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MISCELLANEOUS LAND CONVEYANCE BILLS

GOVERNMENT

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SUBCOMMITTEE ON THE ENVIRONMENT AND LAND RESOURCES

OF THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

SECOND SESSION

ON

S. 101

A BILL TO DIRECT THE SECRETARY OF INTERIOR TO CONVEY CERTAIN LANDS IN GEARY COUNTY, KANSAS, TO MARGARET G. MORE

S. 155

A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY ALL RIGHT, TITLE, AND INTEREST OF THE UNITED STATES IN AND TO A TRACT OF LAND LOCATED IN SCOTTS BLUFF COUNTY, NEBRASKA, TO ROBERT L. SUMMERVILLE OF SCOTTS BLUFF COUNTY, NEBRASKA

S. 301

A BILL RELATING TO LANDS IN THE MIDDLE RIO GRANDE CONSERVANCY DISTRICT, NEW MEXICO

S. 1365

A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY TO THE CITY OF HAINES, ALASKA, INTERESTS OF THE UNITED STATES IN CERTAIN LANDS

S. 1872

A BILL TO ENLARGE THE BOUNDARY OF THE CIBOLA NATIONAL FOREST

S. 2004

A BILL TO ELIMINATE A RESTRICTION ON USE OF CERTAIN LANDS PATENTED TO THE CITY OF HOBART, KIOWA COUNTY, OKLAHOMA

S. 2286

A BILL TO AMEND THE ACT OF JUNE 9, 1906, TO PROVIDE FOR A DESCRIPTION OF CERTAIN LANDS TO BE CONVEYED BY THE UNITED STATES TO THE CITY OF ALBUQUERQUE, NEW MEXICO

S. 2511

A BILL TO AUTHORIZE THE SECRETARY OF AGRICULTURE TO CONVEY CERTAIN LANDS IN THE STATE OF IDAHO

S. 2798

A BILL FOR THE RELIEF OF THE CITY OF YAKUTAT, ALASKA

S. 2837

A BILL TO AMEND THE ACT OF AUGUST 30, 1890, TO EXCEPT A TRACT OF GROUND LOCATED IN CARBON COUNTY, WYOMING, FROM ITS RESTRICTIONS

H.R. 1466

A BILL TO CONVEY CERTAIN FEDERALLY OWNED LAND TO THE TWENTYNINE PALMS PARK AND RECREATION DISTRICT

H.R. 4941

A BILL FOR THE RELIEF OF OSCAR H. BARNETT

FEBRUARY 26, 1976

Printed for the use of the
Committee on Interior and Insular Affairs

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MISCELLANEOUS LAND CONVEYANCE BILLS

THURSDAY, FEBRUARY 26, 1976

U.S. SENATE,
SUBCOMMITTEE ON THE ENVIRONMENT AND
LAND RESOURCES,
OF THE COMMITTEE ON THE INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10 a.m. in room 3110, Dirksen Office Building, Hon. Clifford P. Hansen presiding.

Present: Senators Hansen, Stevens, and Domenici.

Also present: Steven P. Quarles, counsel; and Thomas B. Williams, professional staff member.

OPENING STATEMENT OF HON. CLIFFORD P. HANSEN, A U.S. SENATOR FROM THE STATE OF WYOMING

Senator HANSEN. The subcommittee on the Environment and Land Resources will please be in order. Senator Haskell of Colorado, who would normally be chairing this subcommittee, is ill with the flu this morning, and I am not a pinch hitter; a pinch hitter is one who does the job of batting better than the main batter. In this instance, I am just substituting for him and I am sorry that he is unable to be here. I know he is keenly interested in the subject matter that is to be heard and discussed before this subcommittee. I can assure you that he and his staff will review it very carefully.

As most of you know, during each session of Congress this subcommittee conducts 1 or 2 days of hearings at which time sundry public land conveyance and/or minor boundary modification bills are considered. We have before us today, 12 such proposals—10 Senate bills and 2 House-passed measures.

At this point, I will insert in the record copies of the bills and the relevant executive communications.

[The texts of the bills together with the executive communications before the subcommittee follow:]

(1)

94TH CONGRESS
1ST SESSION

S. 101

IN THE SENATE OF THE UNITED STATES

JANUARY 15, 1975

Mr. DOLE introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To direct the Secretary of the Interior to convey certain lands in Geary County, Kansas, to Margaret G. More.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That the Secretary of the Interior is hereby authorized and
- 4 directed to convey to Margaret G. More, Junction City,
- 5 Kansas, all right, title, and interest of the United States
- 6 in and to a tract of land in Geary County (formerly Davis
- 7 County), Kansas, tract numbered 37, special section 13,
- 8 township 11 south, range 5 east, sixth principal meridian,
- 9 Kansas, containing approximately 68.3 acres.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FEB 25 1976

FEB

Dear Mr. Chairman:

Your Committee has requested the views of this Department on S. 101, a bill "To direct the Secretary of the Interior to convey certain lands in Geary County, Kansas, to Margaret G. More."

We recommend that the bill not be enacted.

S. 101 would direct the Secretary of the Interior to convey all interest of the United States in a 68-acre tract in Geary County, Kansas, to Margaret G. More. The tract is described as #37, special section 13, T. 11 S., R. 5 E., 6th principal meridian.

The facts leading up to this legislation are as follows:

The Fort Riley Military Reservation situated partly in T. 11 S., R. 5 E., 6th P.M., Kansas, was created by Executive Order dated May 5, 1855. The Republican River flows through that portion of the military reservation in T. 11 S., R. 5 E.

By Joint Resolution of Congress approved March 2, 1867 (14 Stat. 573), the channel of the Republican River in this locality was fixed as the southern boundary of the Fort Riley Military Reservation and the lands south of that river, formerly within the reservation, were granted to the State of Kansas to aid in the construction of a bridge over the Republican River. Subsequently, the lands eliminated from the reservation by that resolution were surveyed, as shown upon a plat approved May 21, 1868. Those lands were patented to the Republican River Bridge Company on June 13, 1868.

The lands in this township which were patented to the bridge company are shown on the plat approved June 19, 1868. The area south of the Republican River in the vicinity here involved is designated on the plat of May 21, 1868, and referred to in the patent as "special section 13" of the township.

The records indicate that beginning about 1903, the Republican River accreted additional lands to the Fort Riley Military Reservation by



process of erosion from the right (south) bank of the river and accretive deposits of soil to the left (north) bank of the Republican River, thus forming a large oxbow. This action is well documented by a sequence of aerial photos and maps dating from that period. Since this area is adjacent to Fort Riley there are exceptionally early aerial photos and maps available. The military also has stated it used the area within the loop for maneuvers and other military purposes until the land was severed by an avulsion.

In the spring of 1945 by a sudden avulsive action, the river changed its channel and severed this land from the Reservation by creating a new channel across this oxbow loop.

In 1959 the land was declared by the Department of Army to be excess to its needs. The Department of the Interior and the General Services Administration determined that the excess land was suitable for return to the public domain because it had not been substantially changed in character. It was transferred to Interior for administration by the Bureau of Land Management. It was surveyed as Tract 37.

This area is not carried as such upon the tax rolls of the County Clerk, Geary County, Kansas. No claim to this land by the Republican River Bridge Company or anyone claiming under it was brought to the attention of this Department until notice of proposed sale of the land by the Bureau of Land Management to the State of Kansas was published.

In April 1966, the BIM classified Tract 37, under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869), with other lands, for sale to the Kansas Forestry, Fish and Game Commission. The classification report states that the subject tract is suitable for and needed to provide undisturbed nesting cover for game birds.

Notice of sale was published in the Junction City Republic, Junction City, Kansas.

In August 1966, an objection to the sale of Tract 37 was filed by Weary, Weary, Medley & Chartier, attorneys, on behalf of Mrs. Margaret More, on the grounds that Tract 37 appeared to be a tract of land located on some lands owned by Mrs. More, that originally this land was patented to the Republican River Bridge Company and it in turn platted the land in about 1868; that Mrs. More, through her predecessors in title, has continuous title from the Republican River Bridge Company to herself to part of Lot 3 and all of Lots 4 through 10 inclusive of the portion of the Republican River Bridge

Company plat included in Special Section 13, T. 11 S., R. 5E. They stated further that their client's family had owned and farmed the land, except for the portion that was covered by trees, for a period in excess of 20 years.

Mrs. More's protest was dismissed by the BLM's Wyoming office on the grounds that the land had become a part of the withdrawn public land in the Fort Riley Military Reservation. An appeal was taken to the Director. However, in the interim, Mrs. More initiated action against the Secretary in the United States District Court for the District of Kansas (Margaret G. More v. Stewart Udall, Secretary of the Interior, et al, Civil No T4466). The court proceeding was suspended by stipulation and a color-of-title application filed by the plaintiff.

The color-of-title application was subsequently rejected because withdrawn lands are not subject to disposal under the Color of Title Act.

In April 1970, our Wyoming BLM office made a special report and appraisal of the tract. The report stated, among other things:

The subject lands are a part of a 1-3/4 miles x 1/4 mile wide strip of alluvial sand deposit lying between the Republican River and "City Route 77" commencing just north of the city limits of Junction City, Kansas (pop. 22,000). The More Sand Company now produces sizeable quantities of commercial sand (used principally in concrete, masonry, etc.) from a series of pits all located 1/4 to 3/4 mile southeast of the subject land in the same strip. The sand business has been operating in the strip for 18-20 years according to local residents. This strip is essentially the only river sand site available to the Junction City area and to the extensive Fort Riley military installation which dominates the economy of the Junction City community and Geary County.

The entire strip is now zoned as Heavy Industrial-B and is designated specifically for the production of "Rock, Gravel, Sand and Clay."

There is no legal access to the land. Exit points from alternate route #77 are located near the southeast and southwest extremities of the subject tract. Any legal access to the tract would have to cross several feet of private lands owned by Margaret G. More. Kansas law provides for establishing such access in the event land-locked tracts warrant such action.

The area has good potential for game bird production. The fact that it is fairly close to town might restrict hunting somewhat. However, wildlife produced in the area would disperse along the river and could be hunted elsewhere.

Of at least equal significance is the river access this parcel would afford. There are reported to be not many miles of "public" river in Kansas. The property therefore has significant public recreation values.

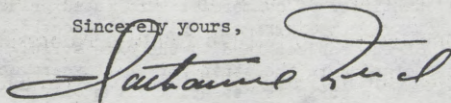
If the land were conveyed to the State under the Recreation and Public Purposes Act in accordance with its classification, the United States would retain the minerals and the right to develop them.

The Geological Survey has reported that the land involved is prospectively valuable for oil and gas. There is some oil production in Geary County; however, the nearest oil field is 12 miles to the east.

We know of no reason to grant the land to Mrs. More. And, because of the public values in the lands, we cannot recommend that it be sold to her. We therefore recommend against enactment of S. 101.

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,



 Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C.

94TH CONGRESS
1ST SESSION

S. 155

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 1975

Mr. CURTIS introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To authorize the Secretary of the Interior to convey all right, title, and interest of the United States in and to a tract of land located in Scotts Bluff County, Nebraska, to Robert L. Summerville of Scotts Bluff County, Nebraska.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Secretary of the Interior is authorized and directed
4 to convey, by quitclaim deed or other appropriate instrument,
5 all right, title, and interest of the United States in and to the
6 following described real property, located in Scotts Bluff
7 County, Nebraska, to Robert L. Summerville of Scotts Bluff
8 County, Nebraska, without payment of consideration: Lots

- 1 10 and 11, section 17, lot 6 of section 20, township 22 north,
- 2 range 55 west of the sixth principal meridian, Scotts Bluff
- 3 County, Nebraska.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FEB 25 1976

Dear Mr. Chairman:

Your Committee has requested the views of this Department on S. 155, a bill "To authorize the Secretary of the Interior to convey all right, title, and interest of the United States in and to a tract of land located in Scotts Bluff County, Nebraska, to Robert L. Summerville of Scotts Bluff County, Nebraska."

We recommend that the bill not be enacted.

The bill is an effort to resolve a long-standing dispute between this Department and the Summervilles relating to the title to the land in question, an island in the Platte River, Nebraska. The island comprises approximately 92 acres.

The land involved was originally surveyed in 1877. The island was not shown on the original survey. The Summerville's predecessors to the riparian lands received their patents between 1890 and 1918.

The land was resurveyed in 1935. At that time the island was in existence and included in the survey. The surveyor felt that the evidence indicated that the island had been in existence at the time of the original survey despite the fact that it was not mentioned.

Around 1940 an attempt was made to enter the island under a homestead entry. The Summervilles protested claiming ownership. This Department denied the homestead entry on other grounds, but advised the Summervilles that it was our position that the lands were public lands.

In 1966 the island was patented to Scotts Bluff County, Nebraska, under the provisions of 43 U.S.C. Secs. 869 to 869-4. The Summervilles brought an action in State court against the United States and the County claiming title to the land. The action against the United States was dismissed because of lack of jurisdiction, but was continued against the County. The Nebraska Supreme Court held that between the Summervilles and the County, the Summervilles had the right of possession.

The Nebraska Supreme Court held that:

"This case involves only the right of possession between two claimants of surface rights to the same land whose claims



arise under different patents from the United States, where the United States is not a party, and has no present right of possession. No judgment or decree which this court can enter in this case could in any manner be binding upon the United States or affect its title or rights where it is not a party."

The Nebraska court found that the island had formed after the original survey and that therefore the island belonged to the riparian owners as accreted lands. Subsequently, the County quitclaimed the land to us and we refunded its money.

This Department has always taken the position that the island is public land. Therefore, we see no reason to convey our Federal interest in this land.

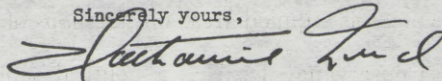
S. 155 grants all of the right title and interest of the United States in this land. This is more than the Summervilles would have if the island were simply recognized as accretion to the riparian lands. The original patents contained a reservation for rights-of-way for ditches or canals under the Act of August 30, 1890 (26 Stat. 391, as amended, 43 U.S.C. Sec. 945). The bill would not retain this right-of-way.

Another objection to this bill is that it grants the land in question to Robert L. Summerville of Scotts Bluff County, Nebraska. Presumably Mr. Summerville is the proper grantee and the owner of the riparian rights. However, this Department has no knowledge as to whether Mr. Summerville is the proper grantee. It might be that others also have the same or similar interest in or claims to the island that Mr. Summerville has.

We disagree with the concept of surrendering Federal rights in public lands and we do not know of any circumstances which would justify a change in our position concerning the land involved in this particular instance.

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,



Assistant

Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C.

94TH CONGRESS
1ST SESSION

S. 301

IN THE SENATE OF THE UNITED STATES

JANUARY 21, 1975

Mr. DOMENICI (for himself and Mr. MONTONA) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

Relating to lands in the Middle Rio Grande Conservancy District,
New Mexico.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, upon payment of the sum of \$5,626.45 to the Secre-
4 tary of the Interior, all right, title, and interest of the
5 United States in land shown by the Bureau of Land Manage-
6 ment as stippled areas on the maps of the Middle Rio Grande
7 Conservancy District, a political subdivision of the State of
8 New Mexico, and which were prepared by the district and
9 signed by the State director, New Mexico Bureau of Land
10 Management, in September 1969, and filed by him in the
11 Land Office of the Bureau of Land Management, Santa Fe,

1 New Mexico, under serial number NM-10537, such land also
2 being described in lists attached thereto, are, subject to valid
3 existing rights, vested in the Middle Rio Grande Conservancy
4 District, upon condition that the Middle Rio Grande Con-
5 servancy District convey all right, title, and interest in said
6 property as provided in section 2 of this Act.

7 SEC. 2. The Middle Rio Grande Conservancy District
8 shall convey to each person or his successor in interest all
9 right, title, and interest to the lands shown to be claimed by
10 him on the maps coded NM-10537 upon payment to the
11 district of not more than \$5 per acre or fraction thereof, and
12 administrative costs of making conveyance.

13 SEC. 3. Upon receipt of the payment required by section
14 1 hereof, the Secretary of the Interior may issue a document
15 evidencing transfer of title to the district by this Act.

16 SEC. 4. The Secretary of the Interior is authorized to
17 accept and act upon applications from the Middle Rio Grande
18 Conservancy District on lands not described in section 1 but
19 which on the date of passage of this Act lie within the
20 boundaries of the Middle Rio Grande Conservancy District on
21 behalf of any person who is occupying the land and who
22 meets the requirements established in section 2 hereof, and
23 to convey said land at \$5 per acre, or fraction thereof, to
24 the Middle Rio Grande Conservancy District. The docu-
25 ment of conveyance issued by the Secretary of the Interior

1 shall provide for conveyance of the property in accordance
2 with section 2 hereof.

3 SEC. 5. Coal and all other minerals contained in any
4 lands conveyed pursuant to this Act are hereby reserved
5 to the United States. Said coal or other minerals shall be
6 subject to sale or disposal by the United States under ap-
7 plicable leasing and mineral land laws, and permittees,
8 lessees, or grantees of the United States shall have the right
9 to enter upon said lands for the purpose of prospecting for
10 and mining such deposits.

11 SEC. 6. Proceeds received pursuant to this Act shall
12 be covered in the Treasury of the United States as miscel-
13 laneous receipts.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FEB 25 1976

Dear Mr. Chairman:

This responds to your request for the views of this Department on S. 301, a bill "Relating to lands in the Middle Rio Grande Conservancy District, New Mexico."

We recommend against enactment of S. 301.

S. 301 authorizes the Secretary of the Interior to convey at a discounted price approximately 2,300 acres of public lands to the Middle Rio Grande Conservancy District, a political subdivision of the State. The Conservancy District would in turn convey these lands at a reduced rate to the claimants described in the bill.

The bill concerns certain long-standing title problems in the Middle Rio Grande Conservancy District. The lands to be conveyed are small tracts of public domain lands along the Rio Grande River completely surrounded by developed private lands some of which are in downtown Albuquerque. Many of these lands may be occupied, but they have never been conveyed out of Federal ownership. It has been alleged that the claims to these Federal lands, for the most part, date back to Spanish or Mexican land grants predating the acquisition of the territory by the United States. However, the occupancies were never validated by the United States. We understand that many of these claimants did not realize that they did not have good title to the land they occupied, or that all or portions of their lands are in Federal ownership. The beneficiaries of S. 301 would be those people or their successors who have occupied and paid taxes on these lands, but who do not have marketable title.

Present law and regulations already provide a means to bring about the resolution of these title problems on a case-by-case basis utilizing cadastral surveys as well as land examinations and appraisals. This includes the Small Tract Act (43 U.S.C. 682a-e), the Color-of-Title Act (43 U.S.C. 1068 - 1068b), the Public Sale Act (43 U.S.C. 1171), and the Recreation and Public Purposes Act (43 U.S.C. 689 - 689-4). The situation in the Middle Rio Grande Conservancy District is not unique or different than that in other parts of New Mexico.



Section 1 of S. 301 provides that upon payment of \$5,626.45 to the Secretary of the Interior, the lands described in the bill are to be vested, subject to valid existing rights, to the Middle Rio Grande Conservancy District. The conveyance would be made subject to valid existing rights as a safeguard to the claims of any third parties which may exist. Under the bill the lands would be conveyed according to property maps which were prepared by the Conservancy District.

We find no basis for the \$5,626.45 specified in section 1 as the price of the lands. If there are approximately 2,300 acres, the United States would actually receive about \$2.50 per acre. Without a complete inventory, there is no way to know the actual acreage or value of the tracts. There is no way to ascertain the actual acreage involved, or the actual uses or the public values which might be yielded. However, the proposed transfer of title appears to be at less than fair market value. These lands have high monetary as well as resource value. Using a value of \$2,500 per acre (which more closely approximates their worth), the total value of the 2,300 acre is estimated at \$5,750,000. Therefore, the claimants should gain a net-worth windfall, with the exclusive use of these lands. They would also have the option of selling them for perhaps even a greater profit.

