C., June 1, 1973.

HON. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed is the material concerning grazing permits to which I referred at the May 10 hearing of the Subcommittee on Public Lands on

H.R. 4414, a bill to authorize the Secretary to purchase property within the San Carlos Mineral Strip. As I indicated at the hearing, the chart reflects data in the files of the Bureau of Land Management as of June 30, 1970, the date the administration of the grazing leases on the Strip was turned over to the Bureau of Indian Affairs. We have also added to the chart information supplied to us by the United States Forest Service.

Nothing concrete came out of the hearing which would indicate that the licensees or permittees involved in this legislation have not over the years received full value for what they have paid.

In addition, the Indian Reorganization Act (25 U.S.C. 463) to which I referred at the hearing, specifically authorized the Secretary to restore to tribal ownership the remaining surplus lands of any Indian reservation opened before June 18, 1934, or authorized to be opened to sale or any other form of disposal by Presidential proclamation, or by any of the public land laws of the United States.

Over the years the licensees and permittees have installed improvements, the original cost of which was approximately \$200,000. We have no records of the depreciated value of these improvements at this time.

We have no basis for recommending a change of Departmental position with reference to H.R. 4414.

Sincerely yours,

GEORGE L. TURCOTT,
Associate Director.

SAN CARLOS MINERAL STRIP

	Acres of private lands within strip	Section 3 permits		Section 15 leases		AUM's	Ac/AUM	Original construction costs—private investment
		Number	Live-stock	Number	Live-stock			
BLM grazing:								
Elbert Alder 6 S/22 E.....	160	104	Cattle.....			782	5.5	6,534
		2	Horses.....					
Elbert Alder 6 S/22 E.....		21	Cattle.....			250	8.3	938
H. Skeet Bowman.....		218	do.....			2,616	3.5	13,135
Urbane House Est. & Sons.....		112	do.....					
		9	Horses.....			2,044	2.6	9,320
Louis B. Ellsworth, Jr.....	160	57	Cattle.....			692	2.5	2,883
J. H. & J. B. Dan Hinton 5 S/21 E.....	1,440	149	do.....			1,824	3.6	751
S. Jack Hinton 5 S/21 E.....		135	do.....					
		3	Horses.....			1,705	3.0	17,218
Glen J. Layton 6 S/22 E.....	880	110	Cattle.....			1,337	7.3	10,349
Roy Layton Est.....		166	do.....			1,937	8.9	26,952
Keith E. Smith.....		287	do.....			3,527	4.0	21,176
Max & Keith Smith.....		9	do.....			111	3.6	
Ted Lee.....		36	do.....			43	17.8	630
Ted B. & Wilford H. Claridge.....		17	do.....			207	4.4	2,408
Montee Ward.....		1	do.....			14	26.6	234
Keith Smith.....				93	Cattle.....	114	5.3	1,055
Keith & Max Smith.....	630			419	do.....	5,047	5.9	15,505
Max Smith & Wheeler Reece.....	50			184	do.....	224	6.6	6,133
Mr. & Mrs. Fred Upshaw.....				318	do.....	385	5.3	29,709
James T. & D. B. Sanford.....				31	do.....	389	5.9	6,100
Frank & Ada Parish.....	240			73	do.....	884	8.8	3,161
Dave & Catherine Miller.....				180	do.....	2,161	4.1	3,885
Joseph C. Fieger.....				173	do.....	210	6.6	1,560
Mary Cluff.....	320			77	do.....	93	6.6	4,119
George B. & Whilford H. Claridge.....				5	do.....	6	5.3	1 NR
Yzobel R. Bundrick.....	2,560			176	do.....	2,143	8.8	18,412
Fred Ash & Sons Co.....	960			3	do.....	102	8.8	1 NR
Forest service grazing:								
J. Houston & J. B. Dan Hinton.....	80	54	Cattle.....			648	NA	2 NA
Jack & Marjorie Hinton.....	80	54	do.....			648	NA	2 NA

¹ Private investments \$110,411 inside district (sec. 3 permits).

² 79,589. Private investment outside district (sec. 15 leases).

Mr. TURCOTT. There were 12 base properties. We estimate the improvements at \$200,000, but I do not have a listing of them with me today. Fences, wells, springs, that type of thing.

Now, as to the value of the grazing privileges, we would probably evaluate them because of time and cost from our standpoint, not under

the amendment to the Taylor Act, for war and national defense purposes. We would probably evaluate them on an animal unit month involved, and total.

Mr. UDALL. How long would it take you to get the information to us?

I ask this question because I think there might be some disposition to make a decision on this matter. We have a time deadline.

Could you get it in a few days?

Could you get the information I just requested?

Mr. TURCOTT. Yes, sir. If I evaluate the AUM's involved at \$14.41, which was the national average of our massive study in 1966 on grazing fees, as projected by some inflationary value to the present time, let's say up to \$19 or \$20 an AUM, it would be a simple calculation.

Mr. UDALL. Get all this on base properties, AUM's permits, values improvements, anything that we have not covered here this morning. I will be back in a moment.

Let Mr. Steiger continue with the questioning.

Mr. STEIGER [presiding]. Mr. Turcott, I know from previous discussion with the Department that the objection of the Department hinges on the precedent factor. For the purposes of this record, I think we ought to establish a few things.

One, in your very competent memory in the Department, do you recall a comparable situation in which leases have been canceled by Executive order on any Federal lands that you would have knowledge of?

Mr. TURCOTT. Yes.

Mr. STEIGER. What was that situation?

Mr. TURCOTT. I know the situation intimately, the Clark Canyon Reservoir project in Montana, near Dillion, Mont., which was a Bureau of Reclamation withdrawal and project. This was not done.

There are several instances with regard to national parks and/or national monuments where this has been done. The Organ Pipe National Monument in New Mexico is a case in point.

Mr. STEIGER. Organ Pipes is in Arizona.

Mr. TURCOTT. Excuse me.

Mr. STEIGER. With a similar result.

The only one I knew of was Organ Pipe, where we had a similar situation with a man that has been the subject of much litigation, which I am sure you are aware of.

My point is that the normal bureaucratic concern with precedent, shared in many instances by the Congress, I would point out, I do not believe is valid in this instance, and I would like the record to hear. I do not suspect that I am going to be silver tongued enough to convert you at this point.

I would point out that in every other instance in which a permittee loses whatever right he has on the public lands, there are normal procedures. There is either the renewal process. There is the condemnation process. There is normal adjudication that the lessee has access to.

It is going to be—I am hopeful it is going to be the Congress' view that in this instance the uniqueness of this situation is such as the chairman points out, to permit a judgment call that says that this, number one, is not a precedent—and I recognize that the mere statement of the fact that it is not a precedent does not ease the fact that it is a precedent—but the fact that this is so unique and so unlikely of

duplication that it presents virtually no threat to the public lands as envisioned by the Department.

I submit that because by your own recitation you can recall two other instances in which this has occurred, and I do not know how many people or acres we are talking about, but clearly as far as this having an impact on the public lands, I think you will stipulate, is not what you would call an overwhelming impact.

This taking of leases by Executive order has not been a practice in itself that would be called ordinary.

Would you agree to that, Mr. Turcott?

Mr. TURCOTT. I am puzzled by your phrase, by Executive order. It was by Secretarial determination under a statute passed by Congress in the public interest. And the other two cases I cited are only two in point where there was congressional authorization for both.

Mr. CONLAN. Mr. Chairman, would the gentleman yield?

Mr. STEIGER. Yes.

Mr. CONLAN. Was there a widely known public hearing on that determination?

Mr. TURCOTT. In 1969?

Mr. CONLAN. Yes.

Were there any hearings at all?

Mr. TURCOTT. I will have to beg ignorance, sir. I do not know.

Mr. CONLAN. I think you would find out that there were no hearings on that, no notification to the public at that time that it was done, and it was done quickly. There was no opportunity for any reconciling of interests or indication of facts or any consideration by the people that are threatened now with dispossession.

I think that is only one of a series of abandonments by the Department of some real equities in the land. I think that is what concerns us in this particular area and why there should be an exception to your general rule because of the Department having involvement over the last 50 or 60 years.

Mr. STEIGER. My colleague makes a very good point, and I appreciate that.

I would also like to ask the gentleman if the Department, in considering this result, this decision, is aware of the significance of this decision vis-a-vis the non-Indian community's relation to the Indian community in this area?

No. 1, are you aware of the problem that this whole situation raises with regard to that relationship?

Mr. TURCOTT. Yes, I am aware of it in this respect, that there has been, not lately, but immediately subsequent to 1969, many letters with the Arizona delegation, congressional letters we call them, and complaints to the Department which to me indicates, among other things, this problem that you mention.

Mr. STEIGER. Are you aware that the San Carlos Apache Tribe, which is now the owner of the land in question, has memorialized the Congress through its tribal council, urging them to pass this legislation?

Are you aware of that?

Mr. TURCOTT. No, sir.

Mr. STEIGER. That is the case.

We will hear from them later, and I am hopeful that you will be able to stay, because I think it is significant that their concern is both

objective and very subjective in that they share the concern of the Indian and non-Indian community alike in reducing the friction that this situation has developed, really through the fault of no one. I say no one, and I mean no one.

Mr. TURCOTT. I will stay for the duration of your hearing.

Mr. STEIGER. I would appreciate that.

I am also going to tell you, Mr. Turcott, because I am not famous for my shyness, that we will probably pass this legislation over the objections of the Department, and I know that is not either going to horrify you or upset you.

I am going to make a rather unique request of you. If, after you have stayed for these hearings, you are persuaded that there are sufficient offsetting situations which come to your attention that you would see fit to reconsider the judgment of the Department—I say this for a very specific reason, because when this bill passes, it is going to be opposed by the Office of Management and Budget simply because it is going to spend money. At that point in time, when we come to the strictly mechanical and procedural matter of obtaining the funds necessary to implement this legislation, we will then require the support, if you will—or it will make our task much easier if we have the support of the Department.

Again, I urge that you not view the balance of these hearings with the idea in mind of finding that which sustains your position, but recognizing that there are factors which, as you say, have not come to your attention in arriving at the decision, and perhaps you will honestly recommend a change of position.

Mr. TURCOTT. I have to make a report, of course, after any such appearance as this. I assure you, before the proceedings are published, that I will do my very best objectively to present the views and the feeling or the reasons that are expressed here.