Pricing should bear some relationship to fair market value. It is likely that enactment of this legislation would lead to applications for similar benefits on other BLM lands in northern New Mexico. The situation in the Middle Rio Grande Conservancy District is similar in almost every respect to that in other areas of the northern Rio Grande Valley and in Indian areas. The Bureau of Land Management in New Mexico has received inquiries concerning the special pricing features of this legislation from people living in other areas who have indicated that they, too, may seek special pricing. Some who have paid fair market value for their lands have indicated that they might seek "rebates." The new pricing policy in the Middle Rio Grande will serve as precedent for lands outside the valley and in other States, to the disadvantage of the United States.

With regard to the occupants on these tracts, there has never been a complete inventory concerning occupancy by BLM, or, to our knowledge, by anyone else. Without knowledge of who the occupants are, we have no way of ascertaining who are the beneficiaries of this legislation. Therefore, we are unable to substantiate whether most of these lands are occupied. To the best of our knowledge, most of the lands covered by S. 301 are neither occupied nor cultivated. Further, we are unable to substantiate whether the occupied lands have been so for many generations, including those which predate acquisition of the territory by the United States. Many occupancies may be recent in origin.

More precise language would be needed to define qualified claimants. There is nothing in the bill which defines them except to refer to

those persons or successors in interest who claim land as shown on Middle Rio Grande Conservancy District Property Map of 1940 (maps coded NM-10537). Occupancy of such standing might qualify under existing law, i.e., color-or-title, and, therefore, not require further legislation.

We are not aware of any equities in the situation which would warrant exempting claimants from provisions of existing laws. The people are, in most cases, occupying national resource lands without authorization, and are, in effect, trespassers. This approach rewards trespassers and could make BLM enforcement against trespass elsewhere more difficult. There would be no justification for allowing windfall profits to the claimants at the expense of the other citizens of the United States. As indicated earlier this could set precedent for "rebate" to previous buyers who had settled their trespass actions, and for placing \$5 per acre prices on other sales.

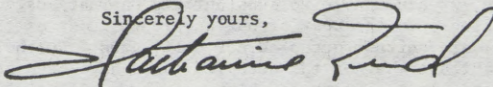
S. 301 apparently does not take into account or address the effects of two earlier withdrawals - Public Land Order No. 2174 of August 5, 1960, for Reclamation Purposes, Middle Rio Grande Project, and Secretary's Order of September 7, 1944, Power Site Classification No. 368. These withdrawals segregated certain lands and, presumably, would remove them from operation of the legislation. The effect of the legislation on these lands is unclear.

A case-by-case approach would accomplish several goals. It would: solve existing title problems; prevent the loss of land which contains public values beneficial to the people of the United States; adhere to present land laws prohibiting gifts to trespassers; and avoid precedent which would encourage others to seek similar relief.

Finally, we note that S. 301 does not take into account Federal flood plain law and policy. One possible result of passing marketable title under the bill could be that of development incompatible with the area's flood plain location. This possible result might be in conflict with flood plain statutes.

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,




Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C.

94TH CONGRESS
1ST SESSION

S. 1365

IN THE SENATE OF THE UNITED STATES

APRIL 7, 1975

Mr. STEVENS (for himself and Mr. GRAVEL) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To authorize the Secretary of the Interior to convey to the city of Haines, Alaska, interests of the United States in certain lands.

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

3 That the Secretary of the Interior is authorized to transfer
4 by quitclaim deed or other appropriate means to the city of
5 Haines, Alaska, all right, title, and interest remaining in the
6 United States in and to the following described lands in the
7 city of Haines, Alaska, together with all improvements
8 thereon:

9 Beginning at the northwest corner of lot 17 in block
10 13, which is the same as corner 1 of the Native School
11 Reserve; thence north 76 degrees 23½ minutes west

1 58.11 feet to corner numbered 2; thence south 17 degrees
2 58 minutes west 165.26 feet to corner numbered 3;
3 thence south 76 degrees 45 minutes east 82.08 feet to
4 corner numbered 4; thence north 9 degrees 38 minutes
5 east 164.65 feet to corner numbered 1, the place of
6 beginning, containing 17,531 square feet.

7 Lots 8 and 9 of block 13 in the townsite of Haines,
8 Alaska, containing a total of 7,330 square feet.

9 Lot 17 of block 13 in the townsite of Haines, Alaska,
10 containing a total of 5,885 square feet.

11 SEC. 2. No conveyance may be made under this Act
12 unless the city of Haines has shown to the satisfaction of
13 the Secretary of the Interior that—

14 (1) the city of Haines will sell such land and im-
15 provements referred to in the first section at not less
16 than fair market value;

17 (2) the proceeds from the sale thereof will be used
18 to acquire property or to construct a building to be used
19 for public purposes; and

20 (3) any amount by which the proceeds from the
21 sale of such lands and improvements referred to in the
22 first section exceed the acquisition costs of property or
23 construction costs under clause (2) shall be paid to the
24 United States.

25 SEC. 3. If the requirements of section 2 are satisfied, the

1 Secretary of the Interior is authorized to enter into an agree-
2 ment or agreements with the city of Haines, Alaska, where-
3 by, in consideration of a quitclaim deed to the city of Haines
4 of all right, title, and interest remaining in the United States
5 in and to those lands and improvements referred to in the
6 first section of this Act which have been conveyed to the
7 city of Haines, the city of Haines—

8 (1) agrees that title to any property acquired or
9 building constructed with the proceeds of the sale of
10 such property and improvements referred to in the first
11 section of this Act will vest in the United States if such
12 property or building acquired or constructed with the
13 proceeds from such sale ever ceases to be used for a pub-
14 lic purpose; and

15 (2) agrees to execute, within ninety days after ac-
16 quiring such lands, a deed to this effect and deliver said
17 deed to the Secretary of the Interior.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FEB 25 1956

Dear Mr. Chairman:

This responds to your request for the views of this Department on S. 1365, a bill "To authorize the Secretary of the Interior to convey to the city of Haines, Alaska, interests of the United States in certain lands."

We would have no objection to enactment of S. 1365 if amended as suggested herein.

S. 1365 would authorize the Secretary of the Interior to transfer to the city of Haines, Alaska, all right, title, and interest remaining in the United States to certain lands and improvements described therein. No conveyance of such land would be made unless the City makes certain assurances to the satisfaction of the Secretary. Further, after such assurances are made, and as consideration for the conveyance, the City will agree that any alternate property acquired or buildings constructed will vest in the United States if such new property is not used for public purposes.

The land in question, about 30,746 square feet, consists of several tracts, all conveyed to the city of Haines pursuant to the Act of August 23, 1950 (64 Stat. 470).

The Act of August 23, 1950 (64 Stat. 470) directs the Secretary to convey to local officials all right, title, and interest of the United States to any parcels and improvements thereon for school or other public purposes, whenever he determines that the lands or improvements are no longer required by the Alaska Native Service (now the Bureau of Indian Affairs) for school purposes. All such conveyances have to reserve minerals to the United States, together with the rights to prospect for and remove them under the Secretary's regulations. In addition, any such conveyance has to provide that the lands and improvements can be used for school and public purposes only, and that the school facilities must be available to all Native children. Finally, it provides that if the Secretary determines that the grantee has failed to observe the foregoing restrictions for a period of at least one year, he may declare a forfeiture of the grant, and the lands and improvements would revert to the United States to become part of the public domain.



A deed for the lands described in S. 1365 was issued to the city of Haines on March 19, 1953. It quitclaimed the land to the City subject to all "terms, conditions, and limitations and reservations" in the 1950 Act. The building on this site was used for a school and then the City converted it into a health center. After the health center became obsolete, this facility was used as a teen center. Subsequently, the building was condemned by the fire department. The City has indicated that this land is in a residential area, and no longer accessible or adequate for public use. The City would like to sell the land and facility. Further, the City has indicated that it would use the receipts to construct a building or purchase land to be used for public purposes in perpetuity.

Conveyance of the land in question would not affect any programs or operations of this Department. We know of no expression of interest in the land by other parties, and do not, at this time, think that it would be suitable for return to the public domain. Thus, if the property reverts to the United States it would, in all likelihood, undergo routine procedures for the disposal of surplus property under regulations of the General Services Administration.

The purpose of the legislation under which the subject tract was patented was to provide land for public purposes, not to provide a source of private profit or municipal revenue. The 1950 Act and the patent thereunder are broad, in that the lands may be used for any public purposes.

We believe it would be preferable for the land to revert to the U.S. and be disposed of through routine GSA procedures. However, in recognition of the City's land use planning objectives and needs, we would not object to enactment of S. 1365, if amended to assure preservation of a Federal interest in land in Haines, if Congress wishes to resolve the problem by special legislation. Further, our amendment, like the 1950 Act and deed, would reserve the mineral interests to the U.S.

Accordingly, we recommend the deletion of lines 3 - 8 on page 1, and the insertion of the following language in their place:

"That notwithstanding the provisions of the Act of August 23, 1950 (64 Stat. 470), requiring that lands patented thereunder be used only for school or other public purposes, the Secretary of the Interior (hereinafter "the Secretary") is hereby authorized and directed to issue a new patent or deed to the city of Haines, Alaska, for the following described lands, without such a use restriction,

but containing all other reservations to the United States required by that Act, upon relinquishment of the existing deed, provided that the requirements of Sections 2 and 3 of this Act have been met."

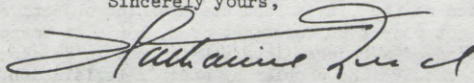
Sections 2 and 3 of S. 1365 do not preserve the Federal interest in lands in Haines, as they provide that proceeds from the land under the bill may be used to acquire property or to construct a building for public purposes. Thus, such a building, rather than land, could vest in the U.S. Therefore, we recommend deletion of the following language: "or to construct a building," line 18, page 2; "or construction costs," lines 22 - 23, page 2; "or building constructed," lines 8 - 9, page 3. Further, we recommend the deletion of line 12, page 3, and the substitution of "property acquired with the..."

Further, we recommend that the words "and directed" be inserted after the word "authorized" on line 1, page 3.

The State and City may also wish to examine the possibility of reconveyance of the property to the United States, and subsequent selection by the State for the purpose of reconveying the land to the City without any reversionary restriction or requirements.

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,



Assistant

Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C.

94TH CONGRESS
1ST SESSION

S. 1872

IN THE SENATE OF THE UNITED STATES

JUNE 4, 1975

Mr. MONTOYA (for himself and Mr. DOMENICI) introduced the following bill;
which was read twice and referred to the Committee on Interior and
Insular Affairs

A BILL

To enlarge the boundary of the Cibola National Forest.

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

3 That the exterior boundary of the Cibola National Forest in
4 New Mexico be modified to include the following described
5 lands:

6 1. A tract of land in townships 13 and 14 north,
7 range 16 and 17 west, of the New Mexico principal
8 meridian in New Mexico, beginning at a point from
9 which the southwest corner of section 34, township 14
10 north, range 17 west, bears north 89 degrees 52 minutes
11 west 1,717.32 feet;

1 thence south 0 degrees 56 minutes east 1,307.46 feet
2 to the southwest corner of the Fort Wingate Army
3 Depot;
4 thence south 89 degrees 45 minutes east 897.60
5 feet;
6 thence south 89 degrees 57 minutes east 2,643.30
7 feet;
8 thence north 89 degrees 48 minutes east 5,272.08
9 feet;
10 thence north 89 degrees 51 minutes east 6,596.70
11 feet to the southeast corner of Fort Wingate Army
12 Depot which bears north 89 degrees 51 minutes east
13 1,320.66 feet and south 1,328.58 feet from the north-
14 west corner of section 6, township 13 north, range 16
15 west;
16 thence north 0 degrees 42 minutes west 12,945.12
17 feet; then due west 15,175.51 feet to the west boundary
18 of the Fort Wingate Army Depot;
19 thence south 0 degrees 35 minutes west 2,598.32
20 feet;
21 thence south 0 degrees 23 minutes west 5,195.52
22 feet;
23 thence south 0 degrees 32 minutes west 3,872.88
24 feet to the point of beginning, containing an area of
25 4,556 acres, more or less. The southwest and southeast

1 corners of Fort Wingate Army Depot mentioned in the
2 above description are the same as was installed as of
3 November 19, 1971, and mentioned in the Mann survey,
4 United States Department of the Interior, Bureau of
5 Land Management plat dated September 9, 1957.

6 2. Township 14 north, range 15 west, section 3, all
7 lying south of Interstate 40; section 4, all lying south of
8 Interstate 40; section 5, all; section 8, all; section 9, all;
9 section 10, all lying south of Interstate 40; section 11, all
10 lying south of Interstate 40; section 12, all lying south of
11 Interstate 40; section 13, all lying south of Interstate 40;
12 section 14, all; section 15, all; section 16, all; section 17,
13 all; section 20, all; section 21, all; section 22, all; section
14 23, all; section 24, all; section 25, all; section 26, all;
15 section 27, all; section 28, all; section 29, all; section 32,
16 east half; section 33, all; section 34, all; section 35, all;
17 section 36, all; containing 14,476.06 acres, more or less.

18 3. Township 10 north, range 4 east, section 2, south
19 half northeast quarter, southeast quarter; section 11,
20 northeast quarter, north half southeast quarter, south-
21 east quarter southeast quarter; containing 520 acres,
22 more or less.

23 4. That portion of the Elena Gallegos grant lying
24 east of a line described as beginning at the closing corner
25 between sections 35 and 36 of township 11 north, range

1 4 east, on the south boundary of said grant and extend-
2 ing north 4,541 feet, thence east 4,541 feet, thence
3 north 4,726 feet, thence east 634 feet, thence north
4 3,379 feet, thence west 1,875 feet, thence north 2,693
5 feet, thence west 2,006 feet, thence north 4,092 feet to
6 a point on the north boundary of said grant thence
7 easterly along the said grant boundary 1,452 feet to
8 the $7\frac{1}{2}$ -mile corner on the north boundary of said grant,
9 containing 6,870 acres more or less.

10 SEC. 2. Subject to valid existing rights, all lands owned
11 by the United States in the areas described in section 1 of
12 this Act are hereby added to the national forest, and shall
13 be administered in accordance with the laws, rules, and
14 regulations applicable thereto.

15 SEC. 3. For the purposes of section 6 of the Act of
16 September 3, 1964 (78 Stat. 903), the boundary of the
17 Cibola National Forest, as modified by section 1 of this Act,
18 shall be treated as if it were the boundary of that forest
19 on January 1, 1965.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FEB 25 1976

Dear Mr. Chairman:

This responds to your request for the views of this Department on S. 1872, a bill "To enlarge the boundary of the Cibola National Forest."

S. 1872 would expand the exterior boundary of the Cibola National Forest in New Mexico to include certain designated lands. The lands to be transferred to the Forest are described in four paragraphs. We have no objection to transfer of the public domain lands described in paragraphs numbered 1 and 2. The transfer of these lands would not interfere with the programs or operations of this Department. We defer to the Department of Agriculture for their views on the transfer of the other lands designated in the bill, *i.e.*, the State-owned land described in paragraph numbered 2 and the privately owned lands described in paragraphs numbered 3 and 4.

The land described in paragraph numbered 1 comprises about 4,556 acres. This land has been withdrawn for the Fort Wingate Military Reservation by Executive Order of February 18, 1870. The Army Corps of Engineers has declared the land excess to its needs and the land is presently being considered for return to the administrative jurisdiction of the Bureau of Land Management. The land has potential for timber production and recreation. It is bounded on the east and south by U.S. Forest Service lands, on the west by Indian lands, and on the north by Fort Wingate. The character of the lands is such that management by the U.S. Forest Service would be appropriate.

The land described in paragraph numbered 2 comprises about 14,476 acres. Most of this land was reconveyed to the United States through exchanges under the Taylor Grazing Act, (48 Stat. 1272 as amended, 43 U.S.C. §315g) for the benefit of the U.S. Forest Service. The remaining land is other public domain land and State-owned land. The lands have value for wildlife, grazing and timber production. The present Cibola National Forest boundary adjoins these lands on the west and south. Management by the U.S. Forest Service would be appropriate.

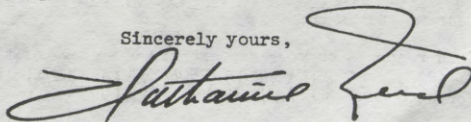


The land described in paragraphs numbered 3 and 4 comprises about 7,390 acres and is privately owned.

This legislation is necessary because the Act of June 15, 1926 (44 Stat. 745, 16 U.S.C. §471a), provides that no forest reservation shall be created or expanded in New Mexico except by an Act of Congress.

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,

A handwritten signature in dark ink, appearing to read "Gifford Pinchot", written in a cursive style.

 Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C. 20510



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

February 25, 1976

Honorable Henry M. Jackson
Chairman, Committee on Interior
and Insular Affairs
United States Senate

Dear Mr. Chairman:

As you requested, here is the report of the Department of Agriculture on S. 1872, a bill "To enlarge the boundary of the Cibola National Forest."

The Department of Agriculture recommends that S. 1872 be enacted if amended as suggested herein.

S. 1872 would extend the boundary of the Cibola National Forest in New Mexico to include four distinct land areas described in section 1 of the bill. Upon enactment of the bill, all lands owned by the United States within the areas would be added to the Cibola National Forest. The bill would also extend the provisions of section 6 of the Land and Water Conservation Fund Act (78 Stat. 903) to apply to these areas.

The first area listed in section 1 of the bill contains 4,556 acres, all of which are owned by the United States. Except for 300 acres of open grassland, the area is forested. From about 1912 until 1954, the area had National Forest status. In 1954, the area was transferred to the Department of the Army to become part of the Fort Wingate Army Depot. We understand that the Army has no further need for this area. We believe it is both practical and desirable to return this area to its former status as part of the National Forest. The area is located contiguous to National Forest Lands. It is suitable for National Forest purposes and can be efficiently administered. In order to accomplish the transfer of the area back to National Forest status, the National Forest boundary must first be extended to include it.

The second area listed in section 1 of the bill contains 14,476 acres, of which 9,760 acres are public domain, 1,280 acres are owned by the State of New Mexico, and 3,436 acres are privately owned. The public lands were acquired in this area by the United States through land for land exchanges under the Taylor Grazing Act (48 Stat. 1269, as amended), with the understanding that it would be logical at some time to extend the National Forest boundary to include them. In the past 12 years the Forest Service of this Department has, with the cooperation of the Bureau of Land Management of the Department of the Interior, acquired over 100,000 acres within the National Forests of New Mexico through land exchanges under the Act.

The third area listed in section 1 of the bill contains 520 acres which are owned by, and located adjacent to, the City of Albuquerque, New Mexico. The terrain is relatively steep and slopes toward the City. It is our understanding that the City recently acquired these lands to prevent them from being developed for purposes such as subdivisions. We do not believe the National Forest boundary should be extended to include the third area. The only real effect of the extension would be to make it possible for the lands to be acquired for National Forest purposes. This area would be of low priority and high cost for National Forest purposes and it is unlikely that it would be acquired within the foreseeable future. Additionally, we do not believe Federal acquisition should be used as the means for preventing the development of this area. We believe that local government agencies should take the lead in solving land use problems of this nature, utilizing authorities available to them. We recommend that the third area be deleted from the bill.