Mr. STEIGER. I appreciate that.

Mr. UDALL [presiding]. Mr. Steiger is suggesting that we have a period like a religious revival where sinners can come forward and repent and pledge themselves to go forth and do better.

Thank you very much for that approach.

Let me throw in two more things here, if I can. On page 2 of your report, Mr. Whitaker gives as one reason—and we are trying to knock down as we go along as many of your reasons as possible—one of the reasons for opposing the bill is that you are protecting the States, down in the second last paragraph on page 2, because some States oppose legislation of this kind on the grounds that it takes land off the tax rolls.

Let it be very clear here that the State of Arizona, through its official State land commissioner, the State speaks for himself and the Governor, says that the State of Arizona favors the legislation.

So you are not really protecting the State in this situation. They do not want to be protected in it, and indeed, they have asked for the passage of the bill.

Mr. STEIGER. If the gentleman will yield.

Mr. UDALL. Yes.

Mr. STEIGER. Perhaps, Mr. Chairman, this might be a good point in the record to insert the full report of the land commissioner simply because the chairman has referred to it, if the chairman would like to do that.

Mr. UDALL. Without objection, the statement of Mr. Andrew Bettwy, State land commissioner, three pages and an attachment, will be made part of the record at this point.

[The information referred to follows:]

STATE LAND DEPARTMENT,
Phoenix, Ariz., May 8, 1973.

HON. JOHN MELCHER,
U.S. Representative, Rayburn Building,
Washington, D.C.

HONORABLE CHAIRMAN AND COMMITTEE MEMBERS: In lieu of a personal appearance may this serve the State of Arizona as its position on the subject of restoring the San Carlos Mineral Strip to the Apache Indians.

As part of its various school and other public purpose land grants in trust from the USA, Arizona claims title to approximately 20,900 acres within that "strip".

Those lands, all or in part, have been and now are being leased to non-Indian persons who represent predecessors in interest dating in some cases back to 1914. State land grazing leases on some lands extend to 1982 and there are State land mineral entries dating to 1978.

The Bureau of Indian Affairs recognizes that the State has good title to some of these lands and questions the State's right to others.

The State is placed in dual dilemmas in considering the equities and desirability of cooperating with the Apache Indians. If it abandons a claim to what rightfully belongs to the trust—it breaches the trust; if it cooperates with the Federal proposal—it breaches its contractual arrangement with its lessees, and if it were to act on a U.S. Interior Departmental decision that is later proven invalid, its title to lands taken in lieu or exchange could be jeopardized or declared a nullity.

Accordingly, the State of Arizona must now insist that it be dispossessed strictly by a court of competent jurisdiction.

The State's duty to the trust beneficiaries, the land and mineral values and the wildlife values suggest that the proceedings would be more than a formality.

If the interests of the lessee's (to whom the trust has a contractual duty) are fairly satisfied by the United States, the Arizona State Land Department would consider the opinions of the United States and Arizona Attorney Generals if they are forthcoming.

The failure on the part of the U.S. Government to resolve the problems equitably for the people caught in the middle will cause other issues to become involved bringing substantially more offended citizens into the picture. The attached news clipping, if true, which suggests that the Arizona non-Indian is being carpet-bagged out of long enjoyed hunting grounds immediately poses another threat to the State trust interest and that is access for traditional Arizona hunting uses. Clearly, if the Indians are now taking such steps, they are interfering with the possessory right of the trust and its land users.

The conflict created by ignoring the interests of the ranchers now seemingly expands to force the State trust into being a real adversary against the Indians. The anomaly of this catastasis is that the Indians and the trust were innocent observers until just recently.

American history of our times when written by some, will surely touch upon an apparent willingness by a certain large segment of our population to suffer indignations, insults and abuse for alleged misconduct of some of its antecedents.

It is intolerable that our Government be permitted to appear to heap abuse on some of its citizens for similar "guilt" over historical mistreatment of the indigenous pre-Columbian American by the ancestors of today's non-Indians. Yet that will be the result of failure to provide a fair and equitable method for compensation to the affected ranchers.

We have all heard something on both sides of this subject; on one side—"its only part of what the white man did to the Indian". On the other, "The Indians have more than they need, etc.". I would hope that our Congress doesn't conclude that this is another case for living white man to atone for some of the sins (if any) of his ancestors by throwing the life work of the innocent families into a sacrificial cauldron (which would only prove that we can be equally unjust to the white man). We must remember that this isn't something the Indians caused or that the families caused—it was caused by the United States Government, and we should not remake him from the man of fair play that is our standard for being.

It is pleaded most earnestly that such an equitable method be enacted and provided promptly. Such action will free the State of Arizona to deal with the Apaches in a manner that is non-contentious and cooperative for mutual good, and this is the course it desires to follow.

Respectfully submitted,

ANDREW L. BETTWY.

[From the Arizona Daily Star, Tucson, Ariz., May 3, 1973]

THE ARIZONA DAILY STAR,
Tucson, Ariz., May 3, 1973.

APACHES, GROUP SIGN PACT TO KEEP OUT HUNTERS

(By Judy Donovan)

The San Carlos Apache tribe yesterday signed a one-year contract with the Defenders of Wildlife to prohibit hunting by visitors and create a nature reserve on a 40-mile strip of land near the San Carlos reservation.

According to the agreement, hunting by non-Indians will be prohibited on the Mineral Strip, which is a controversial area located south of the reservation. Only Indians will be allowed to kill animals, and tribal representatives said the Apaches traditionally only hunt deer, quail, rabbit and squirrels which they kill for food and for skins, but not for trophies or sport.

The contract lists 12 species of mammals and five species of birds that live on the land and need protection. They include bears, coyotes, wolves, foxes, mountain lions and bobcats.

The 232,000-acre Mineral Strip is adjacent to the Aravaipa Wildlife Reserve managed by the Defenders of Wildlife (DOW) and will bring to 350,000 acres the total area set aside for wildlife. It will triple the Aravaipa primitive area.

An undisclosed sum of money was presented to two Apache representatives yesterday by DOW for the agreement.

"We have been getting from \$30,000 to \$32,000 a year in leasing fees from the white ranchers in the Mineral Strip," explained Bob Key, land and livestock chairman and member of the San Carlos Tribal Council. "We want to rest the range for a year because it's been over-grazed, and with this money (from DOW) we'll have some financial help for those lost fees."

The Mineral Strip, which straddles parts of Graham and Pinal counties, is part of the Apaches' ancestral lands but has been used by white ranchers since 1896. In 1969 the Apaches recovered the land by order of the then Secretary of the Interior, Stewart Udall. Twenty ranchers in the strip were notified they would have to leave by this June 30. They strongly oppose the eviction and demand compensation for the lands that some have made their living on for 50 years.

The one-year contract with DOW is renewable, explained Louis Barassi, a Tucson attorney and a national board member of the wildlife organization. The project is a pilot one with the Indians and provides for wardens who will patrol the property and prosecute all violators, he continued. DOW will provide technical assistance in managing the refuge.

"If it works and the Indians are happy with it, we can help them organize their own permanent wildlife refuge that could include camping and nature walk areas where the Indians could collect fees," Barassi added.

"To my knowledge, nowhere else in the U.S. has a wildlife refuge been developed on Indian lands," he said. "The San Carlos people are pioneering it and we hope the precedent will spread to other tribes."

"The population on our reservation is expanding," said Key, "and the young Indians need the land for ranching."

The land has been over-grazed and over-hunted by non-Indians since the 1800s. Barassi said. When the Indians begin their grazing, it will be on a "conservative and responsible basis," he added.

During the one-year contract, DOW will compensate Indian ranchers with cash for livestock lost to predator animals.

Although the Mineral Strip was originally seen as a potentially valuable mining area, there has been no mineral development. However, the agreement with DOW does not restrict any potential mining, Key said, and non-Indians can prospect with the Indians' consent.

Mr. STEIGER. Let's give Mr. Turcott a copy of that, if the chairman will yield, because in that statement, quite to the contrary to Mr. Whitaker's statement, not only that this acquisition of inholdings is desirable, but the failure of the Federal Government to recognize and compensate the ranchers presents a virtually impossible legal dilemma for the State lands which are also inholdings in this area. The State is in the position of having a legal lease with these lessees, and having to go to war in court with the Indians, which nobody has any desire to do.

Mr. Bettwy articulates that problem very well, and I suspect that is also a problem which did not come to your attention prior to your resolution of the situation.

Mr. TURCOTT. I was aware of that problem, sir.

Mr. STEIGER. I see.

Mr. UDALL. The gentleman from Alaska?

Mr. YOUNG. No questions, but it is a very interesting subject, Mr. Chairman.

Mr. UDALL. There might be too many Arizonans here and not enough impartial people.

Mr. Conlan, do you have any questions?

Mr. CONLAN. I am amused by the gratuitous statement in here that we understand the tribe has agreed to let the ranchers remove any improvements that are moveable. That is pretty hard. What do you do with wells? Do you dig up wells and take them with you? Do you disassemble fences that have been frozen in, rockbound with the years of rain and so forth?

I am just kind of amused by the "graciousness" here, as to what improvements you could take with you.

Mr. STEIGER. If my colleague will yield at that point, it is well known that the wells are very useful because they can be removed and the holes divided into smaller holes and used for fence post holes.

There is a Government bulletin, I believe, that described the process.

Mr. CONLAN. In conclusion, I sure would appreciate it, Mr. Turcott, if the Department would look through this and some of the background here, along the line of what we feel are some real inequities created in the past. We are not trying to pass judgment or accuse anybody. We are just saying that if you really look in the record, both in the past Congresses and the past Interior Department official acts, for decades have left a totally gray area here. Not only gray, but by their actual positive actions, have induced situations of the grossest inequity at this time. And if you really want to go further down the line, you would even find perhaps a legal exception in your term "war" for a distinct rationale in this particular case; not for war purposes, but for the avoidance of war purposes, as to why this bill should be passed.

Mr. UDALL. We thank you, sir. We appreciate your coming here today, and Mrs. Schwartz.

We will now hear from the representatives of the San Carlos Apache Tribe, Mr. Marvin Mull, the chairman of the tribal council, Mr. Floyd Mull and Mr. Bob Key, and whoever else is with the Apache group.