The fourth area listed in section 1 of this bill (a portion of the Elena Gallegos grant) contains 6,870 acres, all of which is privately owned. The Cibola National Forest abuts the area on the north, east, and south. The area ranges in elevation from 6000 to 9000 feet. Steep and rough topography is characteristic of most of the area. Although the area is similar to contiguous National Forest lands and would qualify for National Forest purposes, sufficient justification does not exist for acquiring it through purchase at this time. In the purchase of lands, appropriations must necessarily be first extended to cover higher priority needs, such as the need to acquire especially authorized recreation lands and key private lands located within present National Forests boundaries. Authority is available to acquire this area through land exchange under the Act of April 16, 1928 (45 Stat 431), entitled "An Act to extend the provisions of the Act of Congress approved March 20, 1922, entitled 'An Act to consolidate national forest lands.'" However, opportunities in New Mexico for acquiring an area of this size through land exchanges are no longer likely to be available. For these reasons, we recommend that the fourth area be deleted from the bill.

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

Sincerely,

John A. Knebel
John A. Knebel
Acting Secretary

94TH CONGRESS
1ST SESSION

S. 2004

IN THE SENATE OF THE UNITED STATES

JUNE 24 (legislative day, JUNE 6), 1975

Mr. BELLMON introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Oklahoma.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, notwithstanding the provisions of the first proviso of
4 section 22 of the Act of May 2, 1890 (26 Stat. 91; 43 U.S.C.
5 1094), the reservation for school purposes in patent num-
6 bered 1022741 issued by the United States on January 23,
7 1929, to the city of Hobart, Kiowa County, Oklahoma, shall
8 be released with respect to block 10 when said city deeds
9 to the Board of Education of the city of Hobart, Kiowa
10 County, Oklahoma, a parcel of land in the east half of the
11 southwest quarter of section 34, township 7 north, range 18

1 west of the Indian meridian, Kiowa County, Oklahoma, a
2 tract of real estate of comparable size and value, for educa-
3 tional purposes. In making the transfer, the deed shall pro-
4 vide that in the event that such alternate lands are subse-
5 quently sold, or otherwise disposed of, the proceeds shall be
6 used for educational purposes.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

APR 23 1976

Dear Mr. Chairman:

This responds to your request for the views of this Department on S. 2004, a bill "To eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Oklahoma."

We recommend that the Committee not enact S. 2004. We would have no objection to enactment of the enclosed substitute draft bill.

Under S. 2004, notwithstanding the provisions of the Act of May 2, 1890, the reservation for school purposes in patent numbered 1022741 with respect to Block 10, issued by the United States on January 23, 1929 to the City of Hobart, will be released when the City deeds a certain parcel of land to the Board of Education. The deed would provide that in the event that this alternate parcel is sold, the proceeds shall be used for educational purposes.

Section 22 of the Act of May 2, 1890 (26 Stat. 91), provides that certain laws pertaining to reservation and sale of townsites on the public lands "shall apply to the lands open to settlement in the Territory of Oklahoma," with certain exceptions. The first proviso of that section requires that all surveys for townsites in the former Territory of Oklahoma shall contain reservations for parks and schools and other public purposes. It further provides that patents for such reservations, "to be maintained for such purposes," shall be issued to the towns respectively when organized as municipalities.

On January 23, 1929, pursuant to the 1890 Act, the United States issued patent numbered 1022741 to the City of Hobart, Oklahoma, for Blocks 10 and 52 "each designated Reserved for School Purposes on the Plat of the Hobart Townsite, approved July 26, 1901," containing 5.88 acres.

The City has indicated to this Department that Block 10 is no longer used for school purposes, that the school on Block 10 was torn down in 1966 and that the property is currently vacant. We have been advised that the Board of Education desires to construct a new high school on a tract of equal value and size owned by the City.



The City, a municipal corporation, is willing to transfer that land to the Board if a new patent free of restrictions could be obtained for Block 10. It appears that the City wishes to use Block 10 for other public purposes.

Although neither the 1890 Act nor the patent contain any language of reverter to the United States for failure to use the property for educational purposes, in our judgment the intent of Congress was clearly implicit that such use be the only one. This Department generally opposes the removal of reverters or restrictive clauses such as those contained in the 1890 Act and the patent because such removal tends to defeat the purposes of the original grant of lands and encourages local governments to acquire nearby Federal lands and then sell them for a source of revenue. Furthermore, we are not in favor of relinquishing an interest in Federal land without fair consideration.

At the same time, however, we recognize that changing times and conditions may necessitate changes in appropriate land uses. Optimum land use may well be hindered by requiring the continued use of the subject land for educational purposes. The optimum benefit from educational lands may best be accomplished by allowing lands presently required for such use to be utilized for other public purposes in order to acquire more suitable school land elsewhere. However, it has not been demonstrated in this case that the lands already granted for school purposes are not suitable as such or that the tract which the City would make available is more suitable and in line with changed conditions. Further, there is no requirement in the bill that the alternate lands must be used for school purposes.

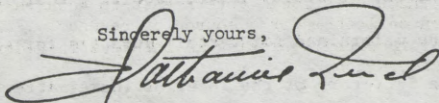
Therefore, our substitute draft bill would assist the city and Board of Education to achieve their land use and educational goals while carrying out the purpose of the original grant of lands to the City and preserving Federal interest in lands in Hobart. We would have no objection to enactment of this draft bill, which insures that certain additional conditions are met and assurances given before the reservation is removed.

Under our substitute bill, the Secretary will convey to the City of Hobart all remaining right, title and interest of the U.S. in Block 10 and issue a new patent thereto when the City has shown to the satisfaction of the Secretary that: (a) the lands so conveyed will be sold by the City for fair market value; (b) lands of comparable value to Block 10, more appropriate for school purposes, will be transferred to the Board of Education for use for school purposes in perpetuity; and (c) any amount by which the proceeds

from any sale of Block 10 exceed the fair market value of property transferred to the Board for school purposes will be paid to the United States. Once these requirements are satisfied, the City of Hobart, in consideration for the conveyance and new patent, will agree that any alternate property acquired for school purposes will vest in the United States if use thereof for school purposes ceases. The City will include this provision in any document of transfer or conveyance to the Board of Education, and execute a deed to this effect and deliver such deed to the Secretary.

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,



Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C. 20510

Enclosure

A B I L L

To eliminate a restriction on use of certain lands patented to the City of Hobart, Kiowa County, Oklahoma

Be it enacted by the Senate and the House of Representatives of the United States in Congress assembled, That notwithstanding the provisions of the first proviso of Section 22 of the Act of May 2, 1890 (26 Stat 91, 43 U.S.C. 1094), requiring that lands patented thereunder be maintained for certain purposes for which they were granted, the Secretary of the Interior (hereinafter called "the Secretary") is authorized and directed to convey to the City of Hobart, Oklahoma, all right, title and interest remaining in the United States in Block 10 of the Original Townsite of the City of Hobart and to issue a new patent without restriction, upon relinquishment of Patent No. 1022741 by the City, to carry out the purposes of this Act, provided that the requirements of Section 2 and 3 of this Act have been met.

Section 2. No conveyance may be made under this Act and no new patent issued unless the City of Hobart has shown to the satisfaction of the Secretary that (a) the lands described in Section 1 of this Act shall not be sold for less than less than fair market value, (b) other lands of at least comparable value to Block 10 and more appropriate for school purposes than Block 10 will be transferred to the Board of Education to be used for school purposes in perpetuity,

and (c) that any amount by which proceeds of any sale of Block 10 exceed the fair market value of other property transferred to the Board of Education in accordance with subsection (b) hereof will be paid to the United States.

Section 3. If the requirements of Section 2 are satisfied, the Secretary is authorized and directed to enter an agreement or agreements with the City of Hobart, Oklahoma, whereby, in consideration of a conveyance of the remaining right title and interest of the United States in Block 10 and issuance of a new patent, the City of Hobart agrees that (1) title to any property acquired or dedicated for school purposes pursuant to subsection 2(a) of this Act will vest in the United States if such property ever ceases to be used for school purposes and (2) that the City of Hobart will include provisions to this effect in any document of transfer or conveyance to the Board of Education and execute a deed to this effect and deliver said deed to the Secretary of the Interior.

94TH CONGRESS
1ST SESSION

S. 2286

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 3, 1975

Mr. DOMENICI introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To amend the Act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, New Mexico.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That section 3 (a) of the Act entitled "An Act granting land
- 4 to the city of Albuquerque for public purposes", approved
- 5 June 9, 1906 (34 Stat. 227), as amended, is further
- 6 amended by striking out "A parcel of land situated within
- 7 the northwest quarter" and all that follows through "contain-
- 8 ing 0.7041 acre more or less." and inserting in lieu thereof
- 9 the following:

1 "A parcel of land situated within the northwest quarter
2 of section 20, township 10 north, range 4 east of the New
3 Mexico principal meridian and within tract numbered 4 and
4 tract numbered 1 of the municipal addition numbered 2, an
5 addition to the city of Albuquerque, New Mexico, said parcel
6 of land being more particularly described as follows:

7 "Beginning at the northwest corner of tract num-
8 bered 1 of said addition, said northwest corner being the
9 same as shown on the plat of said addition filed for
10 record in the offices of the county clerk of Bernalillo
11 County, New Mexico, on July 12, 1955, from which
12 point the northwest corner of said section 20 bears north
13 89 degrees 29 minutes 40 seconds west, a distance of
14 1,355.11 feet;

15 "thence south 0 degrees 23 minutes 20 seconds west,
16 a distance of 220.88 feet to a point on a curve on the
17 new southerly right-of-way line of Lomas Boulevard
18 Northeast as shown on the New Mexico State Highway
19 Department right-of-way map for project numbered
20 I-040-3 (1) 163, and the true point of beginning;

21 "thence southeasterly, along said southerly right-of-
22 way line on a curve (said curve being concave to the
23 northeast, having a radius of 1,461.13 feet, a central
24 angle of 2 degrees 37 minutes 42 seconds, and a long
25 chord which bears south 88 degrees 17 minutes 40

seconds east, a distance of 67.02 feet) a distance of 67.03 feet to a New Mexico State Highway Department right-of-way marker (station 14+47.46) and a point on the westerly right-of-way of Herndon Street Northeast;

“thence south 1 degree 49 minutes 00 seconds west, along said westerly right-of-way line, a distance of 11.81 feet to the point of curve marked by a New Mexico State Highway Department right-of-way marker (station 0+50) ;

“thence southeasterly, along said westerly right-of-way line on a curve (said curve being concave to the northeast, having a radius of 330.71 feet, a central angle of 48 degrees 55 minutes 00 seconds, and a long chord which bears south 22 degrees 38 minutes 30 seconds east, a distance of 273.85 feet) a New Mexico State Highway Department right-of-way marker (station 2+89.89) ;

“thence north 43 degrees 02 minutes 30 seconds east, along said westerly right-of-way line, a distance of 10.00 feet to a New Mexico State Highway marker (station 2+89.89) and a point on a curve ;

“thence southeasterly, along said westerly right-of-way line on a curve (said curve being concave to the southwest, having a radius of 242.58 feet, a central angle of 33 degrees 46 minutes 00 seconds and a long

1 chord which bears south 30 degrees 04 minutes 30 sec-
2 onds east, a distance of 140.09 feet) a distance of 142.96
3 feet to a New Mexico State Highway Department right-
4 of-way marker (station 4+56) ;

5 "thence north 64 degrees 32 minutes 30 seconds
6 west, a distance of 1,343.09 feet to a point on a curve
7 on the said southerly right-of-way line of Lomas Boule-
8 vard Northeast;

9 "thence southeasterly, along said southerly right-of-
10 way line on a curve (said curve being concave to the
11 southwest, having a radius of 1,361.94 feet, a central
12 angle of 15 degrees 31 minutes 33 seconds and a long
13 chord which bears south 79 degrees 46 minutes 46 sec-
14 onds east, a distance of 367.93 feet) a distance of
15 369.04 feet to a New Mexico State Highway Depart-
16 ment right-of-way marker (station 7+83.81) ;

17 "thence south 72 degrees 01 minutes 00 seconds
18 east, along said southerly right-of-way line, a distance
19 of 200.00 feet to a New Mexico State Highway Depart-
20 ment right-of-way marker (station 9+83.81) and the
21 point of curve;

22 "thence southeasterly, along said southerly right-of-
23 way line on a curve (said curve being concave to the
24 northeast, having a radius of 1,461.13 feet, a central
25 angle of 16 degrees 24 minutes 18 seconds and a long

- 1 chord which bears south 80 degrees 13 minutes 09 sec-
- 2 onds east, a distance of 416.93 feet) a distance of 418.35
- 3 feet to the true point of beginning.
- 4 Said parcel of land containing 3.6586 acres more or less.”.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FEB 25 1976

Dear Mr. Chairman:

This responds to your request for the views of this Department on S. 2286, a bill "To amend the Act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, New Mexico."

We would have no objection to enactment of the bill if amended as suggested herein.

S. 2286 would further amend the Act of June 9, 1906 (34 Stat. 227), as amended, to authorize the Secretary of the Interior to quitclaim to the City of Albuquerque the reversionary interest of the United States in a parcel of land containing approximately 3.7 acres.

The Act of June 9, 1906 (34 Stat. 227), authorized the conveyance of approximately 640 acres of land to the City of Albuquerque, New Mexico, for park and other public purposes with a reversionary interest in the United States if the property was used for unauthorized purposes. The Act was amended by the Act of August 16, 1950 (64 Stat. 448), which authorized the City to sell up to 1/2 of the 640 acres upon the condition that the proceeds therefrom be used for the construction of a public auditorium.

It appears that over a period of time, under the 1950 Act, the City conveyed into private ownership a total of about 217 acres, most of which was subdivided for residential use. The City has indicated that it is unable to convey the remaining 103 acres as authorized by the 1950 Act because the Civic Auditorium has been constructed and paid for.

The Act of December 31, 1974 (Public Law 93-574, 88 Stat. 1875) authorized the Secretary of the Interior to relinquish a reversionary interest in two parcels of land totalling approximately one acre, which were part of the 640-acre tract conveyed to the City under the 1906 Act. The conveyance was to be authorized only: if the two tracts were no longer suitable for park use; they would be sold for fair market value; the proceeds of sale would be used to acquire other park land; any excess funds remaining from the purchase of the new park property would go to the United States; and the present reversionary interest would be transferred to the new



purchase. The City informed this Department that the proceeds of sale from these two parcels would help cover the cost of purchasing a 135-acre tract to be used as a park.

Ordinarily, this Department opposes the relinquishment of a reversionary interest in land. Reverters are attached to land primarily to ensure that the land, usually conveyed gratis or at less than fair market value, will be used for the purpose it was originally conveyed. In this instance, however, because of the inclusion of the above conditions in the 1974 Act, we believed that the purpose of the 1906 Act would continue to be carried out and the United States would not lose an interest in land. Therefore, the Department did not object to enactment of the bill which became the 1974 Act.

S. 2286 would modify the description of parcel 1 in the 1974 Act to describe 3.6586 acres rather than the .7041 acres now included in that parcel. We would point out, however, that this modification is not a relatively simple measure to correct an error in the land description for parcel 1 under the 1974 Act. Enactment of S. 2286 would result in over five times the acreage in parcel 1, and would almost quadruple the total acreage of the two parcels conveyed under Public Law 93-574.

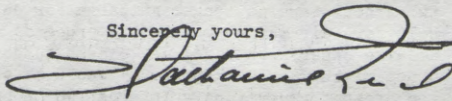
The tract in question, including the additional acreage proposed, is a compact area located next to the City Animal Shelter and is well suited to commercial development. The City has informed us that it is no longer suitable for park and other public purposes.

We believe that the public interest will be protected under S. 2286. This is consistent with our position on the bill which became Public Law 93-574, because of the protections and conditions therein (which would also be applicable to the subject additional acreage). Accordingly, we would have no objection to enactment of S. 2286.

We would note that the segment of the 3.7 acre parcel described on lines 10 - 17 on page 3 of the bill does not include a distance description. All the other segment descriptions of the parcel in the bill include such information. Accordingly, we recommend that the following language, including the correct distance in feet, be inserted after the closed parenthesis and before the word "a" on line 15, page 3: "a distance of _____ feet to."

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,




Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C. 20510

94TH CONGRESS
2D SESSION

S. 2511

IN THE SENATE OF THE UNITED STATES

OCTOBER 9 (legislative day, SEPTEMBER 11), 1975

Mr. McCLURE (for himself and Mr. CHURCH) introduced the following bill; which was read twice and referred to the Committee on Agriculture and Forestry

JANUARY 28, 1976

Committee on Agriculture and Forestry discharged, and referred to the Committee on Interior and Insular Affairs by unanimous consent

A BILL

To authorize the Secretary of Agriculture to convey certain lands in the State of Idaho.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) the Secretary of Agriculture is authorized to
4 convey by quitclaim deed, subject to the provisions of sub-
5 section (b) of this section, all right, title, and interest of the
6 United States in and to the following described tract of land
7 and the improvements thereon:

8 A part of the Riverside Park Addition to Boise City,
9 Ada County, Idaho, in sections 9 and 10, township 3
10 north, range 2 east, Boise meridian, according to the

1 plat thereof, filed in book 6 of plats at page 250, records
2 of Ada County, Idaho.

3 All of block 6, except lots 9 and 10; all of block 3,
4 except lots 10 to 13, inclusive; and all of the adjacent
5 vacated streets and alleys described as follows:

6 Tenth Street between the south line of River Street
7 and the north line of Park Boulevard; alley running in a
8 northerly and southerly direction in block 3 from the
9 south line of River Street to the south line of lot 9, block
10 3; all of alley running in a northerly and southerly di-
11 rection in block 6; all of alley running in an easterly and
12 westerly direction between lots 16 and 20 and lots 21
13 to 32, inclusive, block 6; alley running in an easterly
14 and westerly direction between lots 13 and 17 and lots
15 1 and 12, inclusive, in block 6 from west line of Tenth
16 Street to west line of lot 8, block 6; all the alley run-
17 ning in an easterly and westerly direction in block 3;
18 and the following two tracts:

19 Tract 1: A tract 12 feet wide lying west and adja-
20 cent to lots 1 through 9, inclusive, block 3, Riverside
21 Park Addition, more particularly described as follows:

22 Beginning at the northwest corner of lot 1,
23 block 3, Riverside Park Addition; then north
24 87 degrees 36 minutes west 12 feet, thence south
25 2 degrees 24 minutes west 225 feet; thence south

1 87 degrees 36 minutes east 12 feet; thence north
2 2 degrees 24 minutes east 225 feet to the northwest
3 corner of lot 1, the place of beginning.

4 Tract 2: A tract 12 feet wide lying east and adja-
5 cent to lots 36 and 15, also a tract 12 feet wide, lying
6 along the easterly line of lot 14 and being approximately
7 50 feet in length along said lot 14, all in block 3 of
8 Riverside Park Addition, more particularly described as
9 follows:

10 Beginning at the northeast corner of lot 36,
11 block 3, Riverside Park Addition; thence south 2
12 degrees 24 minutes west 256 feet, to a point extend-
13 ing approximately 50 feet, more or less, southerly
14 from the north end of lot 14, which would be inter-
15 sected by the projection of the south line of lot 9;
16 thence south 87 degrees 36 minutes east 12 feet;
17 thence north 2 degrees 24 minutes east 249 feet;
18 thence north 55 degrees 06 minutes west 14 feet to
19 the place of beginning,
20 Containing 5.22 acres, more or less.