Mr. KEY. Thank you, Mr. Chairman, Congressman Steiger, John Conlan. I am sorry to say that Chairman Marvin Mull could not make

it. He is sick, and Newton Pike, on my right, is substituting for Marvin Mull. And I am kind of a spokesman for the crew here.

Mr. UDALL. For the record, would you identify yourself and the others at the table with you, with titles?

Mr. KEY. My name is Robert Key, member of the Council of the San Carlos Apache Reservation. To my right here is Floyd Mull. He is one of the councilmen also, and Newton Pike, a councilman.

And our tribal attorney, Edward Berger, and John Dawn, who is working for the tribe, also.

Mr. UDALL. All right.

We are happy to have these people identified.

Please proceed.

STATEMENT OF ROBERT KEY, COUNCIL MEMBER, SAN CARLOS APACHE TRIBE, ACCOMPANIED BY FLOYD MULL, COUNCIL MEMBER, SAN CARLOS APACHE TRIBE; AND NEWTON PIKE, COUNCIL MEMBER, SAN CARLOS APACHE TRIBE

Mr. KEY. I happen to be the chairman of the land and livestock committee of the San Carlos Reservation, and we have about 6,300 on the San Carlos Reservation, but out of that about 600 or 700 members of the tribe owns the cattle on the entire reservation, and we are here to have this record and the documents to be placed on the record here at the hearing, and there are eight more councilmen back on the reservation, and there are three of us here, and we can very well—it is not a quorum, to make any kind of a legality move, and we are here to help the white ranchers on the Mineral Strip.

If there is any way that we can assist, we are here to do it. From 1871 or 1872, according to all the documents, the land belongs to the Apache Tribe, and the way it looks, everything has been going our way. Why? Because the land belongs to the Apache Tribe and the San Carlos Reservation.

The community of the San Carlos Reservation, the population is increasing like any place else. There are young people of this particular tribe that have their wishes to get into the cattle business and we can't recall when the cattle industry belonged—started in the San Carlos Indian Reservation. The Apaches are getting educated in the cattle business, and where they are working the cattle, they are trying to get them up to where they are supposed to in the way of taming them and getting the right kind of money with less hurt.

Those are the things that we are facing today. We have got five cattle associations on the entire reservation and all the associations are up to their capacity as far as carrying capacity is concerned.

April 3, 1973, the council met and they confirmed the resolution to stop the leasing of the June 30 and like I said, we are available for any questions. We will try our best if we can answer.

Mr. UDALL. Thank you, Mr. Key, and I want to commend you and your fellow council members, Chairman Mull, and the others, here today for the very constructive approach that you have taken to a difficult and explosive problem.

I know that the Apache Tribe, the San Carlos Apache Tribe could have simply stood on your rights, accepting the decision of the Sec-

retary of the Interior and asking for rigid enforcement of it. Rather than do that, the tribe wanted to be good neighbors, wanted to help find a constructive solution. It has gone to a great deal of trouble to try to find a way out of this that would resolve it in fairness to everyone.

I think you are all to be commended for that.

I notice in the file of the material that you have assembled for us here, there is a resolution of the tribal council entitled resolution 72-34 in which it resolved that the San Carlos Tribal Council on July of 1972, urges Congress to pass H.R. 15438. That's in the last Congress.

It is my understanding that that bill is identical to H.R. 4414.

Mr. STEIGER. Will the chairman yield?

I have a copy that is not in the package provided by the tribe. It is a resolution dated March 6, 1973, in which the same language is used. It respectfully requests the Congress of the United States to pass said H.R. 4414 sponsored by Steiger and Conlan. All that would do would be a reiteration of an intention.

Mr. UDALL. What I wanted to get on the record was the official council action has been to endorse, applaud and approve the passage of H.R. 4414.

Is that correct, sir?

Mr. KEY. Yes.

Mr. UDALL. You stand on that position as the representatives of the tribal council here today?

Mr. KEY. Yes.

Mr. UDALL. Without objection, this resolution will be made a part of the record, and without objection we will also include the summary consisting of five pages, the statement of Mr. Mull, consisting of three pages, statement of Mr. Floyd Mull, consisting of three pages, and the statement of Mr. Robert Key, chairman of the lands and livestock committee of the tribal council.

That will bring the record up to date.

[The information referred to follows:]

Whereas the San Carlos Apache Tribe has requested in Resolution No. 73-9 that non-Indian permits in the area known as the Mineral Strip would not be renewed and the Apache Tribe will use this area beginning July 1, 1973, and

Whereas in accordance with good range management, the Tribe is going to rest a portion of the Mineral Strip because of past serious overgrazing. One of the many areas to be fenced is the southeast portion of the Mineral Strip so as to withdraw it from grazing use. In order to do this a fence will be constructed according to the following description, Township 5, Range 21 east, from northwest corner of Section 11 diagonally southwest through Section 10 to an existing fence through Section 16 and 17 east to west. This fence will be constructed as a permanent structure and will follow range management plans for the present and future.

Be it further resolved that the San Carlos Apache Tribe is willing to discuss with the non-Indian permittees on an individual basis the improvements the permittees will be allowed to remove prior to June 30, 1973.

Be it further resolved the San Carlos Apache Tribe is requesting the Bureau of Indian Affairs to furnish financial assistance to facilitate construction of the said five miles of fencing in an effort to eliminate trespassing of Indian cattle onto non-Indian lands as well as using the fence as a range management tool.

Be it further resolved that since the survey of the south boundary of the Mineral Strip portion of the reservation will be completed within the next 30 days it will be necessary to fence this portion as soon as possible so that the San Carlos Apache Tribe can utilize the area for tribally or individual owned cattle. It is

therefore requested that the Bureau of Indian Affairs assist the Tribe in obtaining funds for construction of this fence.

Be it further resolved that on completion of Bureau of Land Management south boundary survey the San Carlos Apache Tribe request that the Bureau of Land Management complete the survey of the Mineral Strip on its east and west sides, and the Bureau of Indian Affairs assist the Tribe in obtaining funds for these fences.

Be it further resolved by the San Carlos Apache Tribal Council in meeting assembled this 6th day of March, 1973 that it respectfully requests the Congress of the United States to pass said H.R. 4414 sponsored by Steiger and Conlan and

Be it further resolved that copies of this Resolution be forwarded to the Arizona Congressional Delegation and to the Committee of Congress who may be considering said legislation.

CERTIFICATION

I, the undersigned, Secretary of the San Carlos Council hereby certify that the San Carlos Council is composed of 11 members of whom 8 constituting a quorum were present at a Regular Council Meeting thereof held on the 6th day of March, 1973 and that the foregoing Resolution No. 73-9 was duly adopted by a unanimous vote of the Council, pursuant to the provisions of Section 1(a), Article V, Amended Constitution and Bylaws of the San Carlos Apache Tribe, effective February 24, 1954.

JANIE B. FERREIRA,
Secretary, San Carlos Council.

SAN CARLOS APACHE TRIBE PRESENTATION IN SUPPORT OF H.R. 4414 BEFORE THE
PUBLIC LANDS SUBCOMMITTEE INTERIOR COMMITTEE, U.S. HOUSE OF REPRESENTATIVES, MAY 10, 1973

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THE SAN CARLOS MINERAL STRIP

SUMMARY

Lands comprising the San Carlos Mineral Strip were part of the aboriginal domain of the Apache Indians; they were included in the reservation created by Executive Orders in 1871 and 1872; they were conditionally ceded to the United States in 1896 for disposal under the *mineral land laws* only, with the Indians to be compensated for all disposals; the San Carlos Indians retained an equitable interest in the lands, and they never became a part of the public domain; the lands were placed under the temporary administration of the United States Grazing Service (Bureau of Land Management) with the understanding that such administration would in no way jeopardize the Indians' interests; all disposals of mineral strip lands, except those under mineral patents and temporary grazing permits, were without legal authority; the minerals were restored to the Tribe in 1963 and the surface in 1969 pursuant to authority contained in the Indian Reorganization Act of 1934.

CHRONOLOGICAL DETAIL

The San Carlos Indian Reservation in Arizona, which includes the area now known as the San Carlos Mineral Strip, was established by Executive Orders on November 9, 1871, and December 14, 1872. In the late 1800's, non-Indian interests exerted substantial pressures to take this land from the Indians because they believed the lands contained valuable mineral deposits, particularly coal. As a result, an item in the Appropriations Act of March 2, 1895 (28 Stat. 876), authorized negotiations with the San Carlos Indians for the cession of the area

in question. These negotiations led to the agreement of February 25, 1896, which was ratified by the Act of June 10, 1896 (29 Stat. 360), whereby the Indians ceded approximately 232,000 acres of land to the United States.

No payment was made for the land, but the United States agreed to place in the Treasury of the United States to the credit and for the sole benefit of said Indians the net proceeds accruing from the disposal thereof. The 1896 Act which ratified the agreement provided that the lands would "be open to occupation, location, and purchase under the provisions of the mineral land laws only."

From 1896 until 1931, the Tribe received net revenues amounting to only \$12,433 from the disposition of lands in the Mineral Strip under the mineral land laws. Because of the insignificant financial returns, the First Assistant Secretary of the Interior, on March 30, 1931, withdrew the lands in the Mineral Strip from all forms of entry or disposition pending the enactment of legislation to authorize the restoration of the area to the Tribe.

On September 19, 1934, the Secretary of the Interior directed that all undisposed of lands of certain reservation, including the San Carlos Reservation, be temporarily withdrawn from disposal of any kind until the matter of their permanent restoration to Tribal ownership as authorized by Section 3 of the Act of June 18, 1934 (48 Stat. 984), could be given appropriate consideration.

On November 17, 1936, the Assistant Commissioner of Indian Affairs and the Acting Director of Grazing stated in a letter to the Secretary of the Interior concerning the undisposed of lands in the Mineral Strip that, "Since these lands are within the exterior boundaries of Arizona Grazing District No. 4, established February 14, 1936, it is hereby agreed that they may be placed temporarily under range management in accordance with the provision of the Taylor Grazing Act until final disposition has been made thereof, provided that any action taken to place these lands under range management shall be consistent with any prior valid withdrawal from entry, and that the right, title, and interest of the Indians in and to these lands shall in no way be jeopardized."

In a memorandum from the Assistant Commissioner of Indian Affairs, the Commissioner of the General Land Office and the Director of Grazing, approved by the First Assistant Secretary of the Interior on June 21, 1941, the following was stated: "In view of the foregoing, and in order to clarify the administrative authority of the General Land Office and the Division of Grazing in the temporary administration of the ceded lands of the San Carlos Reservation, it is hereby agreed that the ceded lands of the San Carlos Reservation which lie within an established grazing district shall be placed temporarily under range management by the Grazing Service and that the ceded lands which do not lie within an established grazing district shall be temporarily administered under lease by the General Land Office, pursuant to the conditions set forth in the letters of November 17, 1936, and August 12, 1937."

Subsequently, the Bureau of Land Management and/or the Grazing Service issued Taylor grazing permits and leases to various individuals who are the present occupants of the mineral strip or their predecessors.

In 1958, while the Mineral Strip was still withdrawn, the San Carlos Tribal Council adopted a resolution requesting the Secretary of the Interior to restore both the surface and subsurface rights in the land to the Tribe in accordance with the provisions of the Indian Reorganization Act. In February, 1960 (although not required to do so), the Secretary held public hearings in Globe, Arizona, to determine the desirability of the requested action. Certain ranchers owning or claiming to own interests in the Mineral Strip, as well as Arizona State officials appeared and voiced their opposition to the proposed restoration.

On November 28, 1962, the Solicitor of the Department held that vacant, unappropriated and undisposed of portions of the Mineral Strip were "surplus lands" within the meaning of Section 3 of the Indian Reorganization Act, and that the Secretary had discretionary authority to restore them to Tribal ownership (Sol. Op. 69 I.D. 195).

Before any decision was reached on the Tribal request contained in Resolution No. 58-7, the Tribal Council, on April 2, 1963, adopted Resolution No. 63-17, requesting the restoration of the subsurface rights only. The prior resolution, No. 58-7, was to be held in abeyance by the Secretary until reactivated by the San Carlos Apache Council.

On June 17, 1963, Under Secretary Carr issued Order No. 2874 (28 F.R. 6408), restoring all "mineral, oil and gas resources" in the Mineral Strip to the Tribe, "subject to any valid existing rights" and excluding any patented lands and the subsurface interests therein.

During the pendency of the Tribe's application for restoration, a number of the ranchers who had appeared at the Globe hearing in 1960 filed an action in Federal Court to block the restoration. The action, in which the State of Arizona later intervened as a party plaintiff, was finally dismissed when the Court held that there was no case over which it could take jurisdiction.

In ordering the dismissal, the court reasoned that there was no controversy because, first, the Tribe had withdrawn its application for the restoration of the surface, and second, Secretarial Order No. 2874 had been made subject to valid existing rights and had also specifically excluded patented lands and the surface of the Mineral Strip. (*Bowman v. Udall*, 243 F. Supp. 672 (D.D.C. 1965), *aff'd* sub. nom. *Hinton v. Udall*, 364 F. 2d 676 (D.C. Cir.) Cert. denied, 385 U.S. 878 (1966)).

On September 12, 1968, the San Carlos Apache Tribal Council adopted Resolution No. 68-31 requesting the Secretary to restore the surface interests in the Mineral Strip lands to Tribal ownership. On January 16, 1969, the Secretary signed the order restoring the surface of the land to the Tribe, subject to valid existing rights (34 F.R. 1195, January 24, 1969).

To date, about 40,000 acres of the 232,000 acres originally ceded under the 1896 agreement have been disposed of, or are claimed under some color of title or other interest. The bulk of that acreage, about 20,900 acres, has been claimed by the State of Arizona as "School Sections in Place," "Indemnity Lieu Lands," "Miners Hospital Grants," and "County Bond Grant Lands." Approximately 11,000 acres have been included in the Coronado (formerly Crook) National Forest, and about 6,340 acres have been patented under the Homestead Laws. Only a minute portion, 1,740 acres, has been actually patented under the mineral land laws as provided by the 1896 agreement.

The restoration of the surface was protested by various ranchers and the State of Arizona; however, Secretary of the Interior Hickel affirmed the action taken by Secretary Udall on the basis that, among other things, title had vested.

At the time of the restoration of the surface, the grazing of the Mineral Strip lands was being supervised by the Bureau of Land Management. The San Carlos Agency subsequently assumed administration of grazing on the Mineral Strip. All of the grazing permits provide that the permit is terminable and revokable in whole or in part pursuant to 25 CFR 151.15. They also provide that any part of the area covered by the permit may be excluded from the range unit by the Superintendent in the exercise of his discretion whereupon the permit shall cease and determine as to parts of the range units thus eliminated.

The San Carlos Apache Tribe has decided that the restored Mineral Strip lands are now needed by the Tribe and its members for grazing their cattle. This does not conflict with any rights of present users. The notice sent to present users provides that improvements on the land should be left there when the property is vacated. This is in accordance with the express language of the permits signed by the present users and the tribe.

STATEMENT OF MARVIN MULL, CHAIRMAN, SAN CARLOS APACHE TRIBE BEFORE THE
PUBLIC LANDS SUBCOMMITTEE OF THE INTERIOR COMMITTEE OF THE UNITED STATES
HOUSE OF REPRESENTATIVES IN SUPPORT OF H.R. 4414, MAY 10, 1973

Mr. Chairman, last summer, on July 11, 1972, the San Carlos Apache Tribal Council passed a resolution encouraging the Congress of the United States to support and pass legislation which would reimburse ranchers now living on the San Carlos Mineral Strip for their losses as it becomes necessary for them to leave their homes and ranches.

More recently we asked our attorney to visit the legislative offices in Washington to provide members of Congress with information and with encouragement from the San Carlos Apache Tribe to assist in obtaining passage of legislation which will minimize the losses of those who will be forced to leave the area.

In addition, we have retained a public relations counsel who has worked with the Indians of Arizona for years, asking him to help us, the ranchers, Arizona Legislature, and all other interested parties to accomplish this goal which we mutually seek.

I am thrilled that we have been able to meet in many private sessions, by telephone and through correspondence, working toward these ends. Now, today, we are able to meet with the support of all interested Arizona parties, the Governor's Office, State agencies, the Arizona Legislature, the Cattle Growers Association, the Bureau of Indian Affairs, the Inter Tribal Council of Arizona, the

ranchers, and the San Carlos Apache Tribe—to lend our support and to formulate plans for obtaining just treatment for all who are involved.

As Arizona Indians we are proud of all of the people of Arizona in that we have been able to work together on many problems in a spirit of cooperation and understanding; seeking solutions for the betterment of all people. Fortunately, the majority of people in this room are aware of the team effort in Arizona to resolve the problems, and there are problems, and will continue to be problems in the foreseeable future, between the Indian and non-Indian communities in the State.

Unfortunately, most of these types of cooperative activities are not newsworthy. What is newsworthy is the destruction and plundering of the Bureau of Indian Affairs in Washington; the hostages and captivity of Wounded Knee; the kidnapping of the Mayor of Gallup, and such acts of violence.

While this is, to a degree, off the prime subject of our meeting, let me continue these remarks only to say that I earnestly hope that together we can prove the validity of our belief that the resolution to these types of problems can come most usefully through negotiation, study and cooperation. We believe it is not necessary to turn to violence and lawlessness in order to get the attention, understanding, and cooperation of the people of America. Further, let me add my plea to the news media that they will assist all of us in selling these peaceful concepts to the American people.

Now let me return for a moment to the specific problems we are here to discuss today concerning the San Carlos Mineral Strip. My message is simple.

It seems clear to us that the ranchers now living on the San Carlos Mineral Strip and their predecessors by direct authorization or acquiescence of the Government of the United States, under nonexistent but presumed authority of the Homesteading and Taylor Grazing Acts, and with their own bare hands built homes, developed water holes, constructed fences, corrals, and developed from the raw land valuable and profitable ranching operations. There is nothing underhanded or criminal in what they have done.

Similarly, the efforts of the San Carlos Apache Tribe and all those who have assisted to restore to them these lands which were part of the aboriginal domain and included in the Reservation set aside for them by executive orders in 1871 and '72 were just and honest and appropriate. An educator from Mesa, Arizona, last summer at the Arizona State Tax Conference in Prescott made the proud claim that his children were the fifth generation of his family native to Arizona. This makes me smile a little, wondering how many generations of my family are native to these soils.

In short, we believe that the United States Government, while serving as trustee of these lands for our people, has allowed others to acquire interests or color of interest in them.

Since, in my belief, the Government of the United States bear a major responsibility for the problems that now exist, I firmly believe that the Congress of the United States is the only body which has the power and particularly the responsibility to compensate the ranchers for their losses.

As Chairman of the San Carlos Apache Tribe and Tribal Council, I ask you to assist us toward this end.

Thank you.

RESOLUTION No. 72-34

Whereas, there has been introduced into the 92nd Congress, 2nd Session, H.R. 15438 by Congressman Steiger, which is a bill to authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip; and

Whereas, the passage of this bill would eliminate many problems that have resulted as a result of the restoration of the Mineral Strip to the San Carlos Apache Tribe.

Now, Therefore, Be It Resolved by the San Carlos Apache Tribal Council in meeting assembled this 11th day of July, 1972, that it respectfully requests the Congress of the United States to pass said H.R. 15438; and

Be It Further Resolved that copies of this Resolution be forwarded to the Arizona Congressional Delegation and to the Committees of Congress who may be considering said legislation.

CERTIFICATION

I, the undersigned, Secretary of the San Carlos Council, hereby certify that the San Carlos Council is composed of eleven (11) Members, of whom 10 constituting a quorum, were present at a Regular Council Meeting thereto held on this 11th day of July, 1972, and that the foregoing Resolution No. 72-34 was duly adopted

by a unanimous vote of the Council, pursuant to the provisions of Section 1 (a), Article V, Amended Constitution and Bylaws of the San Carlos Apache Tribe, approved February 24, 1954.

JANIE B. FERREIRA,
Secretary, San Carlos Tribal Council.

STATEMENT OF MR. FLOYD MULL, MEMBER SAN CARLOS APACHE TRIBAL COUNCIL,
BEFORE THE PUBLIC LANDS SUBCOMMITTEE OF THE INTERIOR COMMITTEE OF THE
U.S. HOUSE OF REPRESENTATIVES IN SUPPORT OF H.R. 4414, MAY 10, 1973

Mr. Chairman and members of the committee, you have heard testimony today of the legal and legislative background of the San Carlos Mineral Strip, and now Chairman Mull (incidentally, a cousin of mine) has pledged the support of the San Carlos Apache Tribe in helping to obtain justice for all parties involved in this unfortunate situation.