21 (b) Any such conveyance pursuant to subsection (a) of
22 this section shall be conditioned upon the Secretary of Agri-
23 culture entering into an agreement or other arrangement,
24 including an exchange, sufficient to assure the Secretary that
25 the party to whom such conveyance is to be made will cause

4

1 to be constructed, for the United States, on the southeast
2 quarter northwest quarter northeast quarter southwest quar-
3 ter, section 27, township 3 north, range 2 east, Boise merid-
4 ian, containing 2.50 acres, more or less (withdrawn from the
5 public domain for administrative site purposes), or on an
6 alternative site to be determined by the Secretary of Agricul-
7 ture, administrative improvements of at least equal value to
8 the lands authorized to be conveyed by subsection (a) of this
9 section.

10 (c) In carrying out the provisions of this Act, the Secre-
11 tary of Agriculture shall solicit public offers. Such solicitation
12 shall be made with sufficient time to permit such full and
13 free competition as is necessary to meet the requirements of
14 the agency concerned. All offers shall be publicly opened at
15 the time and place stated in the solicitation notice. After con-
16 sidering price, value and other factors, the Secretary shall
17 enter into such agreement or arrangement with the respon-
18 sible party whose offer, conforming to the solicitation notice,
19 is determined by the Secretary to be most advantageous to
20 the Government. Notwithstanding any other provision of this
21 Act, all offers may be rejected by the Secretary if he deter-
22 mines that it is in the public interest to do so.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FB 25

Dear Mr. Chairman:

This responds to your request for the views of this Department on S. 2511, a bill "To authorize the Secretary of Agriculture to convey certain lands in the State of Idaho."

We recommend that the bill be enacted, if amended as suggested by the Department of Agriculture in its report on S. 2511.

S. 2511 would authorize the Secretary of Agriculture to convey by quitclaim deed all right, title, and interest of the United States in and to certain described lands and improvements thereon, located in Boise, Idaho, and containing about 5.22 acres. In exchange, the party to whom the lands were conveyed would be required to cause to be constructed, for the United States, administrative improvements of at least equal value to the lands conveyed. The new administrative improvements would be located on a 2.5 acre site described in S. 2511, or on an alternative site determined by the Secretary. Public offers for the exchange would be solicited and considered. The Secretary would accept the offer which he determined to be most advantageous to the Government, or he could reject all offers if he determined it in the public interest to do so.

The 2.5 acre tract described in the bill is part of a larger tract of public domain land withdrawn for the U.S. Forest Service in November 1969 by Public Land Order 4747 for an administrative site for the Intermountain Forest and Range Experiment Station. The 2.5 acre tract is adjacent to a 15 acre tract of Bureau of Land Management land. The entire 17.5 acre site is vacant land. The Bureau of Land Management is contemplating the location of administrative facilities on the 17.5 acre tract. The U.S. Forest Service is also contemplating the location of facilities on the 2.5 acre tract described in the bill, or possibly on another site within the 17.5 acres. One result of this joint location of administrative facilities might be possible joint use of fire dispatching, parking, loading, vehicle washing, and other facilities. Such consolidation of facilities could enhance BLM and Forest Service operations.

The entire 17.5 acre site, including the 2.5 acres in S. 2511, is surrounded by development, including the Boise Fire Center, an airport, and a privately-owned industrial complex. From the standpoint of

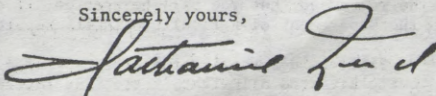


land planning, we believe that location of Forest Service facilities in a developed area is sound, and we would have no objection to the construction of permanent facilities on the 2.5 acre tract.

We understand that the Department of Agriculture is proposing certain technical amendments to S. 2511, including a provision for cash equalization in the event that the value of the land and improvements to be conveyed exceeds the value of the necessary administrative improvements to be constructed, and we concur in these amendments.

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,



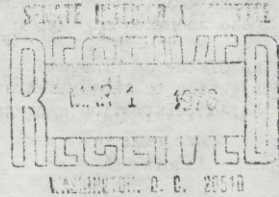
Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

February 27, 1976



Honorable Henry M. Jackson
Chairman, Committee on Interior
and Insular Affairs
United States Senate
3106 New Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your requests for the views of the Office of Management and Budget on the following bills:

1. S. 1872, a bill "To enlarge the boundary of the Cibola National Forest" (requested January 23, 1976); and
2. S. 2511, a bill "To authorize the Secretary of Agriculture to convey certain lands in the State of Idaho" (requested January 29, 1976).

The Office of Management and Budget concurs in the views of the Department of Agriculture in its reports on S. 1872 and S. 2511, and accordingly, recommends enactment of these bills if they are amended as suggested by the Department.

Sincerely yours,

James M. Frey
Assistant Director for
Legislative Reference

94TH CONGRESS
1ST SESSION

S. 2798

IN THE SENATE OF THE UNITED STATES

DECEMBER 17 (legislative day, DECEMBER 15), 1975

MR. GRAVEL (for himself and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

For the relief of the city of Yakutat, Alaska.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That, notwithstanding any other provision of law, the Sec-
4 retary of the Interior, upon request of the city of Yakutat,
5 Alaska, is authorized and directed, according to the provi-
6 sions under section 2 of this Act, to convey without con-
7 sideration to the city of Yakutat, Alaska, by quitclaim deed,
8 all right, title, and interest of the United States in and to
9 the following described tract of land situated in Alaska:
10 Beginning at corner numbered 4 of school reserve,
11 identical with meander corner numbered 4, tract A, of

1 United States Survey numbered 1897, from which
2 United States location monument numbered 179 bears
3 south 54 degrees 6 minutes east, 37.04 chains distant;

4 Thence south 52 degrees 54 minutes east, 243.17
5 feet to meander corner numbered 1 of school reserve;

6 Thence north 33 degrees 41 minutes east, 177 feet
7 to corner numbered 2 of school reserve;

8 Thence north 43 degrees 15 minutes west 184.65
9 feet to corner numbered 3 of school reserve;

10 Thence south 50 degrees 47 minutes west 213.75
11 feet to corner numbered 4, the place of beginning;

12 containing 41.169 square feet, according to the official plat
13 of the survey of the said land, approved March 1, 1937, on
14 file in the Bureau of Land Management.

15 SEC. 2. The Secretary of the Interior shall condition
16 the conveyance of the land to the city of Yakutat upon the
17 use of the land for public school or other public purposes, or
18 upon the use of any revenues derived from the sale, lease,
19 or other disposition of the land or any interest therein for
20 public school or other public purposes.

21 SEC. 3. The Secretary of the Interior is authorized and
22 directed to prepare and execute such instrument as may be
23 appropriate to carry out the provisions of this Act.



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FEB 25 1976

Dear Mr. Chairman:

This responds to your request for the views of this Department on S. 2798, a bill "For the relief of the city of Yakutat, Alaska."

We recommend that S. 2798 not be enacted. We would have no objection to enactment of the enclosed substitute draft bill.

S. 2798 would direct the Secretary of the Interior to convey, without consideration, to the city of Yakutat, Alaska, all right, title and interest of the United States in the land described therein, upon request of the city of Yakutat. The conveyance would be conditioned upon use of the land for public school or other public purposes or upon use of the revenues derived from the lease sale or other disposition of such lands for public school or other public purposes. The land under the bill comprises approximately one acre.

The Act of August 23, 1950 (64 Stat. 470) directs the Secretary to convey to local officials all right, title and interest of the United States to any parcels and improvements thereon for school or other public purposes, whenever he determines that the lands or improvements thereon are no longer required by the Alaska Native Service (today the Bureau of Indian Affairs) for school purposes. All such conveyances must reserve minerals to the United States, together with the rights to prospect for and remove such minerals under regulations by the Secretary. In addition, any such conveyance must provide that the lands and improvements thereon will be used for school and public purposes only, and that the school facilities must be available to all Native children. Finally, the 1950 Act provides that if the Secretary determines that the grantee has failed to observe the foregoing restrictions for a period of at least one year, he may declare a forfeiture of the grant, and the lands and improvements would revert to the United States to become part of the public domain.

A patent for the lands described in S. 2798 was issued on April 20, 1954 to the city of Yakutat. The patent contained a reversionary clause providing that the land could be used only for school or other



public purposes, and reserved to the United States not only the mineral rights, but various rights-of-ways including those for canals and ditches. We would note that the lands described in the patent amount to 41,169 square feet (almost an acre) rather than the 41.169 square feet described in line 12, page 2 of the bill.

We understand that the City no longer needs the property for schools. An old, uninsulated school building constructed during World War II for Native children is located on it. This building is now used mainly for storage and office space. A new school has been built on a 25 acre tract on the outskirts of town. The City does not envision the need for more municipal land, and would like to remove the reversionary clause so that this land can be sold and revenues used for public purposes. The City has not indicated definite plans as to the use of the expected revenues, or the development of the property.

The purpose of the 1950 Act, under which the subject tract was patented, was to provide land for public purposes, not to provide a source of private profit or municipal revenue. The Act and the patent are broad, in that the lands may be used for any public purposes, not just school purposes.

In our judgment, the sale of property for private development (even if the revenues were used for public purposes) would not be in keeping with the intent of the 1950 Act. In any event, we see no reason why the rights-of-way and mineral rights already reserved to the United States should be forfeited by this type of private legislation.

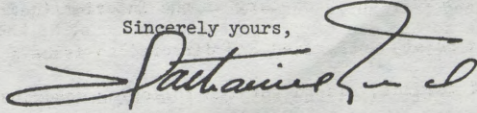
Conveyance of the land in question would not affect any programs or operations of this Department. We are unaware of any interest in this land by other parties. Further, at this time we do not envision that the land would be suitable for return to the public domain. Thus, if this property reverts to the United States, it would, in all likelihood, undergo routine procedures for the disposal of surplus property under the regulations of the General Services Administration. We believe that these procedures would be preferable and are generally in the public interest. However, in recognition of the City's changing land use needs, we would not object to enactment of our enclosed substitute draft bill which would preserve the Federal interest in lands in Yakutat if Congress chooses to resolve this matter through legislation.

Under our draft bill, notwithstanding the 1950 Act, the Secretary would issue a new patent to the City for the described land without a use restriction, but containing all the other reservations to the

United States under that Act. The conveyance will be made when the Secretary is satisfied that: the land will be sold at fair market value; other lands of comparable value will be acquired and used for school or other public purposes in perpetuity; and any amount by which the proceeds of any sale of the land exceed the fair market value of the alternate lands will be paid to the United States. Title to any alternate property will best in the United States if such property ever ceases to be used for school or other public purposes.

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,



Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C. 20510

Enclosure

A B I L L

To eliminate a restriction on use of certain lands conveyed to the City of Yakutat, Alaska.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that notwithstanding the provisions of the Act of August 23, 1950 (64 Stat. 470), requiring that lands patented thereunder be used only for school or other public purposes, the Secretary of the Interior (hereinafter "the Secretary") is hereby authorized and directed to issue a new patent to the City of Yakutat, Alaska for the following described lands without such a use restriction, but containing all other reservations to the United States required by that Act, upon relinquishment of the existing patent, provided that the requirements of Section 2 and 3 of this Act have been met:

Beginning at corner numbered 4 of school reserve, identical with meander corner numbered 4, tract A, of United States Survey numbered 1897, from which United States location monument numbered 179 bears south 54 degrees 6 minutes east, 37.04 chains distant;

Thence south 52 degrees 54 minutes east, 243.17 feet to meander corner numbered 1 of school reserve;

Thence north 33 degrees 41 minutes east, 177 feet to corner numbered 2 of school reserve;

Thence north 43 degrees 15 minutes west 184.65 feet to corner numbered 3 of school reserve;

Thence south 50 degrees 47 minutes west 213.75 feet to corner numbered 4, the place of beginning; containing 41,169 square feet, according to the official plat of the survey of the said land, approved March 1, 1937, on file in the Bureau of Land Management.

SEC. 2. No conveyance may be made under this Act and no new patent issued unless the City of Yakutat has shown to the satisfaction of the Secretary that (a) the lands referred to in the first section will be sold at not less than fair market value, (b) other lands of at least comparable value to the subject school reserve lands and more appropriate for school or other public purposes than the subject school reserve lands will be acquired and used for school or other public purposes in perpetuity and (c) that any amount by which proceeds of any sale of the subject school reserve lands exceed the fair market value of such other property will be paid to the United States.

SEC. 3. If the requirements of Section 2 are satisfied, the Secretary is authorized and directed to enter an agreement or agreements with the City of Yakutat, Alaska, whereby in consideration of issuance of a new patent pursuant to Section 1 of this Act, the City of Yakutat agrees that (1) title to any property acquired or dedicated for

school or other public purposes pursuant to subsection 2(b) of this Act will vest in the United States if such property ever ceases to be used for school or other public purposes and (2) that the City of Yakutat will execute a deed to this effect and deliver said deed to the Secretary of the Interior.

94TH CONGRESS
1ST SESSION

S. 2837

IN THE SENATE OF THE UNITED STATES

DECEMBER 19 (legislative day, DECEMBER 15), 1975

Mr. HANSEN introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

A BILL

To amend the Act of August 30, 1890, to except a tract of ground located in Carbon County, Wyoming, from its restrictions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Act of August 30, 1890 (26 Stat. 371), as
4 amended, is hereby amended and revised to except the fol-
5 lowing described lands from its provision: "A tract of
6 ground located in the southwest quarter of section 14, town-
7 ship 17 north, range 80 west, sixth principal meridian,
8 Carbon County, Wyoming, more completely described as
9 follows:

10 "Beginning at the southwest corner of section 14,

1 township 17 north, range 80 west, sixth principal
2 meridian, Carbon County Wyoming;

3 "thence north zero degrees 31 minutes 44 seconds
4 west 2,633.36 feet to the quarter corner between section
5 148.15;

6 "thence north 89 degrees 24 minutes 10 seconds
7 east 1,017 feet, more or less, along the north line of the
8 northwest quarter southwest quarter of said section 14
9 to the center line of the Medicine Bow River;

10 "thence southeasterly along the center line of the
11 Medicine Bow River to a point due south of the north-
12 east corner of the northwest quarter southwest quarter
13 of said section 14;

14 "Thence south 0 degrees 00 minutes 00 seconds east
15 233 feet, more or less to a point that is south 0 degrees
16 00 minutes 00 seconds east 528 feet from the northeast
17 corner of the northwest quarter southwest quarter of said
18 section 14;

19 "Thence north 90 degrees 00 minutes 00 seconds
20 east 840 feet, more or less, to the southwesterly right-of-
21 way line of the United States Forest Service road;

22 "Thence southeasterly along the southwesterly right-
23 of-way line of the United States Forest Service road to
24 the southeast corner of tract numbered 11;

25 "Thence south 89 degrees 47 minutes 29 seconds

1 west, 1,240 feet, more or less, to a point on the west line
2 of the northeast quarter southwest quarter of said
3 section 14;

4 "Thence south 0 degrees 31 minutes 49 seconds east
5 264 feet to the northwest corner of the southeast quarter
6 southwest quarter of said section 14;

7 "Thence north 89 degrees 47 minutes 29 seconds
8 east 1,316.27 feet to the northeast corner of the south-
9 east quarter southwest quarter of said section 14;

10 "Thence south 0 degrees 31 minutes 55 seconds east
11 1,334.53 feet to the quarter corner between section 14
12 and 23;

13 "Thence north 89 degrees 49 minutes 14 seconds
14 west 2,632.72 feet to the point of beginning, said tract
15 containing 129.952 acres, more or less."



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

FEB 28 1976

Dear Mr. Chairman:

This responds to your request for the views of this Department on S. 2837, a bill "To amend the Act of August 30, 1890, to except a tract of ground located in Carbon County, Wyoming, from its restrictions."

We recommend against enactment of S. 2837.

S. 2837 would amend the Act of August 30, 1890 (26 Stat. 391), as amended, to except certain lands in the southwest quarter of Section 14, T. 17 N., R. 80 W., SPM, Carbon County, Wyoming, from the provision of the Act requiring that patents for lands west of the 100th Meridian shall contain a reservation to the United States of a right-of-way for ditches and canals. The lands in the bill comprise approximately 130 acres.

Parcels of land in Section 14, T. 17 N., R. 80 W. passed into private ownership beginning in 1896, subject to the ditches and canals reservation in the 1890 Act. By Presidential Proclamation of July 1, 1910, T. 17 N., R. 80 W. was included within the boundaries of the Medicine Bow National Forest, including the privately owned parcels.

The present owner of the land described in S. 2837, whose property is located on the Medicine Bow River within the boundaries of the National Forest, has indicated that he wants to develop the property for sale as cabin sites. It appears that he wants to subdivide and sell less than 50 lots for this purpose. However, it would seem that new requirements have been imposed upon such sales by the Department of Housing and Urban Development pursuant to the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701, 1718). The owner has indicated that while the entire gross sale would amount to about \$50,000, the cost of compliance with the rules and regulations of HUD's Office of Interstate Land Sales Registration might be \$30,000.

Further, the owner has indicated that under the HUD regulations, specifically 24 CFR 1710.11, if his title is free of any liens or encumbrances and less than 50 lots are involved, he may apply



for an exemption from registration and avoid the \$30,000 cost. He claims that HUD has informed him that in order to qualify for this exemption, the reservation to the United States of a right-of-way for construction of ditches and canals must be removed.

We defer to HUD as to the interpretation in this matter of the Interstate Land Sales Full Disclosure Act and their regulations thereunder.

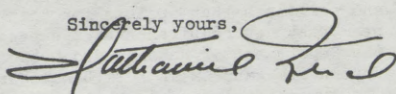
This Department has received many requests to remove the reservations from the patents issued west of the 100th Meridian since 1890. Enactment of S. 2837 would set an unfavorable precedent for the many existing similar situations throughout the western United States.

Reservations for ditches and canals serve a definite public purpose, and it is in the public interest to retain them. If the title restrictions under the 1890 Act were to be deleted, as under S. 2837, the United States might eventually be forced to buy back easements necessary for ditches and canals at a later date. The existing system of ditches, canals and pipelines which distribute and transport water in the western United States, built since 1890, illustrate that we cannot predict what future needs for such systems will be. Thus, if we give up these reservations, the United States may be forced to reacquire them at appreciated and inflated prices when a specific need arises.

We see no special circumstances or equities in this case. The property owner has not implied that the HUD rules and regulations actually preclude development, but only that his profit is greatly diminished. We have no indication that this situation is unique to the land in this case but, rather, is probably a common one in the west. The removal of the reservation by private legislation is not an appropriate remedy.

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,



~~Assistant~~

Secretary of the Interior

Honorable Henry M. Jackson
Chairman, Committee on
Interior and Insular Affairs
United States Senate
Washington, D.C. 20510

94TH CONGRESS
1ST SESSION

H. R. 1466

IN THE SENATE OF THE UNITED STATES

OCTOBER 7 (legislative day, SEPTEMBER 11), 1975

Read twice and referred to the Committee on Interior and Insular Affairs

AN ACT

To convey certain federally owned land to the Twentynine Palms Park and Recreation District.

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

3 That all right, title, and interest of the United States in and
4 to the following described land are hereby conveyed to the
5 Twentynine Palms Park and Recreation District subject to
6 the provisions of section 2.

7 Commencing at a point on the west line of section 33,
8 township 1 north, range 9 east, San Bernardino base and
9 meridian, California, 139.5 feet north of the southwest
10 corner of the northwest quarter of said section, thence north
11 along west line of said section 208.71 feet, thence east

1 parallel with the south line of said section 208.71 feet,
2 thence south parallel with the west line of said section 208.71
3 feet; thence west parallel with the south line of said section
4 208.71 feet to the point of beginning, containing one acre,
5 more or less.

6 SEC. 2. The land conveyed by this Act shall be used
7 only as an Indian cemetery and historical museum site for
8 the interest of the general public, and title to the land shall
9 revert to the United States Government if the land is used
10 for other purposes.

Passed the House of Representatives October 6, 1975.

Attest:

W. PAT JENNINGS,

Clerk.

94TH CONGRESS
1ST SESSION

H. R. 4941

IN THE SENATE OF THE UNITED STATES

DECEMBER 17 (legislative day, DECEMBER 15), 1975

Read twice and referred to the Committee on Interior and Insular Affairs

AN ACT

For the relief of Oscar H. Barnett.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Secretary of the Interior is authorized to convey
4 by quitclaim deed or by other appropriate instruments, with-
5 out consideration and without warranty of title, to Oscar
6 H. Barnett, all right, title, and interest of the United States
7 in and to the following tract of land located in Leake County,
8 Mississippi: South half of northwest quarter of northwest
9 quarter, section 25, township 11 north, range 7 east of
10 Choctaw meridian in Leake County, Mississippi.

Passed the House of Representatives December 16, 1975.

Attest: EDMUND L. HENSHAW, JR.,

Clerk.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

February 27, 1976

Honorable Henry M. Jackson
Chairman, Committee on Interior
and Insular Affairs
United States Senate
3106 New Senate Office Building
Washington, D.C. 20510

Dear Mr. Chairman:

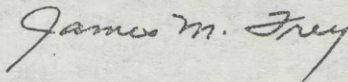
This is in response to your requests for the views of the Office of Management and Budget on the following bills:

1. S. 101, a bill "To direct the Secretary of the Interior to convey certain lands in Geary County, Kansas, to Margaret G. More" (requested January 16, 1976);
2. S. 155, a bill "To authorize the Secretary of the Interior to convey all right, title and interest of the United States in and to a tract of land located in Scotts Bluff County, Nebraska, to Robert L. Summerville of Scotts Bluff County, Nebraska" (requested January 23, 1976);
3. S. 301, a bill "Relating to lands in the Middle Rio Grande Conservancy District, New Mexico" (requested July 31, 1975);
4. S. 1365, a bill "To authorize the Secretary of the Interior to convey to the city of Haines, Alaska, interests of the United States in certain lands" (requested June 12, 1975);
5. S. 2004, a bill "To eliminate a restriction on use of certain lands patented to the city of Hobart, Kiowa County, Oklahoma" (requested January 23, 1976);
6. S. 2286, a bill "To amend the Act of June 9, 1906, to provide for a description of certain lands to be conveyed by the United States to the city of Albuquerque, New Mexico" (requested January 23, 1976);

7. S. 2798, a bill "For the relief of the city of Yakutat, Alaska" (requested January 23, 1976);
8. S. 2837, a bill "To amend the Act of August 30, 1890, to except a tract of ground located in Carbon County, Wyoming, from its restrictions" (requested January 23, 1976); and,
9. H.R. 4941, an Act "For the relief of Oscar H. Barnett" (requested January 23, 1976).

The Office of Management and Budget concurs in the views of the Department of the Interior in its reports on these bills, and accordingly: (a) we oppose the enactment of S. 101, S. 155, S. 301, and S. 2837; (b) we have no objection to the enactment of S. 1365 and S. 2286 if amended as suggested by the Department; (c) we oppose the enactment of S. 2004 and S. 2798, although we have no objection to enactment of the Department's substitute bills; and, (d) we recommend the enactment of H.R. 4941.

Sincerely yours,



James M. Frey
Assistant Director for
Legislative Reference

Senator HANSEN. We are expecting the appearance of some Senators, and in order that we not get involved in a rather lengthy discussion of some of the bills before the subcommittee, it would be my purpose to call Dr. Thomas Nelson, Deputy Chief of the U.S. Forest Service, to the witness stand. We would be very pleased to hear from you, sir.

Dr. NELSON. Thank you, Mr. Chairman.

If it pleases the Chair, I would like to submit my testimony for the record, and brief it.

Senator HANSEN. That will be appreciated. Your entire statement will be included in the record.

STATEMENT OF HON. THOMAS C. NELSON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, DEPARTMENT OF AGRICULTURE

Dr. NELSON. Thank you, sir.

We appreciate this opportunity to present the views of the Department of Agriculture of the various bills under consideration. The specific bills of interest to the Department are S. 1872 and S. 2511.

S. 1872 would extend the boundary of the Cibola National Forest in New Mexico, to include four distinct land areas that are described in section 1 of the bill.

Upon enactment of the bill, all lands owned by the United States within the areas would be added to the Cibola National Forest. This bill would also extend the provision of section 6 of the Land and Water Conservation Fund to apply to these areas.

We are in complete agreement, sir, with tracts 1 and tracts 2, unit 1 and unit 2, here, that show in the bill. We think that it is highly desirable that these be added to the Cibola National Forest.

We have a little concern with area 3, the third tract, and the fourth tract. This third tract, sir, is an area of about 520 acres that's owned by and adjacent to the city of Albuquerque. It's relatively steep terrain. It does have national forest character, but this area would be of low priority and quite a high cost for national forest purposes. And it is unlikely that it would be acquired within the foreseeable future.

Senator HANSEN. You do not recommend its inclusion.

Dr. NELSON. That is correct, sir. And the same holds for area 4 within the Elena Gallegos tract. This is an area of over 6,800 acres that is privately owned. You can see it's bounded on three sides by the National Forest. It is similar to the contiguous National Forest land, and we think it would qualify for National Forest purposes. But again, sufficient justification does not exist, at this point in time, for acquiring through purchase.

We do have some exchange authority that we could use at this time, without including area 4 in the National Forest. But the opportunities for exchange in the State of New Mexico, now, for acquiring areas of this size through land exchanges, are no longer likely to be available. So, for these particular reasons, Mr. Chairman, we recommend that the fourth area be deleted from the bill.

As far as the Boise, Idaho, land conveyance, S. 2511 is concerned, we are in complete agreement with that, sir.

We do think that there, perhaps, should be a small amendment which would allow for equalization of the values. And we have that in our report from the Secretary.

We recommend enactment of S. 2511, Mr. Chairman.

I would be happy to answer questions that you might have, sir, on the additions to the Cibola or on the Boise land conveyance.

Senator HANSEN. Thank you very much, Dr. Nelson. I have no questions. I think that it might be indicated, in as much as some other members of the subcommittee are absent, that the hearing record be kept open for a couple of weeks or more, perhaps, during which time if there are questions, they might be submitted to you in writing.

Without objection, that will be the order, and thank you very much for your appearance here.

Dr. NELSON. It was a pleasure, Mr. Chairman.

[The prepared statement of Dr. Nelson follows:]

STATEMENT OF HON. THOMAS C. NELSON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the committee, thank you for this opportunity to present the views of the Department of Agriculture on the various bills under consideration. The specific bills which are of interest to the Department are S. 1872 and S. 2511. S. 1872 would extend the boundary of the Cibola National Forest in New Mexico to include four distinct land areas described in section 1 of the bill. Upon enactment of the bill, all lands owned by the United States within the areas would be added to the Cibola National Forest. The bill would also extend the provisions of section 6 of the Land and Water Conservation Fund Act to apply to these areas.

The first area listed in section 1 of the bill contains 4,556 acres, all of which are owned by the United States. Except for 300 acres of open grassland, the area is forested. From about 1912 until 1954, the area had National Forest status. In 1954, the area was transferred to the Department of the Army to become part of the Fort Wingate Army Depot. We understand that the Army has no further need for this area. We believe it is both practical and desirable to return this area to its former status as part of the National Forest. The area is located contiguous to National Forest Lands. It is suitable for National Forest purposes and can be efficiently administered. In order to accomplish the transfer of the area back to National Forest status, the National Forest boundary must first be extended to include it.

The second area listed in section 1 of the bill contains 14,476 acres, of which 9,760 acres are public domain, 1,280 acres are owned by the State of New Mexico, and 3,436 acres are privately owned. The public lands were acquired in this area by the United States through land for land exchanges under the Taylor Grazing Act with the understanding that it would be logical at some time to extend the National Forest boundary to include them. In the past 12 years the Forest Service of this Department has, with the cooperation of the Bureau of Land Management of the Department of the Interior, acquired over 100,000 acres within the National Forests of New Mexico through land exchanges under the Act.

The third area listed in section 1 of the bill contains 520 acres which are owned by, and located adjacent to, the City of Albuquerque, New Mexico. The terrain is relatively steep and slopes toward the City. It is our understanding that the City recently acquired these lands to prevent them from being developed for purposes such as subdivisions. We do not believe the National Forest boundary should be extended to include the third area. The only real effect of the extension would be to make it possible for the lands to be acquired for National Forest purposes. This area would be of low priority and high cost for National Forest purposes and it is unlikely that it would be acquired within the foreseeable future. Additionally, we do not believe Federal acquisition should be used as the means for preventing the development of

this area. We believe that local government agencies should take the lead in solving land use problems of this nature, utilizing authorities available to them. We recommend that the third area be deleted from the bill.

The fourth area listed in section 1 of this bill (a portion of the Elena Gallegos grant) contains 6,870 acres, all of which is privately owned. The Cibola National Forest abuts the area on the north, east, and south. The area ranges in elevation from 6000 to 9000 feet. Steep and rough topography is characteristic of most of the area. Although the area is similar to contiguous National Forest lands and would qualify for National Forest purposes, sufficient justification does not exist for acquiring it through purchase at this time. In the purchase of lands, appropriations must necessarily be first extended to cover higher priority needs, such as the need to acquire especially authorized recreation lands and key private lands located within present National Forests boundaries. Authority is available to acquire this area through land exchange under the Act of April 16, 1923, entitled "An Act to extend the provisions of the Act of Congress approved March 20, 1922, entitled 'An Act to consolidate national forest lands.'" However, opportunities in New Mexico for acquiring an area of this size through land exchanges are no longer likely to be available. For these reasons, we recommend that the fourth area be deleted from the bill.

In summary, Mr. Chairman, the Department of Agriculture recommends that S. 1872 be enacted if amended to delete the third and fourth listed areas involving the 520 acres adjacent to the City of Albuquerque and the lands referred to as being a portion of the Elena Gallegos grant.

At this time I will be happy to respond to any questions concerning S. 1872.

BOISE, IDAHO, LAND CONVEYANCE (S. 2511)

S. 2511 would make it possible for us to solve a longstanding administrative problem related to lands and facilities used by the Boise National Forest in Boise, Idaho. The solution would benefit both the Federal Government and the Boise area.

Since the 1930's, the Forest Service has used warehouse and shop facilities on acquired lands in downtown Boise. Over the years, conditions and needs have changed. Our facilities and uses are no longer compatible with adjacent uses and zoning regulations. The site, which contains slightly more than 5 acres, is larger than necessary for present and expected future Forest Service uses. Furthermore, the buildings we are now using are generally in need of expensive repairs. Simply stated, our facilities in downtown Boise should be replaced by better facilities in a more suitable location.

Since the mid-1960's we have worked with the Bureau of Land Management and the National Weather Service in the development and operation of the Boise Interagency Fire Center, adjacent to the Boise Municipal Airport. The Fire Center helps coordinate major wildfire suppression efforts throughout the West. A 2½-acre site adjacent to the Fire Center with excellent air and ground access is available for the construction of a new Forest Service warehouse and shop facility. The site is part of a tract withdrawn from the public domain for administrative purposes in 1968. Development and use of the site would be compatible with the Fire Center, and it would enable the Boise National Forest to consolidate its fire, warehouse, shop, and communications facilities at one location.

S. 2511 would authorize the Secretary of Agriculture to convey by quitclaim deed all right, title, and interest of the United States in and to 5.22 acres of land and improvements thereon, located in downtown Boise. In exchange, the party to whom the lands and improvements were conveyed would be required to provide, for the United States, administrative improvements of at least equal value. The new administrative improvements would be located on the site adjacent to the Fire Center, or on an alternative site determined by the Secretary. Public offers for the exchange would be solicited and considered. The Secretary would accept the offer which he determined to be most advantageous to the Government. Or, he could reject all offers if he determined it in the public interest to do so.

A new facility has been designed for the Fire Center site, and an appraisal of the downtown site and improvements has been made. The value of the lands and improvements to be conveyed is expected to closely approximate the cost of the new facility to be constructed. While construction costs will probably