We recognize that in a real sense it is very difficult, if at all possible, to compensate a person who is forced to leave his home, to walk away from his possessions. From a purely financial sense, the goods can be paid for and in a sense replaced. But from an emotional standpoint, regardless of the size of the lump in his wallet, it is difficult to remove the lump in his throat.

Unfortunately, the knife that cuts into the heart of the San Carlos Strip rancher has cut two directions. As Marvin has said to you, just over a hundred years ago, the President of the United States set aside certain of our lands as a reservation for the Apache Indians in East Central Arizona. Our fathers, while not pleased with giving up the freedom to roam the lands totally as they wished, were pleased that the lands given them were part of our aboriginal home. They were familiar lands—lands where their hearts had also been planted. Some 20 or so years later, their children were promised great wealth from the mineal deposits in certain portions of that reservation—wealth which they thought could be obtained by allowing the United States Government to take control of certain of these lands for disposal under the Mineral Land Laws. The San Carlos then, beginning to understand the value of the white man's dollar, allowed these portions of their lands to be separated from them for this purpose only.

These great riches, however, never materialized. In the 35 years between 1896 and 1931, only a little over \$12,000 of total income was received by the Tribe from small portions of these lands. Since 1931, we have spent more than 40 years in an attempt to have these restored to us.

There are multiple reasons why we have desired the return of this area. Certainly our emotional ties to these lands is one of them. However, to a degree, the urgency of these feelings have been diminished over the years. The urgency of our second reason, however, is ever with us.

I would invite you to visit our reservation; to visit our homes and our schools; to see the unemployment and the poor living conditions of many of our people.

There are approximately 5,000 San Carlos Apache Indians living on our reservations, located just four miles east of Globe. By the most recent figures available to us, the average family on the San Carlos Reservation earns just under \$3,000 a year for his livelihood, with an average per capita earned income of only \$597. While there are approximately 1100 people available for the labor force, only about 50 percent, or 558, are permanently employed. Many of our people are living in substandard housing without modern conveniences. Unfortunately, disease is still high by comparison with modern standards and life expectancy is short. We honestly need these lands with the jobs and income which they can bring to us to help us bring our standard of living in line with that of most of the rest of Arizona and our country. If there are mineral values in this land, we must know this and try to extract those values from the land. There are definitely fish and game values, of which we hope to take advantage. Certainly the grazing value is there, and we will take full advantage of this.

You may be interested to know that we are doing other things in trying to better our own lot. We have a significant Tribal cattle operation which is growing and helping us considerably. We have made recreational developments at Seneca Park and Soda Canyon and San Carlos Lake. We have developed a San Carlos Apache Glove Industrial Development Corporation in the hopes of attracting industry where our people can be employed.

Yes, our needs are great also, and we hope that you here in this room and the people of America will understand our motivation as we seek to obtain the use of these lands once more.

Thank you.

STATEMENT OF MR. ROBERT KEY, MEMBER, SAN CARLOS APACHE TRIBAL COUNCIL
BEFORE THE PUBLIC LANDS SUBCOMMITTEE OF THE INTERIOR COMMITTEE OF THE
UNITED STATES HOUSE OF REPRESENTATIVES IN SUPPORT OF H.R. 4414, MAY 10,
1973

Mr. Chairman and members of the committee, you have been most patient in listening to our feelings and concerns related to the situation we are all facing on the San Carlos Apache Mineral Strip.

It is not easy for one man to really know another man's feelings; and I am certain that we don't completely understand the emotional pressure this situation has placed in the hearts of the ranchers on the Strip and their families.

In a similar way, we ask you to try to look at the problem from our point of view.

I assume most of you are homeowners. Suppose for a moment a real estate friend comes to you and says there is a rich man who wants to live in your home for three months, and in exchange, he will reward you richly and pay your way on an extended trip around the world.

After years of discussion, you agree and leave on your trip. But after you leave, the promised funds don't come and they keep not coming.

After awhile, you return to your house to find that your friendly real estate man has not rented your home as promised, but he has sold it to someone who is living in it. What would you do?

I suppose you would do as we have done. You would attempt to get your home back; not to injure the family who is living in it, but in order to claim your life's savings.

It is easy for you to sympathize with the family who have invested their lives in your home, but not easy to give it to them.

The guilty party in this homely example is the friendly real estate agent. And, in all fairness, he is the one who must be made to see his responsibility to compensate the family leaving your home for their losses.

Incidentally, this is not the first time that the friendly real estate broker, the United States Government, has found itself in this type of predicament. In 1849, under the Treaty of Guadalupe Hidalgo, the United States took possession of all of this country then known as the New Mexico Territory. As part of that treaty, Congress agreed to recognize certain major land grants, made by the King of Spain to favored subjects. These Spanish land grants were to a large degree like kingdoms within the United States. The landlords were lords with their own laws. They were exempt from taxation and other regulations of the United States.

One such Spanish land grant located near what is now Las Vegas, New Mexico, belonged to a man who was called Luis Baca. After his death, Congress opened up many of the lands in the Baca Land Grant for homesteading and other occupancy. After a number of years of homesteading and grazing leases, the heirs of Luis Baca, recognizing what had happened to them, petitioned the Congress of the United States to compensate them for their losses.

Congress, recognizing its fault in authorizing two claims to the same piece of land, allowed the heirs of Luis Baca to select up to five pieces of land, totaling the same amount as their original land grant, in any portion of the New Mexico Territory. They did select five pieces and "floated" their ownership to these five pieces of land. Undoubtedly, many of you have heard of these areas, two of them in Arizona, called the Baca Floats.

In a similar way, we hope that you will feel your obligation, both to the ranchers and to the Indians in this unfortunate situation.

Thank you.

RESOLUTION OF THE INTER TRIBAL COUNCIL OF ARIZONA

SUPPORT FOR SAN CARLOS APACHE TRIBE IN RELATION TO THE SAN CARLOS APACHE MINERAL STRIP—ADOPTED UNANIMOUSLY BY INTER TRIBAL COUNCIL OF ARIZONA
MARCH 22, 1973

Whereas the lands of the San Carlos Apache Mineral Strip have been possessed from aboriginal times by the San Carlos Apache people; and

Whereas they were secured unto the Tribe through Executive Orders of the President of the United States when the Reservation was established in 1871 and 1872, and

Whereas the Tribe was deprived of the use of these lands under agreement with the Congress of the United States in exchange for expected wealth to be derived from the development of minerals in the area, and

Whereas through due process the use of the largest portion of the land in question has rightly been restored for the use and benefit of the San Carlos Apache people, and

Whereas as a result, the ranching families who have made their homes and livelihood on the mineral strip these many years are being deprived of the fruits of their labors,

We believe that the Government of the United States as trustee of these lands for the past hundred years is at fault for the losses over the years suffered by the San Carlos Apache Indians and the ranchers living on the strip.

Therefore, Be It Resolved by the Inter Tribal Council of Arizona that the Congress of the United States be petitioned to pass legislation which will repay both the ranchers and the Tribe for their losses in this situation, and that monies used to compensate for these losses be taken from the Treasury of the United States and not from monies already budgeted for Indian programs.

But It Further Resolved that copies of this Resolution be forwarded to the Arizona Congressional Delegation and to the Committees of Congress who may be considering said legislation.

STATEMENT OF GOVERNOR WILLIAMS

OFFICE OF THE GOVERNOR,
Phoenix, Ariz., March 5, 1973.

Governor Williams today issued the following statement in favor of compensation for the Arizona citizens who have been told to leave their homes and ranches on the San Carlos Mining Strip:

"As reasonable solution to the current problem of twenty Arizona ranchers who have been asked to leave their homes on the San Carlos Mineral Strip on the San Carlos Apache Indian Reservation appears to be possible.

"A study of the problem indicates that the real fault lies with the Federal government because it allowed the ranchers to settle on the Indian lands during a time when the lands were being managed by the Bureau of Land Management under the Taylor Grazing Act. Then, in January of 1969, the then Secretary of Interior, Stewart Udall, signed an order restoring the surface rights in question to the San Carlos tribe.

"The solution to the problem is in a unified effort by all Arizonans involved to persuade Congress that the Federal government must fairly compensate these Arizona ranchers for the hardship that is being placed upon them.

"I am pleased with the unified effort already shown by the people of Arizona to reach this goal. I urge Arizona's entire Washington delegation to get behind this movement."

A CONCURRENT MEMORIAL URGING THE CONGRESS OF THE UNITED STATES AND THE DEPARTMENT OF THE INTERIOR TO TAKE IMMEDIATE APPROPRIATE ACTION WITH REGARD TO PROPERTY IN THE SAN CARLOS MINERAL STRIP

[To the Congress of the United States and to the Department of the Interior of the United States]

Your memorialist respectfully represents:

Whereas in 1871 and 1872 the President of the United States by Executive Orders set aside a reservation for the San Carlos Apache Indians a part of which is now known as the San Carlos Mineral Strip, and

Whereas in the late nineteenth century it was believed that certain portion of these tribal lands contained valuable mineral deposits, particularly coal, and

Whereas by agreement with the Indians February 25, 1896, ratified by an Act of Congress June 10, 1896, the San Carlos Apaches agreed to the cessation of an area of approximately 232,000 acres to the United States for no payment, and

Whereas the act ratifying the agreement called for the United States to place in the Treasury of the United States to the credit and for the sole benefit of said Indians the net proceeds accruing from the disposal thereof and for the lands to "be open to occupation, location, and purchase under the provisions of the mineral land laws only," and

Whereas from 1896 until 1931, the Tribe received net revenues amounting to only \$12,433 from the disposal of lands in the Mineral Strip under the mineral land laws; and

Whereas because of the insignificant financial returns, the First Assistant Secretary of the Interior, on March 30, 1931, withdrew the lands in the Mineral Strip

from all forms of entry or disposition pending the enactment of legislation to authorize the restoration of the area to the Tribe, and

Whereas the United States Government has since let thousands of acres of the Mineral Strip to patent, withdrawn a forest reserve therefrom, and permitted thousands of acres of grazing to be done under the Taylor Grazing Act, and