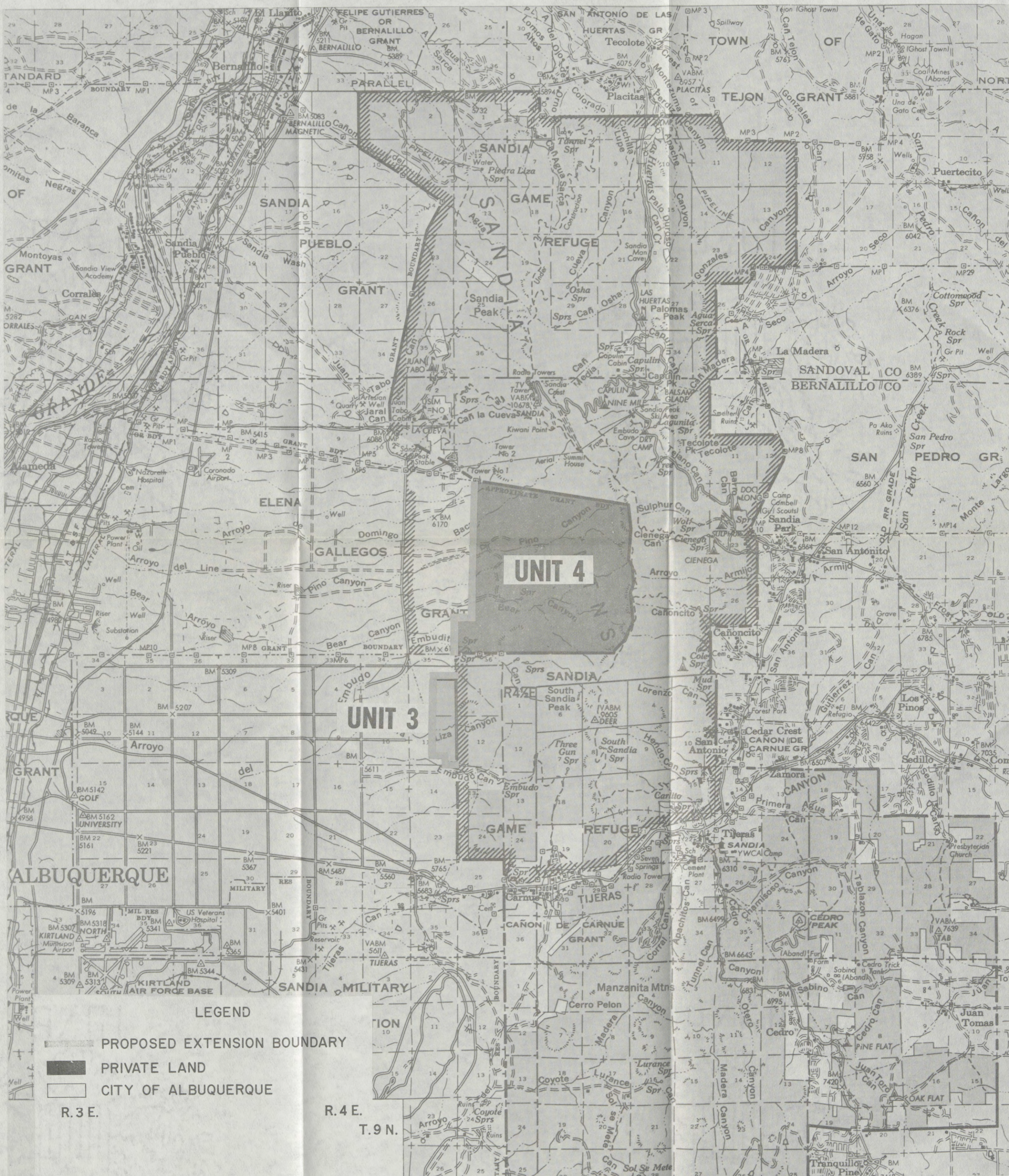
PROPOSED BOUNDARY MODIFICATION CIBOLA NATIONAL FOREST

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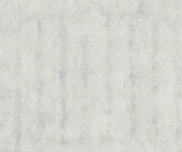
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PROF. DR. JOHANNES BUCHHEIT
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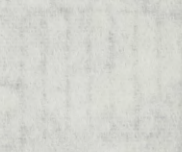
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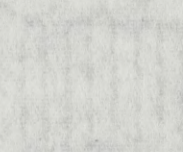
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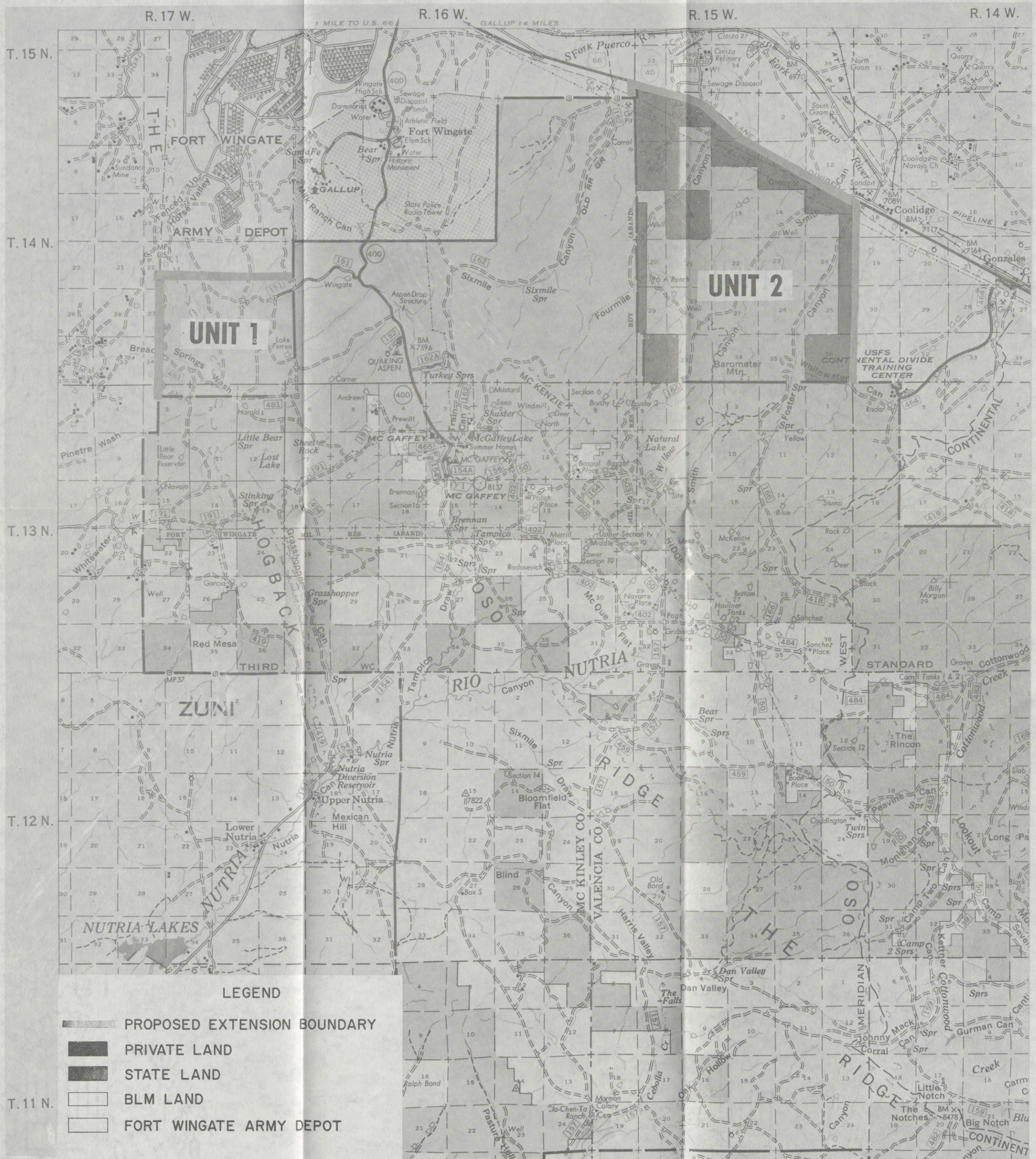
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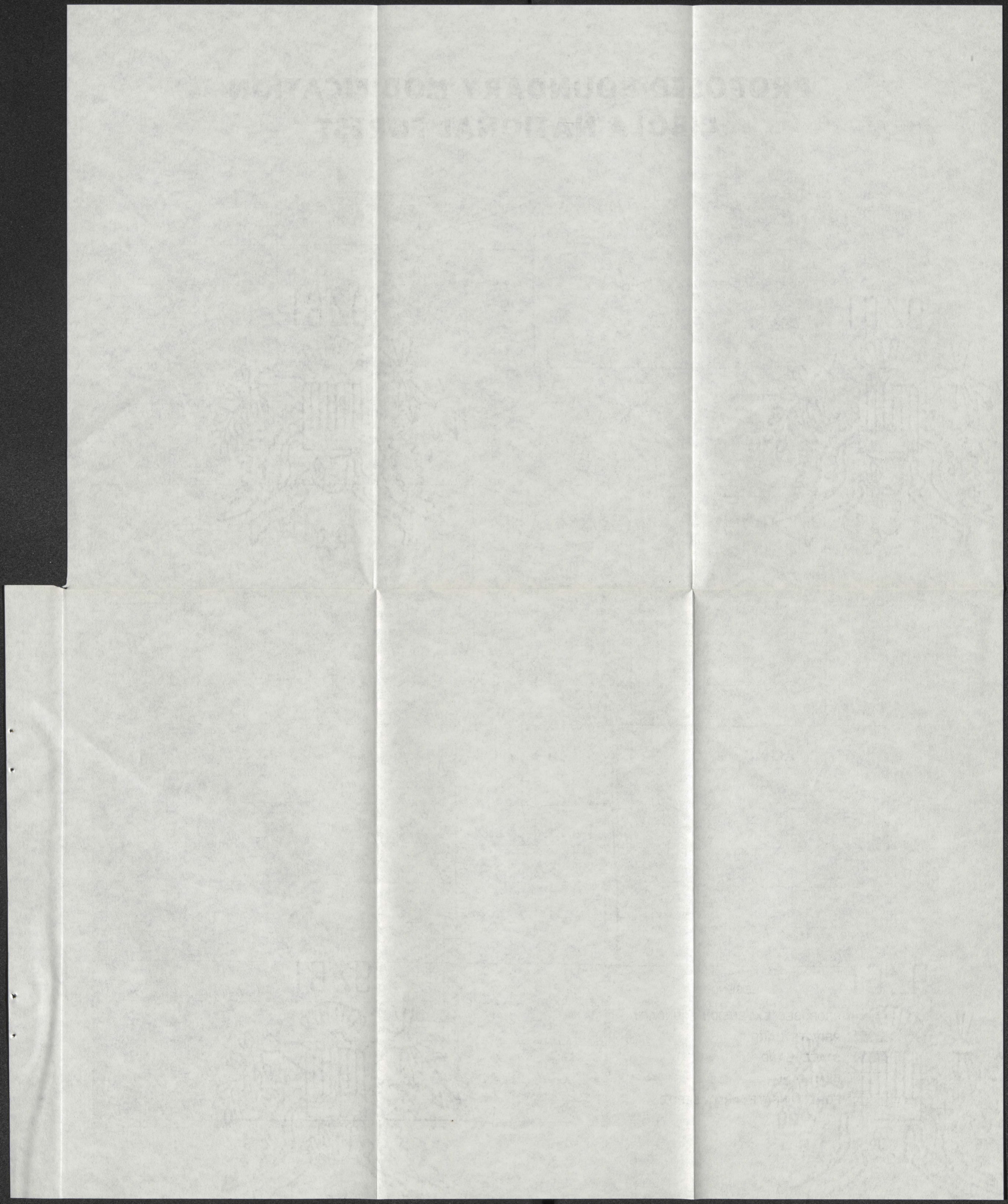


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PROPOSED BOUNDARY MODIFICATION CIBOLA NATIONAL FOREST

Do not dispose of this map. It belongs to the Forest Service. Please call Forest Service Legislative Affairs Staff when finished with the map.
447-7531 or 447-4637





continue to rise, the value of the downtown property will also rise. We do not foresee that enactment of S. 2511 would require additional Federal expenditures.

S. 2511 does not provide for cash equalization in the event the value of the downtown property to be conveyed exceeds the value of the necessary administrative improvements to be constructed. We believe this possible circumstance should be covered in S. 2511, and we have suggested an appropriate amendment in our legislative report on the bill.

The exchange that would be authorized by S. 2511 would be advantageous to the Federal Government as well as to local businesses and governments. The Federal Government would obtain new warehouse and shop facilities at a better location on public land well suited for that purpose. Local businesses and governments would benefit as land in downtown Boise was returned to private ownership.

The Department of Agriculture recommends that S. 2511 be enacted, if amended as suggested in our legislative report.

I would be pleased to answer any questions on the Boise land conveyance and to make background information available for the Committee.

Senator HANSEN. We will next consider S. 2837. I would like to call Mr. Gerald Russell from Rollins, Wyo., to the witness stand, please. Mr. Russell, before you begin your presentation, let me say do you have any materials that you would like to submit for inclusion in the record? Without objection, they shall be received and perhaps it might put things in the proper perspective to observe that the recommendation of the Department of the Interior is that this bill, S. 2837, be not enacted.

We would be happy to hear from you, sir. If you would like, for the benefit of the subcommittee, to spell out, perhaps, rather briefly, what the problem is, I should think that might be helpful to everyone here.

Mr. RUSSELL. Senator Hansen. My name is Gerald Russell—

Senator HANSEN. Let me interrupt just a moment, and ask the reporter to make note of the fact that both Senator McClure of Idaho, and Senator Stevens of Alaska have submitted statements for the record, and would ask that they be included in the record.

[The prepared statements of Senators McClure and Stevens follow:]

STATEMENT OF HON. JAMES A. MCCLURE, A U.S. SENATOR FROM THE STATE OF IDAHO

This bill permits the Secretary of Agriculture to convey by quitclaim deed, for not less than fair market value, certain lands in Boise, Idaho. The lands are presently used for vehicle storage and shops and no longer adequately serve this purpose. The Forest Service desires to exchange this property, for fair market value, and to apply the proceeds of such sale to the construction of like facilities on another site. Precedent for this exists in 81 Stat. 464.

A successful exchange out of this property location would require any new owner to comply with all existing city code and zoning requirements. Any sale would be made only after the Secretary solicits public offers and only after careful consideration that the offers are in the public interest. The Forest Service anticipates using the funds from the property sale to construct like facilities on suitable property near the Boise Interagency Fire Center. This land is already in public ownership and is ideal for this purpose.

STATEMENT OF HON. TED STEVENS, A U.S. SENATOR FROM THE STATE OF ALASKA

Mr. Chairman, it is a pleasure to testify today in support of S. 1365, a bill to remove restrictive language from a deed which conveyed certain property to Haines, Alaska.

The deed conveying the land and building to the City from the Department of the Interior contained a restrictive clause requiring this site to be used as

a school or for other public purposes. My bill would remove this limitation and give the City of Haines greater flexibility in their community development.

Initially, the building was used for a Bureau of Indian Affairs school. Upon acquisition of the building and property, the City converted it into a community health center. After the health center became obsolete, another building was erected and used as a teen center. Subsequently, the fire department condemned the building. Lately, it has housed, on a limited basis, the community Head Start Program.

In addition, the building, located on a hillside residential area with fringe parking, is almost inaccessible in the winter months. Because the facility is no longer accessible or adequate for public use, the City of Haines would like to sell the property as well as the building.

At this stage of the community's development, this site would be better utilized in a residential capacity. The City has agreed to use the sale proceeds for the benefit of the community to construct a building or purchase land for public purposes in Haines.

The community has explored several possibilities in this regard. In their attached statement, they have indicated that additional parks and recreational and port facilities would enhance their development plans. Moreover, the City and Borough governments need new facilities and therefore the funds could be used to increase their municipal building construction fund.

The new facility must be used for public purposes in perpetuity; therefore, the original intent of the property conveyance will be kept intact.

I would also like to take this opportunity to testify on behalf of a similar bill being considered today, S. 2798. Senator Gravel and I jointly sponsored this measure for the relief of the City of Yakutat, Alaska.

The Department of the Interior in conveying land to the city placed a restrictive clause in their deed. This property is limited to use as a school. The school is no longer located on the original site and the City now would like to have the limitation removed and use this area in a residential or economic capacity. This would give Yakutat greater leverage in their comprehensive development plan.

A major concern in their development plan is the proposed Outer Continental Shelf leasing program which schedules the Gulf of Alaska for immediate leasing. Located on the Gulf, Yakutat will inevitably become a major OCS staging facility. Preparing for the expected social, environmental, economic, and other impacts from OCS development is of particular importance. It is extremely difficult for small coastal towns such as Yakutat to cope with these adverse impacts, and an alternative use for this land will help alleviate some of the effects.

The City has agreed to use the receipts from this property for a school or other public interest leaving the original intent of the land conveyance intact.

Mr. Chairman, I would like to thank you for providing me with this opportunity to testify in favor of S. 1365 and S. 2798. At this point in the record, I would like to include testimony from the Mayor of Haines, Alaska, Gail Wallace, in support of S. 1365.

CITY OF HAINES,
February 10, 1976.

CITY OF HAINES TESTIMONY SUBMITTED IN SUPPORT OF SENATE BILL 1365

The City of Haines is requesting relief of the restrictive clause contained in a deed to property conveyed to the City by the Department of Interior in 1953. The restriction is that the property be used for school or other public purposes. The position of the City of Haines is that public use of this property and building is no longer feasible or beneficial, for the reasons stated below, and that the property should be sold to private interests, the proceeds from such sale to be used to purchase property or to construct a building to better benefit the community.

BACKGROUND

In 1953, the Department of Interior deeded to the City of Haines the property and building formerly used as a BIA school. At the time the City acquired title, the building was no longer used as a school, but was operated as the

community health center. The City made substantial improvements to the building and continued its use as a health center for several years. Eventually, that health center became obsolete, and a new facility was constructed at another, more accessible location. The building has been used as a teen center the last few years, but that program is now ended and the building was closed to further use by the Fire Department. Most recently, the Fire Marshall has allowed limited use of the building for the Headstart Program.

The building is very old, dating from the turn of the century, and is in poor repair. It would be a costly project to renovate it properly for public purposes. The property is located on a hillside and access in winter is marginal. There is very little space available for public parking.

The area is, however, a prime residential area and is zoned as such. The structure could be renovated to advantage for a home or apartments, or new residential structures could be built on the property.

PROPOSAL

The City feels that a residential use for this property would be preferable at this stage in the community's development. Public facilities have moved to a more accessible area of the town, and as privately owned property, it could be added to the tax revenues of the City rather than being the liability that it is in its present state.

The property is assessed at \$13,689. It is due for reassessment this year. If S. 1365 is adopted, the proceeds from the sale of this property will be used to acquire property or to construct a building to be used for public purposes and the City would guarantee same to the Department of Interior.

The City has several alternatives for the use of these funds. The Comprehensive Development Plan of the City is presently being improved and updated and the City is looking toward parks and recreation development and construction of much needed port facilities. Both the City and Borough governments are greatly in need of a municipal building, the present accommodations for the local governments being rented space, or old, substandard buildings scattered about the town. In this regard, the City Council was considering directing the proceeds from the sale of this property towards the municipal building construction fund.

We hope this written testimony is acceptable and sufficient for favorable action on Senate Bill 1365.

Respectfully submitted.

GAIL J. WALLACE,
Mayor.

STATEMENT OF GERALD RUSSELL, ROLLINS, WYO.

Mr. RUSSELL. I represent two clients, Mr. Robert J. Johnson and Mr. William B. Richardson, owners and developers of the small recreational subdivision located in the vicinity of the Medicine Bow National Forest in the snowy range in Carbon County, Wyo.

We have, I think, a somewhat unique problem. In fact, I'm not aware that it's ever come before the subcommittee before, Senator Hansen. It involves, of course, the OILSR rules and regulations——

Senator HANSEN. What do those initials stand for?

Mr. RUSSELL. I'm sorry. Office of Interstate Land Sales Registration.

Senator HANSEN. Thank you.

Mr. RUSSELL. Specifically, sections 1710, 1710.10 and 1710.11.

To give you a little background, Mr. Johnson and Mr. Richardson combined in 1971 to create a joint venture, and through this joint venture, to create a subdivision known as Overlook Retreat. The purpose of this subdivision was to develop certain lots in the mountains for sale as recreational cabin sites.

Originally, both parties had less than 50 lots, and I might point out that in that regard, the statement from the Associate Director of the Bureau of Land Management is in error.

Now, that confusion may have been brought about by me when I was first involved with this issue. I may have created a misimpression that the total of the subdivision was less than 50 lots. If that were so, we would have no problem. But it is not so. It is actually a matter of 97 lots. Because of this, they are faced with either compliance with the OILSR rules and regulations, or are applying for an exemption of the provision of section 1710.11.

Now, I have a letter which I will submit as part of my statement for the record, in which the Department of Housing and Urban Development stated that Overlook Retreat could qualify for the statutory exemption if it were free and clear of all liens, encumbrances, and adverse claims. The only encumbrance on the land in question happens to be the reservation for ditches and canals under the provision of a Federal statute 26, statute 391 U.S.—I'm going to have to take a second and locate it—43 U.S. Code 945, which was a statute passed in 1890 which required a reservation for right-of-ways for ditches and canals on all land patented from the U.S. Federal Government after 1890, and west of the hundredth meridian.

If we can remove that reservation on this specific piece of property, we can then get a statutory exemption. The alternative is an estimated cost to my clients of \$30,000. That is the only estimate that I have and it is one presented to me by HUD, itself. I have not been able to find a single attorney in the State of Wyoming that is even familiar with the rules and regulations, and I've only been able to get a hint of one in Montana.

Senator HANSEN. Do I understand you to say, then, Mr. Russell, that the \$30,000 cost—the figure that you've just quoted—is based upon an estimate made by HUD, itself?

Mr. RUSSELL. Yes, sir, and telephonically with me by a HUD representative. That's correct. On the one hand, I have the Department of Housing and Urban Development telling me that, if I had a free and clear title they could grant me a statutory exemption. On the other hand, I have the Department of Interior telling me by letter—quoting their original office in Denver—that they have absolutely no plans, present or future, for any development which would require a reservation for right-of-ways for ditches and canals.

This is in a letter from the U.S. Department of Interior dated November 11, 1975. And, I'll read it in applicable parts.

The land is subject to the act of August 30, 1890, 26th statute, 39143, U.S. Code 945. As we pointed out in our letter of October 30, 1975, we have no authority to remove the reservation provided for in that act. However, our regional office in Denver advises that the lands are not included in any bureau plans for present or future reclamation developments.

Now, that decision is based on a very simple topographical fact, Senator Hansen, and that is that the land in question is at the bottom of a valley. It rises at an approximate 30 degree incline up both sides from the property, up solid granite. There would be no logical or feasible way in which they could create a ditch or canal.

In the position paper or statement from the Associate Director of the BLM, he commented that this might create a dangerous precedent. Any property of less than 50 lots—any subdivision of less than 50 lots automatically receives a statutory exemption. In conversation with the Department of the Interior, apparently through usage, because I'm not able to find any written rule or regulation that the statutory exemption under 1710.11 applies to all the lots up to—I mean only subdivisions of up to 300 lots.

So, we're talking about only subdivisions from 50 to 300 lots. Additionally, I think I can distinguish most, if not all other cases which might arise by the very statement of the Department of the Interior. They have no plans to develop it and, topographically, it would be impossible to develop it. Therefore, this particular subdivision, being within the area of 50 to 300 lots and being physically incapable of developing a right-of-way for ditches and canals, it would appear to me that the chances of a dangerous precedent being set would be very small.

Senator HANSEN. Thank you very much. If I could interrupt you for just a moment, Mr. Russell, let me inquire of my colleague, Senator Domenici, would you like to—I know that you have a very busy schedule, Senator Domenici, and if you would like, we would be very pleased, with Mr. Russell's concurrence, to ask you to interrupt your testimony at the moment in order that we might hear from the distinguished Senator.

Senator DOMENICI. Mr. Chairman, if Senator McClure is ready, I would like him to go first. I have three different bills, Senator McClure, and I think considering your schedule, you might have only one and you could get out quicker. I wouldn't want you to stay for all of mine, but if that doesn't meet with your approach, I would be glad to go on now.

Senator McCLURE. I thank you both, Mr. Chairman and Senator Domenici. I think my statement in support of legislation has already been made a part of the record.

Senator HANSEN. It has been.

Senator McCLURE. I don't think there's anything I could add to it, except I would be glad to respond to any questions that might be asked by staff or others with respect to the legislation.

If there are no such questions, then I will let it stand with my prepared statement and will be glad to give the time to Senator Domenici.

Senator HANSEN. Thank you very much, Senator McClure. And as you observed, your statement has indeed been made a part of the record. I have no questions.

I observed earlier, before you came, that we might hold the hearing record open in order that Senator Haskell and others who, understandably, will have an interest in some of the bills before us be given an opportunity to ask questions in writing, and receive written responses which could be made part of that record.

Noting what Senator McClure has just now said, we would be very pleased, indeed, to hear from Senator Domenici.

And, thank you, Mr. Russell, for your kindness in permitting this interruption in your testimony.

**STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM
THE STATE OF NEW MEXICO**

Senator DOMENICI. Mr. Chairman, with reference to your statement and in leaving the record open, might I ask that one of my bills is controversial and a part of another. I don't think I will be able to stay. And perhaps the Chair is not going to inquire in depth of the witness, today.

Could I, after reviewing their written testimony, have the privilege of asking them some questions in writing for your record?

Senator HANSEN. Yes; indeed. Without objection, so ordered.

Senator DOMENICI. I thank the Chair.

Mr. Chairman, I know that you are extremely pressed for time, and there are many other witnesses that you want to hear from on these matters. And I will try to be as brief and as quick as I can.

With your permission, Mr. Chairman, might I first address my testimony to Senate bill 2286. I take it first because I think it is a rather simple matter. I have some prepared remarks, but let me see if I can just ad lib for a moment and make my remarks a part of the record.

Mr. Chairman, last year this committee and the Senate passed a bill that permitted the city of Albuquerque to take a parcel of real estate that had a reversionary clause on it in favor of the Federal Government, which would be used for recreational purposes. And if it stopped being as such, it was to revert back to the Federal Government.

What we did, Mr. Chairman, was to describe a piece of that real estate, provide testimony to the committee that that real estate had absolutely a spectacular market value, and a minimal value for recreation.

And, what we asked was that the reversion be removed. That we be permitted to sell it at market value, and then take the money and purchase or apply it against another piece of real estate in the same metropolitan area. That substituted real estate would then be used for recreational purposes, and we would affix the reversionary clause to that new piece.

So that what we would have—basically, the Federal Government would rid itself of a reversionary interest in one piece; permit us to sell it and buy another piece much larger. And with a finding of need, buy it, then put your Federal reversionary clause on it.

In the process of this, Mr. Chairman, through no fault of the committee, and I don't think it was our fault but rather some attorneys at city hall, we had some erroneous descriptions both as to the land we might buy to substitute, and the description of the piece of real estate to be sold.