Whereas the residents and ranchers now living on the Mineral Strip and their ancestors have lived on these lands and worked them as their homes and ranches for many years, thereby investing, in many cases, their entire lives' efforts and savings toward the building of these ranches and the construction and maintenance of extensive improvements thereon, and

Whereas these improvements are located on both tribal lands which were under lease at the time from the Bureau of Land Management and on lands which had been patented under the Homestead Act, and

Whereas on January 16, 1969, the Secretary of the Department of the Interior signed an order restoring surface rights on the San Carlos Mineral Strip to the San Carlos Apache Indian Tribe, and

Whereas the San Carlos Apache Tribal Council recently passed a resolution to the effect that, "it is in the best interest of the San Carlos Apache people to graze their own cattle on the land involved," and

Whereas the removal of the non-Indian ranchers from the Mineral Strip without just indemnification for the value of their lands and improvements would place upon them an unfair and unjust financial burden, and

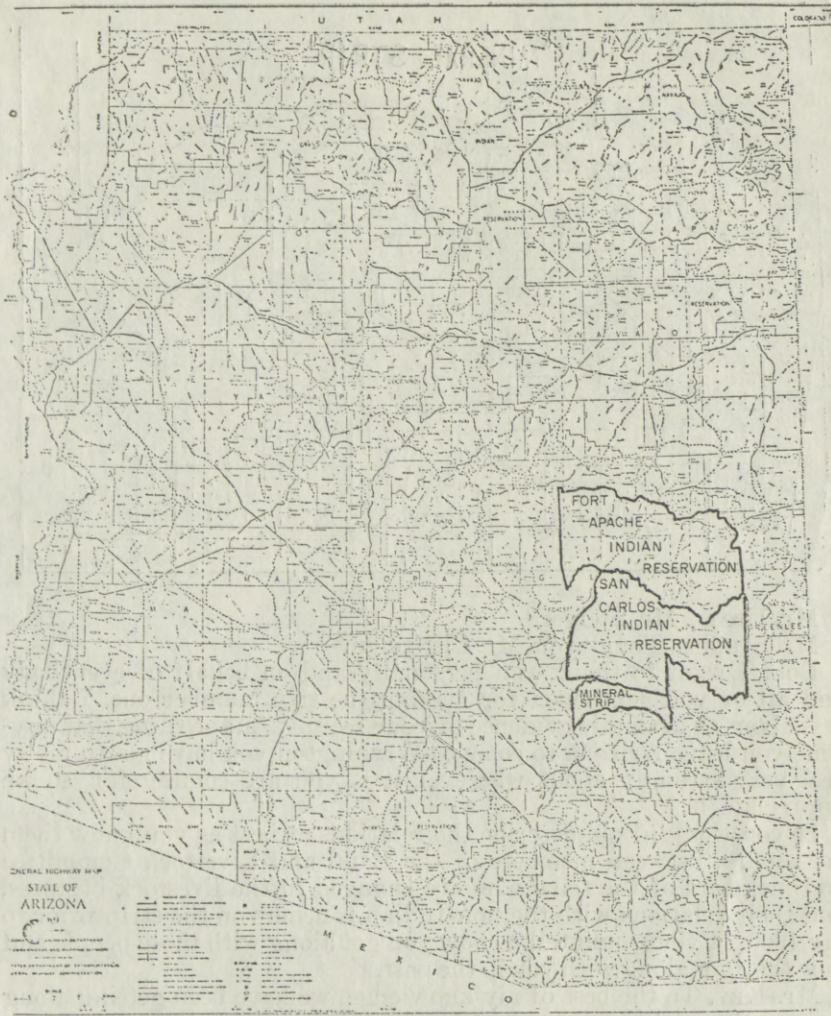
Whereas these ranchers were allowed to reside on the land and make these improvements with the express consent of the United States Government.

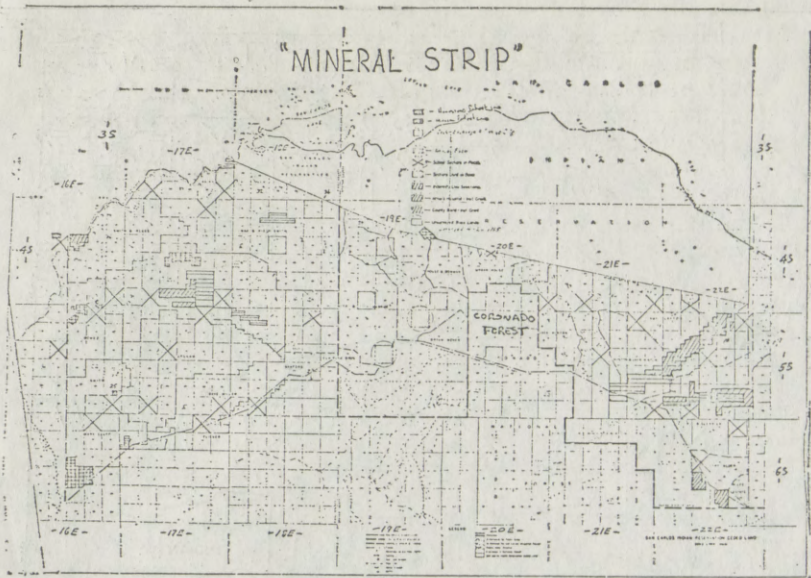
Wherefore your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays: 1. That the Congress of the United States give immediately and positive consideration to H.R. 4414 which would "authorize the Secretary of the Interior to purchase property located within the San Carlos Mineral Strip," and 2. That the Secretary of the Interior arrange for the surrender of the home and ranch holdings involved to the San Carlos Indians and provide for payment of compensation to the residents and ranchers for property losses sustained by the surrender of such holdings. 3. That a copy of this memorial be transmitted by the Secretary of State of Arizona to the United States Secretary of Interior and to each member of the Arizona Congressional delegation.

SAN CARLOS RESERVATION

San Carlos, Ariz., 1,872 sq. miles, 2313 Apache Indians
 Adjacent Fort Apache Reservation along southern boundary in west
 of central Ariz., 8 mi. E. (western border of Globe, Ariz.). Largely
 semiarid country, with deep canyons and high plateaus.
 Attractions: Coolidge Dam and San Carlos Reservoir;
 Tonto National Forest, N.W. of Reservation; old abandoned
 Dominion Copper Mine and Smelter, near Globe;
 Gila County Museum, at Globe.
 Activities: San Carlos Apache Tribal Fair (Oct.) at San
 Carlos; Annual Pioneer Day Celebration, at Stafford
 (July); San Carlos Indian Round-up (May and Nov.) on
 Reservation.
 Recreation: Fishing on and near Reservoir; swimming,
 water skiing, other water sports on San Carlos and
 nearby lakes; hunting (small game, elk, bear, javelina,
 waterfowl); also Annual Javelina Archery Hunt (Janu-
 ary); hiking.
 Facilities: Motel, other tourist facilities at nearby towns
 of Globe and Miami.
 Potential: Recreational development at Point of Pines
 area on Reservation.







Mr. UDALL. Mr. Steiger?

Mr. STEIGER. Thank you, Mr. Chairman.

Bob, I want to thank you personally and on behalf of everybody and all of you gentlemen for making the trip, number one. I think it is about as dramatic evidence of your feelings on the thing that anytime you leave Arizona to come to Washington you have got to really feel very strongly about whatever it is you are coming for, so we appreciate it.

If you would, Bob, describe the relations as best as you know them personally, between members of the Land and Livestock Committee and members of the tribe who are engaged in the livestock business, and their relations with the non-Indian ranchers on the strip prior to say 1969. If you would tell us how you got along with those people and how they got along with you in the past.

Mr. KEY. To the best of my knowledge, we have been getting along very well, and I apologize that I did not bring that out. I was intending to bring out the relationship between the tribe and the non-Indians there on the strip. We never had any hard feelings against one another, and we can exchange ideas like we did in Phoenix when we had that hearing, back in about 1969, when the land had been restored back to the tribe.

We were aware that in the future that the time would come where we would have to engage in this sort of business.

Mr. STEIGER. I appreciate that because for people who do not know anything about this situation, I think some of them get the idea that this is a situation in which it is the non-Indian ranchers against the Indians, and I know from my own experience, as you do, that that is simply not the case.

If any of you other gentlemen would like to add anything—

Mr. UDALL. Mr. Floyd Mull wanted to comment.

Mr. MULL. Yes, Mr. Steiger, I would like to add some more to what the statement has been made by Mr. Key here, and I have known personally some of these ranchers as Mr. Skeet Bowman, Mr. Glenn Layton for whom I used to work, and I think there is no problem at all between the non-Indians and the Indians.

But the statement has been made in the past by Mr. Key, we are here to help our friends, the ranchers, to support them all the way through and hopefully that they will be compensated for their ranch improvement. As myself, I am the president of the biggest cattle association on the reservation, I know how it is. If the ranch improvement, if a person really improves his ranch, it takes money, and we all know this. Therefore we hope, that is, representing the tribe here, we hope that the Congress will pass and compensate these ranchers for their ranch improvements.

Mr. STEIGER. Thank you, Floyd, very much.

I am pleased, from my knowledge of this relationship, it has been a matter of cowmen working together, not Indians or non-Indians. I know you have traded help in the past and helped each other gather and work together, and I think from that standpoint, I just think the record ought to reflect that, Mr. Chairman, because there is a misconception on the part of people that are not involved to believe that this is some kind of battle and that nothing could be further from the truth.

And I thank you gentlemen for that.

I have no further questions.

Mr. UDALL. Mr. Pike?

Mr. PIKE. Mr. Chairman, I know the council that are here with me, we are in livestock associations that Floyd is on, too, and I am a president of a cattle association. To my knowledge we do not have any problem with the ranchers, and I would appreciate that we are here. The major thing is that the Congress of the United States is the body which has the power, and particularly the responsibilities, to compensate the ranchers for their losses, and we are here for this purpose.

We are really supporting them, and I know our Apache Tribe, the population increase and also our livestock is at its carrying capacity, meaning such as for grazing, and so forth.

Thank you.

Mr. UDALL. Thank you.

Mr. KEY. Mr. Chairman?

Mr. UDALL. Yes, Mr. Key.

Mr. KEY. I would like to have this resolution of the intertribal council of the State of Arizona to be placed on the record also.

Mr. UDALL. Is that in the package that is here?

Without objection, we will also make that a part of the record, March 2, 1973. This shows that the legislation not only has the support of your tribe, but of the Association of Tribes in Arizona.

Mr. KEY. Yes, sir.

Mr. UDALL. That underlines again the point that you have been making, and that this is not a war between the white man and the Indians, no scalps have been taken, no hostages are being held, and you are both trying to find a friendly solution to this problem.

Mr. Young?

Mr. YOUNG. It is a very good feeling to find people that are working together. There has been a tendency in the past for people to try to create problems between different groups of people. I know we have seen some of it, and I think we ought to get on with the show.

Mr. UDALL. Thank you, sir.

Mr. Conlan?

Mr. CONLAN. No questions.

Mr. UDALL. Very well, gentlemen. Thank you for being here. Your testimony has been most helpful.

Mr. KEY. Thank you.

Mr. UDALL. We will now hear from some of the ranchers involved, and if it is suitable with you gentlemen, you can appear jointly and all come forward to the table together.

We have Mr. Skeet Bowman, Mr. Keith Smith, and Mr. Glenn Layton.

Gentlemen.

STATEMENTS OF KEITH SMITH, RANCHER, H. BOWMAN, RANCHER, AND GLENN LAYTON, RANCHER

Mr. BOWMAN. Thank you, Mr. Chairman, Mr. Steiger, Mr. Young, Mr. Conlan and all you other distinguished gentlemen.

I really want to thank our neighbors and our friends for their fine information that they gave you. I really do not know how to put 57 years in such a short time that I wish to take, and I really cannot imagine this happening to us, but 57 years ago I believe at least in the winter of 1914 and 1915, about the first of the year, my brother, my oldest brother, purchased a ranch on the so-called Mineral Strip, and at that time he gave me a brand and he branded me a calf. At that time it was my ambition to be a cowboy.

My home was in Safford at that time, and our transportation to San Carlos, where the old San Carlos Agency used to be, where the lake is now, we used to travel by train, and my brother would meet me on summer vacations and any other time I was able to go to the ranch, and he taught me how to handle cattle, how to break horses, how to pack mules—and while I am on that subject, we did pack mules, five or six mules at a time to take supplies to the ranch.

Mr. STEIGER. How many miles would you pack the mules?

Mr. BOWMAN. Twelve miles from Old San Carlos to the Hook and Line Ranch right down the river where the dam is now.

I always looked forward when I was able to go down there in later years. I worked for various outfits, all of the big outfits I worked for, and in 1919 I rode in where we live today and I went to work on that ranch. I was looking for a job and I went to work there breaking horses for \$30 a month. We only went to town a couple times a year, the Fourth of July and Christmas. What money I saved I invested in a heifer now and then.

This continued on until along about 1926, 1927, my brother had acquired quite a lot of property there then and bought out several more ranches. I ran his ranch there, also my cattle. Through all these years my cattle have continuously been in the same brand, and they were on his ranch, and I ran this ranch for him, beginning along at that time, and then in 1928 my wife and I were married on September 4, 1928,

soon after the dam was built, and we built a road down the river there with two mules, pack mules, mind you, and two saddle horses that we broke, and built this road down to the river, and we ran his ranch there up until the time in March 16, 1932 another brother bought what is known as the Standing Mule Ranch, and I moved my family.

And by now we had a couple of little girls, and I moved my family there to the Standing Mule Ranch, and I went down to the river to my brother's ranch to gather my cattle to bring them up there, and I left my wife there with these two little girls and one little horse and a little orchard there for 40 days. During this time she only saw one of our neighbors who lived 5 miles away. In fact, he lived on the place that we now own there.

So we started in as some of you might remember—I know I will never forget—the years of 1933, 1934, when we had a terrible row, and we were trying to take care of our cattle, and we spent one night in town in 2 years, 1933, 1934, and at that time my brother Everett, just older than I, put in an application for a homestead on this place, Standing Place, and my wife and I put in an application for a homestead on section 35, township 4 east.

And at that time the Taylor Grazing Act was going into effect and our things never did go through. My wife and I, with a horse and the scraper, leveled off a little part, built a house by ourselves. It isn't too fancy, but it is still standing, and built a pasture, and the necessary corrals and things necessary, and we lived there for a little over a year and then moved up on the place.

Well, to try to make it as brief as I can, the school bells were ringing for the girls then. And I stayed there all alone for years trying to make something, and in 1941 I decided—I went to town. I first moved my family to Klondyke. It was 12 miles across to Klondyke, and later it was too far to move around anyway, so I moved them. In 1941 I went into the sheriff's office, with the sheriff there for almost a couple of years. Then I saw that was not working and I went back to the ranch, and I bought another place.

MR. STEIGER. Excuse me. I want the record to be clear. All this time, even when you were in Klondyke and Puma, you still had cows on this permit?

MR. BOWMAN. Oh, yes, sir, continuously where they are today. In fact, while we were there, we bought three little places. Where we live now was the last one we bought in 1943. When we bought these little places that we could, we spent every dollar that we ever made and put it right into that ranch in improvements and what have you there. Yes, sir. It was continuous.

By the time we went there I had bought by brother's part. Anyway, I bought this place and I went back and ran for the office of sheriff and won and I was there for 8 years. Every nickel we made we put in the ranch.

My eldest boy was running it. Then I was out for a period of 4 years, and came back. At least I was in the sheriff's office for 20 years. We put every nickel we ever had into that place. We went out of the sheriff's office in 1968, most happy to get back on the ranch, and if I might, I might be mistaken here, but as far as I myself having any knowledge of our leases ever having been canceled, I never had any knowledge of that until February of this year, and before Mr. Francis Ingram,

which I had a lot of nice visits, good visits with, he always promised me that we would be able to stay there as long as we wished to.

At any rate, I just thought I would bring that up, but I never had any knowledge, I never had any knowledge of it being restored until I read this little article. My wife and I were back on the ranch in 1969 and actually we had a lot of good thoughts about, you know, what we had went through, all these hardships and droughts and everything that we had gone through to acquire this, and we could have sold that ranch a year before for \$150,000 and my oldest boy is a cowman, he is a cowboy, and my wife talked me out of it; \$150,000 for the ranch and six head of horses. That is how we could have sold it.

She says, no, Dad, he couldn't buy a ranch and he would love to have it, so we upped it \$50,000, and, of course, we didn't sell it. And this happened, and that broke our hearts. I wrote a lot of letters and did all I could, but again, I want to stress the fact that these are my friends. These are my neighbors. I sell cattle with these boys and they took care of me for years and years. I work with them and I work for those people, and I know—and I don't say it braggingly—I know the Indians a lot of times will say no when he means yes or he'll say yes when he means no, and I have stood up in the courts of law for them, and their people many times, and I have a lot of friends among the Apache people.

I deeply appreciate what they had to say here this morning, I really feel good about that. I hope that we will always be able to work together as we have in the past, that we'll be friends from now on.

These things come up, but I say anytime that a man isn't big enough to sit down and air his problem and come—I say that's what it takes to resolve this problem, of both affected parties to get together and give and take. I'm so happy and so proud of these fellows and what they stand for. I know them. I know their needs and the only thing that I could see good about it, if we got to move, we have a lot of wonderful pasture. The grass is good, the cattle is fat, and they are prize, and so I don't know what else I could tell you to try to explain what I know about the situation, and I think that that is our biggest problem of anyone that knows about this thing, if they knew about this thing as I knew it.

And I don't expect them to understand the hardships and the sky was my cover for a good many years. I say that truthfully and honestly and we went without, we went ragged, but we were trying to pay our bills and we did pay our bills to try to have something. I am almost 71 years old. I can't start over, gentlemen. There is no way.

I have six wonderful kids. They've got a good education and so I do have that left, and the memories of my life's work.

That's all.

Mr. UDALL. Thank you, Mr. Bowman, we'll come back to you in a minute.

Mr. Smith, Mr. Layton, maybe the two of you would like to supplement his comments.

Mr. SMITH. Mr. Chairman, I appreciate this opportunity we have in coming here and discussing our problems with you.

I would like to add my appreciation with Skeet Bowman and the members of the tribal council and the Apache Tribe for their coopera-

tion and wanting to see some justice done about this Mineral Strip problem.

Personally, I can see no reason why the Department of the Interior or anyone else would object to the ranchers being compensated. I can't see where there should be any skin off their nose. It's no more than fair and right and justice.

I'd like to take a few minutes to tell my story a little bit and my situation.

Mr. UDALL. Let me interrupt you to say that we have been fortunate for the cooperation and the generosity of the chairman of the subcommittee to get today set aside. We have about 45 minutes left. If we are going to get action quickly, we've got to conclude and close the hearing in the next 45 minutes.

If you will spread that time among you and leave a little time here for such questions as there might be, it would be very helpful. We are trying to make a record here. There are only four Members of Congress in the room and there are 531 others that have to pass on this.

I am trying to make as careful a record as I can here. I notice you have a paper. Do you have a prepared statement?

Mr. SMITH. It will take about 3 minutes.

Mr. UDALL. We'll put that prepared statement in the record then. You can speak summarily or from the heart or any way you want to summarize.

Mr. SMITH. I was just going to read this.

Mr. UDALL. Any way you want to proceed.

Let me ask Mr. Bowman, did you have a prepared statement also?

Mr. BOWMAN. No, sir. I just wrote a little thing this morning and never even finished it. I can't write no statement.

Mr. UDALL. What you said was more eloquent than 100 pages of prepared testimony.

Mr. SMITH. I might say that at this ranch I have now, Mr. Bowman talked about him and his wife building a road there. After my brother and I acquired this ranch, we built some bridges where we crossed the river a couple of times, and instead of having to go 7 miles from the dam, we cut the distance down to 4 miles, which made a big difference in getting in and out of the ranch. We didn't do it for peanuts. We had to hire bulldozers and equipment to do this with.

This rancher is asked to vacate by July 1, represents my life's earnings. In fact, I am still paying for it. It is like paying for a dead horse.

A Mr. Tuttle was developing the ranch I have back in 1911. He later sold his rights and holding to Mr. George Graham who after several years sold it to his daughter and son-in-law, Mr. and Mrs. Ed Bowman, Skeet's brother.