So, what we are asking here today, is to have a clear legal description, a clear substitute piece of real estate described. And we just seek the same kind of relief but in a much clearer manner.

Since it was granted before, it would seem to me there's no reason not to grant it at this time.

Senator HANSEN. I don't mean to be presumptuous, Senator Domenici, but I might observe that Mr. Turcott, the Associate

Director for the Bureau of Land Management will be testifying on behalf of the Department here this morning. I think when he gets around to commenting on this particular bill, he will note that the Department has no objections.

Senator DOMENICI. I thank the Chair. Might my statement be made a part of the record, Mr. Chairman?

Senator HANSEN. It will be, indeed, without objection.

[The prepared statement of Senator Domenici on S. 2286 follows:]

STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Mr. Chairman and Members of the Committee, thank you for holding hearings on this bill which is important to the city of Albuquerque, I regret having to trouble the committee again with this matter. However, I hope that this is a relatively simple measure which will not take much of your time.

The bill is designed to correct an error in the land description for parcel one contained in Public Law 93-574. Unfortunately, the land description which I received from the City of Albuquerque last Congress had errors which make it impossible for the city to do what they had intended.

You will recall that Public Law 93-574 authorized the Secretary to relinquish a reversionary interest in two parcels of land. The conveyance would be authorized only if the city showed to the satisfaction of the Secretary that the two parcels were no longer suitable for park and other public purposes, two parcels would be sold at not less than fair market value, that the proceeds from the sale of the parcels would be used to acquire another specified tract which is suitable for park and other public purposes and that any amount by which the proceeds of sale of the two parcels exceeds the price of the other tracts will be paid to the United States. In addition the reversionary interest which exists on the two parcels would be transferred to the tract acquired with the proceeds of the sale of the two parcels.

Mr. Chairman, you will recall that the city desires to sell the land to help cover the cost of purchasing a 135-acre tract of land to be used as a park. This land is located in an area where there is an urgent need for park land. I hope the committee will consider this measure favorably so that the city of Albuquerque can move forward with the purchase of this much needed park land.

Again, I regret the inconvenience this mistake has caused all concerned in this matter, and I appreciate your consideration of this bill.

Senator DOMENICI. Mr. Chairman, now I would like to address my remarks to Senate bill 1872. I think we can be brief on this one also.

This is a bill, Mr. Chairman, to enlarge the boundaries of the Cibola National Forest. And this measure involves four tracts of land.

The first area contains 4,556 acres, all of which is owned by the United States. Except a very small area which is open to grassland, the area is all forested. From 1912 until 1954, this area had national forest status; however, it was transferred to the Department of Army, Corps of Engineers, to become part of Fort Wingate Army Depot.

The corps has no further need for this area, and has declared it excess to their need. Since the area is bounded on the east by national forest land, it can be efficiently administered as part of the national forest.

I think there is little question about that one, Mr. Chairman. I think it just makes sense in the management of the Federal lands that it become part of the national forest. And I believe there's little objection to it.

The second one contains 14,476 acres, and 9,760 acres are part of public domain lands. The State of New Mexico owns 1,280 acres of it, and 3,436 acres are privately owned. The public lands were acquired through Taylor Grazing Act exchanges with the understanding that they would be included in the Cibola National Forest.

The third area contains 520 acres of land owned by the city of Albuquerque. Now, the city purchased this land to prevent commercial or residential development. The area is located in the Sandia Mountains on a relatively steep mountain slope facing the city, and provides a rather spectacular scenic background for the city.

This area is environmentally fragile, and the city would like the extension of the national forest boundary to include the area and thereby provide further protection.

I might note, Mr. Chairman, that the House of Representatives passed a measure during the 93d Congress which provided for the inclusion of these three areas.

Just a moment of discussion with the distinguished Senator from Wyoming. If you have seen the city of Albuquerque and you if you have not, let me quickly describe it to you.

Senator HANSEN. I have seen it, and it defies description, I would say.

Senator DOMENICI. Well, I think it does for me, also, Mr. Chairman. But perhaps, with a few difference—

Senator HANSEN. I meant that only in a very laudatory sense; not a perjorative sense.

Senator DOMENICI. Mr. Chairman, you've stunned me today. I wish I could say that I knew as much about some of your cities, Mr. Chairman. I'm sorry that I don't say that nonperjuratively, also.

Senator HANSEN. I might just say don't believe all of the stories you may have read in the New York Times or some of the other national magazines that tell you how bad things are in Wyoming. I think they've been doing that to take attention away from the vices and all of the problems that New York City has in trying to get the people to look someplace else.

Senator DOMENICI. Let me just give you my version of why this is very important for the city. Our city grew and expanded toward the beautiful mountains on the east. There's a great deal of forest land on the opposite side of the mountains and over the top, and the slopes on the side facing the city are the areas threatened by development.

Now, it's natural that the city is going to continue to grow in that direction and as a community, they've taken a very progressive view toward open space. They would very much like to assure that this mountain is not built upon with houses and commercial establishments.

In fact, as you know, they used a substantial amount of their own money to buy a portion of it. Now they have alternates, they can take it and make it their own city recreation area. They could develop an open space plan for it. But I think it's an extreme compliment to the Federal Government and the national forest that they look at it and say, what more logical and appropriately managed

use of the open space is there than to add it to the abutting national forest and let it remain in that status as Albuquerque's commitment to open space. This is a far more appropriate use of that rather fragile environmental portion of these beautiful mountains.

In that context, Mr. Chairman, I think it's an excellent approach to cooperation and a partnership arrangement. Certainly, it's far better than the willy-nilly, ad hoc approaches to open space that cities are having to undertake because they don't have the advantage of having a national forest close that might expand into a natural open recreation area.

It's in that context that I urge this as an excellent approach, and can state to the Chair that the community supports it unequivocally. The city council bought it, and unanimously submits their resolution for the record here.

The fourth tract of land, Mr. Chairman, I will admit going in, is controversial. I don't think it's controversial in that the proposed use is inappropriate. But it is 6,870 acres and is part of one of our old Spanish land grants which is now privately owned.

This area was originally included in the House bill in the 93d Congress, however, the committee took it out before reporting the bill to the floor. House Interior did this because the Forest Service described the area as a low-priority project and felt that acquiring this very large land area by exchange would be difficult.

Senator Montoya, my distinguished senior Senator, and I feel that it should be included. The people of Albuquerque place an extremely high priority on acquiring it, and this would—like the land described in the third tract is located in a sensitive area. They feel it would best serve long-term growth pattern if added to the forest.

Again, I think it's a compliment to the Federal Government in terms of land use planning and from a municipal standpoint in terms of open space.

In terms of resources of the Forest Service, I am not able to know its priorities and to quibble with them today. However, I think this is an excellent long-term approach and I can honestly say that if they don't approach it as we recommend here, that a major metropolitan area will face a far more serious problem in trying to preserve it.

In that regard, I urge that it be retained as part of this overall bill for the preservation of open space around Metropolitan Albuquerque.

That concludes my remarks. I would ask that my prepared ones to the extent that I didn't cover earlier, be included in the record.

Senator HANSEN. Without objection, so ordered.

[The prepared statement of Senator Domenici on S. 1872 and Resolution No. 5-1974 of the city of Albuquerque follow:]

STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Mr. Chairman and Members of the Committee, I appreciate the opportunity to present a statement in support of S. 1872, a bill to enlarge the boundary of the Cibola National Forest. This measure involves four tracts of land.

The first area contains 4,556 acres, all of which are owned by the United States. Except of a very small area which is open to grassland, the area is

forested. From 1912 until 1954 this area had National Forest status; however, it was transferred to the Department of the Army, Corps of Engineers to become a part of the Fort Wingate Army Depot. The Corps has no further need for the area, and has declared it excess to their needs. Since the area is bounded on the east by National Forest lands it can be efficiently administered as a part of the National Forest.

The second area contains 14,476 acres and 9,760 acres are public domain lands. The State of New Mexico owns 1,280 acres, and 3,436 acres are privately owned. The public lands were acquired through Taylor Grazing Act exchanges with the understanding that they would be included in the Cibola National Forest.

The third area contains 520 acres of land owned by the City of Albuquerque. The City purchased this land to prevent commercial or residential development. The area is located in the Sandia Mountains on a relatively steep mountain slope facing the City of Albuquerque and it provides a spectacular scenic background for the City. This area is environmentally fragile and the City would like the extension of the National Forest boundary to include the area and thereby provide further protection.

I might note, the House of Representatives passed a measure during the 93rd Congress which provided for the inclusion of these three areas.

The fourth tract contains 6,870 acres and is part of the Elena Gallegos grant. This area was included in the measure passed by the House; however, it was taken out by the House Interior Committee because the Forest Service described the area as low priority for purchase, and they felt that acquiring an area this large through land exchange would not be likely.

Senator Montoya and I feel that this area should be included. The people of Albuquerque place a very high priority on acquiring the land. This land like the land described in the third tract is located in an environmentally sensitive area at the foot of the Sandias. The people in Albuquerque would consider commercial development of these foothills as destructive misuse of the lands.

Mr. Chairman, I have received a resolution passed unanimously by the City Council of Albuquerque in support of public acquisition of the Elena Gallegos Grant on the western face of the Sandias. I ask that a copy of this resolution be included in the hearing record.

Thank you.

RESOLUTION No. 5-1974

A RESOLUTION urging the addition of portions of the Elena Gallegos grant to Cibola National Forest; urging the New Mexico Congressional delegation to further seek this action; *providing*; that the mayor of the city of Albuquerque use the good graces and power of his office for public acquisition of said portion of Elena Gallegos grant.

Whereas, the eastern portion of the Elena Gallegos Grant contains a significant portion of steep, rugged wilderness on the west slope of the Sandia Mountains, which include various species of wildlife and vegetation;

Whereas, the wilderness environment can best be preserved by public ownership, and since the United States Forest Service manages contiguous land in Cibola National Forest and could provide management for maintenance of wildlife and vegetation and the environment conducive thereto;

Whereas, the preservation and public ownership of this land best serves the interest of the residents of the City of Albuquerque for environmental and recreational purposes, and flood control purposes;

Whereas, HR 7188 originally provided for an extension of Cibola National Forest boundary to include mutually agreed to portions of the Elena Gallegos Grant, but from which the extension was deleted before passage by the United States House of Representatives; now therefore, be it:

Resolved by the City Council, the Governing body of the city of Albuquerque, That the City of Albuquerque urges the extension of the boundaries of Cibola National Forest to include that portion of the Elena Gallegos Grant which has been verbally agreed to with the Trustees of the Simms' Estate. Be it further resolved that the City of Albuquerque urges the New Mexico Congressional delegation to renew their efforts to get portions of the Elena Gallegos Grant included in Cibola National Forest, and that the Council

further requests the Mayor to use the good graces and power of his office in working with the U.S. Forest Service and others toward assuring public acquisition of said portions of the Elena Gallegos Grant.

Passed and approved this 16th day of September, 1974.

JACK KOLBERT,
President, City Council.

HARRY E. KINNEY,
Mayor, City of Albuquerque.

Attest: Gisele Gatignol, city clerk.

Senator DOMENICI. Now, Mr. Chairman, the last item which I will discuss with the Chair will be one that certainly the agencies will testify on today, either orally or in writing. And, it's one about which I would like to submit some written questions to them.

Mr. Chairman, this is Senate bill 301. It's a bill relating to land in the Middle Rio Grande Conservancy District in New Mexico.

I know that staff will recall that I introduced a similar measure to this in the 93d Congress. That bill was Senate bill 2253, and the subcommittee held hearings on October 10th of 1973. I testified at those hearings and explained the problems and the need.

Also appearing in support was a Mr. Irving Senzel, Assistant Director for Legislation, Bureau of Land Management. He said then, Mr. Chairman, and I quote: "In connection with this bill which is the Middle Rio Grande Conservancy District, we have a recommendation for an amendment, that is, the \$25,000, and then there is a technical amendment also which should cause no problem."

I state this, Mr. Chairman, because the subcommittee Chairman last year had basically gotten rid of the \$25,000 objection, and the legislation was not held up on that account. We convinced them that our position of the dollar figure was correct, and the Department was in error. It was held up for a technical reason, and that was that there were those who wanted to add additional land to the bill.

Until we could satisfy that proposition, the subcommittee held up.

Now, I regret, Mr. Chairman, to say that the Department, on the same bill, find that they cannot recommend it. I would like to put my remarks in the record. It's my opinion, Mr. Chairman, that because the Department found that they had many problems of trespass, many land titles to be cleared up in the State of New Mexico, and in the southwest that have just come into focus because of an overall review, that this particular Middle Rio Grande title clearance program is being prejudiced.

I, incidentally, don't believe we're going to come up with a scheme to clear all the trespass and all the land problem titles in New Mexico and the southwest. And I believe if this one was equitable last year, it is equitable this year.

They would contend that they know a little more about the land now than they did then, and I certainly don't want to cast any aspersions. I'm sorry if that's the case, but it appears to me that the testimony was rather unequivocal last year. The Middle Rio Grande Conservancy District lies along the Middle Rio Grande for a number of miles on each side of the City of Albuquerque.

Most of the land we are clearing up, I firmly believe, was never intended to be owned by the Federal Government, but rather through survey errors through old fence lines and the like. We have fee titles

that are not quite as extensive as they should be, and we have a piece of land in between that is a matter of pure legal title, still owned by the Federal Government.

Senator Anderson, my predecessor, tried to develop a plan wherein we could clear these titles. It is of no use to the Federal Government in the sense of having open space value and the like. It's just pieces of land in between and here and there among fee-owned land that has been cleared over the years.

Serious mounting problems exist as it does in many of the land grant States; the Middle Rio Grande maps were the basic maps for years. They didn't coincide with surveys that individuals ran of a fence line. And what we're trying to do is to sell the land to the Middle Rio Grand Conservancy District with a clear understanding that they will then sell it to the people who are entitled to it.

No one is going to make money at the Middle Rio Grande end, and I think it's rather speculative as to whether the owners are really going to make any money. Or, it might be that a big piece is worth more than a little piece per acre, or the like. But I think that in a very real sense, many of them thought that they owned it and, probably, many of them should have been the fee owner for many years.

There may be a valid argument on the dollar amount, however, I just don't think this whole issue is going to be a dollar figure dispute between clearance and the Federal Government in this or any of the others.

I would appreciate the attention of the committee as they did last year, and that they report favorably on this bill.

I thank the Chair.

Senator HANSEN. May I say to the distinguished Senator from New Mexico, that the Chair is sympathetic with the problem which he addresses in this particular piece of legislation.

A few years ago, I introduced such legislation. Director Turcott is here, and if I am in error on this, may be can help straighten me out insofar as the facts are concerned later on when he testifies.

But, I think that we were able to get past, and gave land orders a 3-year period of time in which to clear up the problems similar to those you just described.

I'm well aware that in the early days of homesteading in much of the West, lands were going to pattern. There weren't surveyors available, and oftentimes, understandably, a homesteader, or rancher, or farmer followed natural bounds. And he got an approximate amount of acreage that roughly coincided with that which was intended to be conveyed by the Federal Government. And so that the land could be fenced in and improved, and cultivated the boundaries weren't necessarily those that would conform to the legal description.

The legislation we had gave a 3-year period of time in which a number of landowners did, in fact, avail themselves of the opportunity then provided to straighten out and to purchase from the Government little corners or discrepancies that may have occurred. And that, oftentimes, may be a natural boundary, a steep hillside, a river, or something in the area that was fenced in or used. It might be intersected with corners that would be imposed or super-

imposed by legal subdivision, so that the lands that were fenced in were a part of those that would legally have been in private ownership. And parts of those part ownerships would be fenced out.

And I say that simply to point out that I am not unaware of the problem that you address here this morning.

Senator DOMENICI. Mr. Chairman, just permit me a couple of more moments with the Chair on this issue.

I believe that the Department has a very valid point in being concerned about trespass on Federal domain and Federal land in States like mine and others.

By trespass, however, I don't know—I don't remember my law as to whether it's a really passive kind of trespass or active kind of trespass, but those two words come to my mind.

I don't think there's any active kind of trespass in this Middle Rio Grande area. By that, I don't think any one of the very recent past—and by recent, I mean 25 or 30 years—moved upon this land or assuming they might, as a trespass, acquire some rights against the Federal Government.

I think these are kind of legitimate, bona fide kinds of occupants in their chain of transferees. However, the Department would make the point that they have many intentional kinds or active trespass cases in my State and elsewhere. I don't deny that, and I don't pass judgment in advance on that.

They probably do. But I don't think we have to conclude that we're going to prejudice the Federal Government's position as they inventory and attempt to solve these active trespass cases and the future in my State. In the event there is concern, I think we could clarify some language in this bill and say we're not talking about a person who knowingly trespassed, and if we find that they are, they don't have to convey.

What I'm saying is, I don't think anybody moved upon this land without some color of title in a very bona fide manner, some point in the chain of both legal title and occupancy. And that's considerably different than somebody just moving on to Federal domain and building a house with no relationship, whatsoever, to a color of title, ancestry occupancy, or the like.

I don't think we prejudice their efforts to adequately handle the active or intentional trespass case by moving on to clarify this particular kind. I think they will address the issue, and I wanted the committee to have my views on this issue.

Senator HANSEN. Thank you, Senator.

Senator DOMENICI. Thank you, Mr. Chairman.

[The prepared statement of Senator Domenici on S. 301 follows:]

STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

S. 301, a bill relating to lands in the Middle Rio Grande Conservancy District, New Mexico.

Mr. Chairman and Members of the Committee, thank you very much for holding hearings on S. 301. I know how very busy you all are and appreciate your taking time to hold hearings on a bill which relates to land in New Mexico.

You may recall that I introduced a measure similar to S. 301 during the 93rd Congress. That bill was numbered S. 2253 and your Subcommittee held

a hearing on the bill on October 10, 1973. I testified at these hearings and explained the problems and need for this legislation. Also appearing in support of the measure was Mr. Irving Senzel, Assistant Director for Legislation, Bureau of Land Management. Mr. Senzel said: "In connection with S. 2253, which is the Middle Rio Grande Conservancy District, we have a recommendation for an amendment, that is, the \$25,000, and then there is a technical amendment also which should cause no problem."

The Department of the Interior submitted a report recommending enactment of S. 2253, if amended as suggested. I would appreciate it if a copy of this report is included in the hearing record.

Before introducing S. 301, Senator Montoya and I considered the amendments suggested by the Department of the Interior. One suggested amendment was technical and S. 301 includes the recommended change in the language. Another amendment recommended by the Department of the Interior was to compensate the United States in the amount of \$25,000. This would amount to about \$10 an acre for the approximately 2,500 acres of land to be conveyed. We felt that the property owners should receive the property that they have believed was theirs for many years and that the acquisition cost should be minimal. If the property owners had not paid for the works of the Middle Rio Grande Conservancy District, the public lands would be either bosque, swamp or marsh and of little or no value.

The last amendment recommended by the Department was to delete the words "or immediately adjacent thereto" which appeared in Section 4 of S. 2253. This amendment was recommended to prevent expansion of the scope of the legislation. Since we intend only to correct title problems within the Conservancy District, not unidentified areas outside of the district's boundaries, we agreed and these words do not appear in S. 301.

Mr. Chairman, You will recall that you were kind enough to schedule hearings on this bill on September 11, 1975; however, at the request of the Bureau of Land Management, I asked if the hearing could be postponed. Since that time, my staff has met with representatives from the Bureau of Land Management.