Ed Bowman sold it to me 18 years ago. These ranches on the Mineral Strip have been developed and improved over these many years with a lot of hard work and money being used in the process. Land has been homesteaded and deeded. Waters have been appropriated. Tax and roads and fences, corrals, and homes have been built. Many of the ranches have changed hands. All this was done legally, honorably, and in good faith.

Some of the leases were 10-year leases, which would indicate that it was a very substantial lease and so forth. A person would naturally

suppose that this investment would be respected and would have a value.

As I told our congressional delegation a few years ago, both Mr. Steiger and Mr. Udall were present, if I had thought that something like this could happen in the United States, perhaps I should have made my investment in Cuba or old Mexico.

It has been my understanding that our Constitution guarantees that a citizen's right to earn a livelihood shall not be deprived without due process of law. I do not feel that we have been dealt with fairly, and I do feel that the Government is responsible for the conditions that now exist.

With the situation as it is at this time, I believe the only way to honorably solve the problem is for the Government to compensate the ranchers. If the ranchers are justly compensated, I think you will hear no weeping, but if our ranches are simply confiscated, we will be very unhappy. Our problem at hand is, how can we ranchers stay in business without being compensated.

Our cattle have to have a home and ranches cost money. If we sell our cattle and don't reinvest, the income tax will take a big percentage of the money.

Gentlemen, we know that you are the only ones that can really help us get justice, and we are thankful that you have given us this opportunity to tell you the story and we trust you will make any effort to see that we get justice.

Mr. UDALL. Thank you, sir.

Mr. Layton?

Mr. LAYTON. I have no statement.

Mr. UDALL. Mr. Steiger?

Mr. STEIGER. Thank you.

Just a few points. I do appreciate your gentlemen's candor, and I think you have hit the nail on the head.

Skeet, Mr. Bowman, what are you doing for electricity out at the ranch?

Mr. BOWMAN. Well, sir, when my boy was running that outfit, he got a diesel put out there and we had lights all over the place. I didn't know it. So I went out there one night and I didn't sleep a wink. That thing, day and night. It's like looking over San Carlos. I said the next morning, I said, "Son, do you know what that thing is saying to me all night?" He said, "No, Dad." I said, "It's saying ping, ping, ping, ping, ping." And by the way, that thing burned up about a year after that, and I made that thing with a bedroll and a dutch oven. You can't operate this little outfit and ever hope to make anything.

He said, "Well, Dad, just run it in a modern way." But the drought put him out of business. Since the wife and I went back out there, we burn coal oil lamps and we burn wood, and we have a lot of good old clean water to drink. It is a good comfortable home, and we love it, but if we have got to give it up, I want to say it again, that I deeply appreciate these men and they don't know how much, but there is one other thing that I would love to add, that I think is important in this meeting, and I know these boys. I am familiar with those boys. They are cowboys. They are cow people, and I know that they know that they

couldn't go to my place within a year and gather my cattle. It's rough. It's brushy. As I stated awhile ago, I didn't know a thing about this until February, and it is humanly impossible to meet the request.

There must be some reasonable solution to that problem. I wanted to mention that. I know these people are cow people. I know that they know what it takes when it gets down to those last few, and all you see is a deep track and maybe you'll steer them, maybe you'll lore them, but you don't get them.

Mr. STEIGER. Glenn, I wonder if you could respond.

Do you know, there was a newspaper account of the disposition of this land. When you people leave, as far as the immediate—for the next year, do you know what that is, or supposed to be?

Mr. LAYTON. We have received favorable coverage throughout the newspaper, and I think the opinion of people within the State of Arizona, and especially in our valley have a feeling toward the ranchers, that he is being dealt with unjustly. There is another thing that I felt, and as Mr. Mull has said, he and I work together. We rodeo together.

There is a thing that disturbs me, though. As you talk to the outside people that are not acquainted with the Indian people, there is a feeling—and I think they are accusing the Indian unjustly because they are blaming the Indian for our problem, and we ranchers don't feel this. We feel it is a problem that has been caused by the Government. Whether there was a wrong done many years ago, why it was done, or how it was done we do not know, but we have got a problem before us today, and like I say, it isn't the Indians' fault. We don't feel it is our fault, and of course, that's the reason we are here, because we feel that the Government is perhaps the only one now that can straighten out our situation.

Mr. STEIGER. Glenn, what about the problem, it's pretty intangible, but I want you to express yourself as to how real you think it is, the problem of continuing relations having nothing to do with the cow business, continuing relations between the non-Indian community and the Indian community as a direct result of this problem.

Would you address yourself to that?

Mr. LAYTON. I think there is a feeling that has been built up in the people in the area. I can say, they are not acquainted with the situation so they are unjustly accusing the Indian.

Mr. STEIGER. Mr. Chairman, I would like the record to be clear. I happen to believe that, too. I think Mr. Conlan has had the same feeling, that there is a very strong feeling that somehow the Indians are to blame for this situation, that it has hardened whatever resentments may exist. It has hardened them and it is a very real problem, one that we can't assess quantitatively, but it is a real problem.

Mr. Smith, do you have a comment?

Mr. SMITH. Very often I have people ask me, they say, "How are you and the Indians getting along?" They know we have serious problems, and it is a bad deal for the rancher and so forth. Like Mr. Layton said, they have a tendency to feel like the Indians are responsible, but I tell them the Indians and I have no problems. The difficulty is not between the Indians and the ranchers.

Mr. STEIGER. Any one of you can respond to this.

It is my fault—I should have addressed this to the tribal members. It is my understanding that this land has been leased, at least for the next year, to a wildlife outfit, and the Indians don't plan to run cattle on it immediately, or at least the wildlife people.

Again, I say, we are probably addressing this improperly.

Is that the case, as far as you know?

Would it be restricted as far as hunting and so forth in the future?

Mr. SMITH. According to the piece that came out in the paper, an agreement has been signed up for a year, and there is to be no hunting by non-Indians on that land.

Mr. STEIGER. Obviously we are not addressing ourselves to that problem. The only reason I raised that now is that there is obviously going to be some natural resentment of many people that have been hunting out there for a long time, and that is probably going to be aimed at the Indian.

It seems to me that anything that we do that fails to recognize things that will cause greater friction between the community, it wouldn't be responsible for us, the Congress, or this committee, anyway, to not take notice of that.

So I just want the record to reflect that there is potential for further friction, Mr. Chairman, in this area, and anything that we could do to alleviate friction, particularly in these trying times, I believe is the expression, is very appropriate and has got some very real merit.

I would like the answer to one other nitty gritty question that the chairman raised as to the number of people involved, and we are going to get this from the Department.

We are talking about, as I recall, 12 permittees at the present.

Is that correct?

Can somebody respond? Do you remember? Do you know?

Mr. CONLAN. Fifteen grazing permits, seven grazing leases.

Mr. STEIGER. So we are talking about 22 in a total.

These are involved in how many holdings, the same number of holdings, each lease is a separate family, a separate operation?

Mr. SMITH. I think pretty much. There is around 20.

Mr. STEIGER. We are really talking—I also think the record should reflect honestly, there are varying degrees of dependency on these investments. Some of these 20 people supplement their income by some other method. Some of them are totally dependent on this.

Is that not the case?

Mr. SMITH. Right.

Mr. STEIGER. I think, again, in order for the record to be complete, we should reflect that as you gentlemen have so eloquently described, these holdings represent not only maximum investment, as all agricultural holdings do, but certainly a great deal more than the average human investment, not money investment, but for somebody to go out—I don't care if it was your predecessor or yourself, for somebody to go out and develop those leases into productive ranches took a desire that went way beyond economic return. It's a way of life that you believed in.

You are not asking for reimbursement for that way of life. You are asking—what you are asking for is for reimbursement for the value of what you are losing.

One other question and I will stop, Mr. Chairman.

Did you ever have the opportunity of a public hearing or any official notice prior to the order that deprived you of the continuity of your leases?

Mr. Bowman has already advised us that he never received any official notice until February, I believe he said, Mr. Bowman, of this year?

Mr. BOWMAN. Yes.

Mr. STEIGER. I want the record to reflect as to whether or not there was an opportunity for a hearing or review on the matter of the losing of your leases that any of you are aware of.

Mr. Bowman?

Mr. BOWMAN. No, sir.

Mr. STEIGER. Mr. Smith?

Mr. SMITH. No. I couldn't hardly believe it when I read in the papers.

Mr. STEIGER. Mr. Layton, do you know of any?

Mr. LAYTON. No.

Mr. STEIGER. Thank you, Mr. Chairman.

Mr. UDALL. Mr. Conlan?

Mr. CONLAN. I would just like to corroborate what Mr. Steiger has been rather directly referring to. Not only has the attorney general of the State of Arizona asked the Secretary of the Interior to rescind the order so that public hearings could be held in accordance with law, but the Governor and the Legislature of Arizona has gone overwhelmingly on record for the ranchers.

These people live in my district and conversing with people throughout that area as well as throughout the State, the press, and public opinion is overwhelmingly of the opinion that the executive department in its desire to restore the lands to the Indians, has gone overboard because of its involvements and its acquiescence and support and encouragement and, as the gentleman has testified, approval of the ranchers involving their entire life savings into these areas over the years. The public opinion in the State is overwhelmingly on the side of seeing that the ranchers get some compensation before they move.

When you have that type of situation, the attitudes are beginning to harden, and I think we have seen from the testimony here today that Indians and ranchers involved can get along fine among themselves. You have a situation now where public opinion says why do the ranchers have to move out, and who is going to throw them out, as they have built their entire livelihood and everything they have is in there?

I think that creates a problem that this country can't afford. The outsiders are going to be in there lickety split, and I think this is the type of deteriorating situation that we are very frankly bringing to the attention of Congress at this time because it needs to be clarified, and it needs to be clarified quickly satisfactorily, with compensation

for something that we in Congress and the executive department have allowed to continue over these 50 years.

This is why I signed on to support the bill, because I can see from first hand the problem building up in the Southwest.

Mr. UDALL. Very well, gentlemen. Thank you for appearing this morning.

Is there anybody else to be heard on this legislation?

If not, we will keep the hearing open without objection for 10 days for any further statements to be filed, and we would appreciate the Department furnishing the additional information requested.

If there is nothing further, the subcommittee stands adjourned.

[Whereupon, at 11:30 a.m., the subcommittee was adjourned.]

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