It appears that the Bureau of Land Management has changed its views on the proposal. First, they indicate that the Conservancy District map is not adequate and they feel that there is need for a cadastral survey. The Middle Rio Grande Conservancy District became involved when some of the land was going to be sold by the Bureau of Land Management in Socorro County in 1967. The Conservancy District was advised at that time that they should be used as the political subdivision of the state for a conduit of title to the people who had believed that they had owned the land and possessed and paid taxes on it for many, many years. The District agreed. The bill applied only to lands in the Conservancy District since the District was formed in the late 1920's and at that time all property ownerships were determined and were listed on Conservancy District maps which, I am informed, have been kept up to date with reasonable accuracy. The property has been taxed and in some cases deeded to the state for non-payment of taxes and repurchased from the state.

It does not appear to me that a quitclaim deed of 0.02 of an acre or 0.01 of an acre or 0.50 of an acre would require a cadastral survey. The cost of this type of a study would be an extremely costly project at taxpayers expense. I feel that enactment of S. 301 would authorize the Secretary of Interior to convey these lands at a minimum expense to all concerned with a reasonable benefit to the United States.

Mr. Chairman, I have a list of the properties involved and I would like to submit a copy of this for the committee's review. You will see that there are three categories of acreage:

First, occupied federal lands in the Middle Rio Grande Conservancy District owned by others. This acreage includes 659.18 acres of river bed and river flood channel of the Rio Grande and identifies the privately claimed ownerships of individual tracts.

Second, occupied Federal lands in the Middle Rio Grande Conservancy District owned by the Middle Rio Grande Conservancy District. By this is meant that acreage which is presently occupied and utilized by the Middle Rio Grande Conservancy District for its rights-of-way and easements, for rains, irrigation ditches and river levies.

Third, occupied Federal lands in the Middle Rio Grande Conservancy District which are utilized or ownership is claimed by the state, county, or Federal Government.

Senator HANSEN. Mr. Russell, if you would be good enough to return to the witness stand, we would be pleased to hear such further comments, observations, and testimony that you would like to provide.

Mr. RUSSELL. Mr. Chairman, there are just a few observations I would make. One is it seems like the only objection made by the Department of the Interior is one of "precedent setting." I would point out, one more time for the record, that this is a unique situation both from the position that the Department of the Interior has clearly stated that they have no plans, present or future, for taking advantage of the reservation of right-of-ways for ditches and canals. And, two, this is obviously based upon the unusual topographical feature in that overlook retreat is at the basin of a rather substantial valley which would make the use for ditches and canals impossible or prohibitive.

My clients, Mr. Johnson and Mr. Richardson, have already invested \$50,000 in putting in the improvements necessary to qualify this subdivision. Now they're faced with another \$30,000 investment if we fail to get this reservation removed. However, there is an advantage to the residents of the State of Wyoming, in addition to the advantage to my client. As the chairman is aware, but I would like it placed in the record, 55 percent of the entire State of Wyoming is owned by the Federal Government. By the time you add to that the real property owned by the State, you'll approach 70 percent. Many of the people in Wyoming would dearly love the opportunity to own some real estate in a mountainous area for cabin purposes. They are deprived of the possibility, simply because none exists. Here, we're talking about a piece of property on which almost 100 sites exist. And under the present circumstances, they just can't buy it. As I stated previously, there are 20 or 30 people, at present, who would snap up the first opportunity to buy a site in this beautiful valley.

Now, when the statute of August 20, 1890, was passed, there were some unfortunate and unpredictable results. And this is one of them. Now, it was unpredictable in 1890, and it was unpredictable on August 29, 1975, when the U.S. Department of Interior, by letter signed by George Lea, Director, stated that many of the cities and subdivisions of the West are built on lands containing this reservation. And, it has not seemed to deter past developments which could now be an obstacle of the subdivision. Obviously, when this letter was written, they didn't see the problems involved. Both the Department of Interior and HUD say they wish they could but they can't. And in a letter dated September 29, 1975, Mr. Lea stated there is no way known to remove the ditches and canals reservation from the land patent issued here to your clients, predecessor, and interest.

It is unfortunate that there is no action we can take. HUD says, we would love to give you the exemption. Interior said, we would love to put you in the position to obtain the exemption. But neither of the Departments seems able to do that. That is why I am here today

to ask the assistance of the Senate Interior Committee, and ultimately, the assistance of the Senate, and ultimately the assistance of the entire Congress, to provide us with a remedy; to provide us with some assistance so that we can develop this land in the snowy range in Carbon County, Wyo.

I am submitting for the record a written statement which provides some information which I have not been able to provide verbally. I would ask your favorable consideration and assistance in passage of this bill.

Senator HANSEN. Thank you very much, Mr. Russell.

You've actually been on this land?

Mr. RUSSELL. I have seen the land; yes, sir.

Senator HANSEN. And from your knowledge of it, there is no way that you can envision that the Federal Government would ever want to exercise the rights that it has retained that are the subject of the legislation before us now?

Mr. RUSSELL. No, sir; there would be no way.

Senator HANSEN. And, is it true also, insofar as you understand, that the Regional Director of the Bureau of Land Management shares that view?

Mr. RUSSELL. The only way I have of knowing that is from the letter of the Department of the Interior which is in the record.

Senator HANSEN. I think I misspoke myself. Did the Bureau of Reclamation, in its regional office, indicate that with respect to this specific tract of land, it could not envision any occasion arising wherein it might choose to exercise the rights that have been retained by the Federal Government?

Mr. RUSSELL. Without question, Senator. November 11, 1975, U.S. Department of Interior, the lands Mr. Richardson proposes to develop for mountain cabin sites are located in sections 14 and 15, township 17, north range 80 west of the sixth prime meridian. It's principally of Carbon County, Wyo.

They went on further to describe it. We have no authority to remove the reservation provided for in that act, however, our regional office in Denver advises that the lands are not included in any Bureau plans for present or future reclamation development.

Senator HANSEN. Thank you very much, Mr. Russell. There may be questions that members of the committee or the subcommittee might want to submit in writing later. I suspect you will be here. Perhaps there might be occasion to call you back to the witness stand, but at the present moment, if you have completed your statement, I have no questions.

Thank you very much for your appearance here.

[The letter from the Department of the Interior, dated November 11, 1975, follows:]

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF RECLAMATION,
Washington, D.C., November 11, 1975.

HON. CLIFFORD P. HANSEN,
U.S. Senate, Washington, D.C.

Dear SENATOR HANSEN: This supplements our letter of October 30, 1975, which responded to your October 20, 1975, inquiry regarding the status of lands owned by your constituent, Mr. William D. Richardson.

The lands Mr. Richardson proposes to develop for mountain cabin sites are located in sections 14 and 15, T. 17 N., R. 80 W. of the sixth principal meridian, Carbon County, Wyoming. This tract of land is situated near Turpin Reservoir which is owned and used for irrigation by ranchers below the reservoir. The land is subject to the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945). As we pointed out in our letter of October 30, 1975, we have no authority to remove the reservation provided for in that act. However, our regional office in Denver advises that the lands are not included in any Bureau plans for present or future Reclamation developments. If Mr. Richardson needs further information, we suggest he contact our Regional Director, Bureau of Reclamation, Department of the Interior, Building 20, Denver Federal Center, Denver, Colorado 80225.

Sincerely yours,

D. D. ANDERSON,

Acting for G. C. Stamm, Commissioner.

Senator HANSEN. Next, we will call on George L. Turcott, the Associate Director of the Bureau of Land Management, to testify on behalf of the Department of Interior.

Mr. Turcott, would you like to identify those persons who are accompanying you there at the witness stand?

Mr. TURCOTT. Thank you, Mr. Chairman. Good morning.

On my left is Eleanor Schwartz, Chief, Division of Legislation and Regulatory Management, Bureau of Land Management. I'm the Associate Director of the Bureau.

On my immediate right is Rolla, R-o-l-l-a, Chandler, Chief, Division of Lands and Realty, Bureau of Land Management.

And on my furthest right, John McHale, Assistant Solicitor for Lands, Department of the Interior.

Senator HANSEN. If you would be kind enough to, inasmuch as we've just heard from Mr. Russell, Mr. Turcott, would you testify first on S. 2837, the bill I have introduced, to address the problem. It was the subject of the testimony given by Mr. Russell.

STATEMENT OF HON. GEORGE L. TURCOTT, ASSOCIATE DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY ELEANOR SCHWARTZ, CHIEF, DIVISION OF LEGISLATION AND REGULATORY MANAGEMENT, BLM; ROLLA CHANDLER, CHIEF, DIVISION OF LANDS AND REALTY, BLM; AND JOHN McHALE, ASSISTANT SOLICITOR FOR LANDS; DEPARTMENT OF THE INTERIOR

Mr. TURCOTT. I have a brief statement, sir.

S. 2837 would amend the act of August 30, 1890, as amended to except certain lands in Carbon County, Wyo., from the provision of the act requiring that patents for lands west of the 100th meridian contain a reservation to the United States of a right-of-way for ditches and canals. The lands in the bill comprise approximately 130 acres.

We recommend that the bill not be enacted.

The land in question was conveyed into private ownership by patents issued around the turn of the century. Pursuant to the act of August 30, 1890, both patents contained a reservation to the United States of a right-of-way for ditches and canals constructed by authority of the United States.

The 1890 act requires that such a right-of-way be reserved in all patents taken up after August 30, 1890, under any of the public land laws or on certain entries or claims west of the 100th meridian. The lands are located within the exterior boundaries of the Medicine Bow National Forest.

The present owner of the land has indicated that he wants to develop the property for sale of cabin sites. Our preliminary information indicated it appears that he wants to subdivide and sell less than 50 lots for this purpose. And as indicated by Mr. Russell, that preliminary information is not correct. So I stand corrected on that, sir, as to whatever it is, 97 lots or whatever.

However, he indicates that compliance with new requirements imposed upon such sales by the Department of Housing and Urban Development, pursuant to the Interstate Land Sales Total Disclosure Act might cost \$30,000, and that his gross sale would amount to less than \$50,000.

Further, the owner has indicated that under the HUD regulations, if his title is free of any liens or encumbrances and less than 50 lots are involved, he may apply for an exemption from registration and avoid the \$30,000 cost. He claims that HUD has informed him that in order to qualify for this exemption, the reservation to the United States of a right-of-way for construction of ditches and canals must be removed.

Again, the 50 lots or the 97-lot correction is involved.

We have been advised by HUD that the sale of subdivisions of less than 50 lots would be exempt regardless of encumbrances in any event, under the Interstate Land Sales Total Disclosure Act.

But the basic principle of the BLM is that thousands of acres of land have been patented since 1890 with the subject reservation to the United States, and development on these lands has taken place despite the encumbrance. Enactment of S. 2837 would set an unfavorable precedent for the many existing similar situations throughout the western United States.

Reservations for ditches and canals would serve a definite public purpose, and it is in the public interest to retain them. If the title restrictions under the 1890 act were to be deleted, as under S. 2837, the United States might eventually be forced to buy back easements necessary for ditches and canals at a later date.

We cannot predict what future needs for such systems will be. Thus, if we give up these reservations, the United States may be forced to reacquire them at appreciated and inflated prices when the specific needs arise.

We see no special circumstances or equities in this case. We have no indication that the situation is unique to the land in this case but, rather, is rather a common one found throughout the West. The removal of the reservation by private legislation is not an appropriate remedy.

Now, since this does involve another Department, we do have here today from HUD, to help answer questions with respect to their resolution and as to the law, a man named Peter Race who is an attorney with HUD.

Senator HANSEN. Peter Grace?

Mr. TURCOTT. RACE. R-a-c-e, sir.

That concludes my statement.

Senator HANSEN. Thank you, Mr. Turcott. Mr. Race, we'd be very pleased to hear from you. As the Associate Director has already observed, apparently, there was a misunderstanding between Mr. Russell speaking for and on behalf of Mr. Johnson and Mr. Richardson, and the BLM insofar as the number of lots that are concerned which are proposed to be sold.

I believe there is agreement now—would I be right in concluding this, Mr. Turcott—that with the clarification that Mr. Russell has now provided, there is a joint venture. And Mr. Johnson and Mr. Richardson propose to sell 97 tracts of land. And as a consequence, that sale with that many tracts included in it, would not qualify for the exemption that earlier was presumed to be available to his clients?

Mr. RACE. Yes, sir.

Senator HANSEN. Your response is, yes?

Mr. RACE. Yes. My name is Peter S. Race. I am an attorney with the Office of General Counsel, Department of Housing and Urban Development.

We just learned of this bill coming up for the committee's inquiry, yesterday. My purpose in being here is to assist the committee in anyway we can in any explanations of the Interstate Land Sales Full Disclosure Act, and to answer any questions the committee might have on that act.

If you wish, I can discuss it briefly for you.

Senator HANSEN. Well, that might be helpful if you would like to.

Mr. RACE. Well, basically, the Interstate Land Sales Full Disclosure Act was an act passed by Congress and which went into effect in 1969. The purpose of the act is to give information to a prospective purchaser so they can be fully informed when they buy lots from a land developer.

And in doing this, what is called a property report is given to a prospective purchaser, giving information about the lot and the subdivision so that he can make an informed decision in his buying.

There are certain exemptions to the disclosure requirement of the act. There are a number of statutory exemptions. One of which we've mentioned today which is the 50-lot exemption. There are other regulatory exemptions enacted by the Secretary pursuant to her regulatory authority.

An example of that is found in 24C of R1710.14 which is a regulatory exemption for less than 300 lots. For the sales and promotions are limited to the State in which subdivision is located. The exemption in question here today, is a statutory exemption which requires review by the Secretary. A statutory exemption is found in 15 U.S.C. 1702.10. Basically, this exemption is available when the sale or lease of real estate meets the following requirements:

(1) At the time of sale or lease, the real estate is free or clear of all liens, encumbrances, and adverse claims.

(2) Each and every purchaser has made a personal on-the-lot inspection of the real estate prior to signing a contract to purchase or lease.

(3) The developer submits his written affirmation to that effect in a format required by the Secretary.

(4) The developer has filed with the Secretary a claim of exemption.
 (5) The developer has obtained from the Secretary approval of the form and content of a statement of reservation, restriction, passes, and assessments.

(6) Prior to the sale or lease, the developer furnishes each purchaser with a copy of that statement.

(7) Within 31 days after the expiration of the calendar year in which the sale or lease is made, the developer files with the Secretary, copies of each acknowledgment statement together with the developer's affirmation and a copy of the sales contract.

Since this is an exemption from the disclosure requirements of the act, it is strictly construed, by the Secretary, like any exemption from the act, developers are relieved from the registration, and thereby, from making full disclosure to a prospective purchaser.

A statement of reservations, restrictions, taxes and assessments does not afford a purchaser an accurate picture of the title, nor is any information whatsoever with respect to proposed facilities and availability of utilities provided the purchaser.

Further, while an on-site inspection may reveal certain obvious physical characteristics about the land, it does little to indicate the intentions and capabilities of the seller, and does not necessarily enable the purchaser to determine whether the property is suitable in the purpose for which it is purchased, and what cost might be involved.

For that, this reason to begin, the Secretary construes this exemption very strictly. We would generally be opposed to any amendment which would proliferate the number of subdivisions eligible to avail themselves of this exemption and to avoid the disclosure requirements of the Federal law.

That concludes my statement.

I have one other brief remark in relationship to the previous testimony by Mr. Russell in which he indicated that he felt it would be a cost of approximately \$30,000. He indicated he got that information from the Office of Interstate Lands Sales Registration over the telephone.

I believe that that figure is very excessive. The cost of registering between 50 and 100 lots, as required by the Interstate Land Sales Regulations, the cost of filing is \$350. Any cost above that would be the cost incurred in attorneys fee or in accumulating any information he needs.

And, again, that figure seems very excessive to me.

I know that we have many developers that make their own registrations themselves without even going to an attorney. So, it is possible to do that.

Senator HANSEN. Thank you, Mr. Race. Mr. Turcott, are there any other persons from whom we should hear?

Mr. TURCOTT. No, sir. I believe we have enunciated our principles here. I have just one more comment to make. More in layman administrative language than in legal because I am not an attorney. There are hundreds of subdevelopments that have occurred in the intermountain west in the last several years. I am thinking in terms of my home State of Nevada, and those developments around Reno

and Las Vegas, where I know that the original patent to any private land has this reservation in it. And, in fact, some of the areas have been acquired, as far as the land is concerned, through fair exchanges with the Government in the last 20 years. These conveyances have reservations. And there hasn't been any trouble here.

It just seems to me, that there is no reason why we should make an exception to give up a right of the United States, especially since we can't predict what might happen on any canal or ditch. When there is a problem, then a prudent realty developer, apparently, can resolve it through Housing and Urban Development.

And that's my point.

Senator HANSEN. Thank you, very much. I understood you to say, essentially, that if the resolution is deleted, the United States might eventually be forced to buy back easements.

How does this statement relate to the provisions of the Act of September 7, 1964, 43 U.S. Code 945a, which requires the Interior Secretary to pay just compensation to owners of land used for canals and ditches, even if reserved under the 1890 Act?

Mr. Turcott, Mr. Chandler, would you speak to this, and then maybe Mr. McHale.

Mr. CHANDLER. As I understand your question that relates to the compensation for improvements, but not for the land, it's the land that we are concerned with.

Senator HANSEN. Doesn't it include a severance of damages? May I read the appropriate statute to you.

"Compensation for right-of-way for certain reclamation projects, notwithstanding the existence of any reservation right-of-way to the United States for canals under Section 945 of this title."

That's the 1890 Act, or any state statute.

The Secretary of Interior shall pay just compensation including severance damages to the owners of private lands utilized for ditches or canals in connection with any reclamation or any unit of a reclamation project, provided the construction of said ditches or canals commence after January 1, 1961. And such compensation shall be paid, notwithstanding, the execution of any agreements or any judgment entered in any condemnation proceedings prior to September 2, 1964.

Mr. TURCOTT. Well, what it does to me, again, as a layman, what that says is the right-of-way still exists, but there will have to be a payment made by the United States if they opt under its right-of-way to act—

Senator HANSEN. Well, the point I'm trying to make, Mr. Turcott, is that your statement says, as far as I recall, your initial statement. You said that the U.S. might be eventually forced to buy back easements. Now, maybe you're trying to draw a very fine line of distinction between an easement and severance damages. But it seems to me that it really gets down to—

Mr. TURCOTT. Let me put it this way. We may have to stand corrected in terms of the Senator's research into the area. And I would like to have our solicitor's office come back with an assessment of what we said in our statement as it relates to your question.

Now, whether or not the statement I made is correct or not, at least we will explain it. I am not sure, but it may be that your research is better than mine.

Senator HANSEN. I haven't been on this particular site or tract, but it does occur to me that Mr. Johnson and Mr. Richardson, based upon what they have been told, have a legitimate concern in trying to get a specific bill through. I appreciate your concern that it may be precedent setting.

Oftentimes, as I recall, the few years I've been in Washington, that in order not to create a precedent, we'll include some language in the legislative history of a bill saying that this doesn't establish any precedent.

But, I have to think that there is merit in looking at a specific case. And if we find that case to be meritorious to provide, by law, through the passage of a private relief bill, as I suspect this one might be identified in the legislation, which would recognize that contrary to the normal procedure we do make that exception in this case.

I would personally believe that this would not be the sort of precedent that would provide substance and persuasion later to say, well, wipe out the entire Act, necessarily.

I would ask you, do you find any merit in the distinction I am trying to draw in this instance, and the fear that you have that it may let the bars down to wipe out the entire effect of the 1890 Act?

Mr. TURCOTT. Well, Senator Hansen, the many times we've come up here on all kinds of special relief legislation, I won't answer, specifically, sir. If I might, let me answer with a kind of principle I have.

Congress, for good reason in the year 1890, passed a law that applied west of the 100th meridian. The Congress and the rest of the country understood what the development of the far west was going to take with respect to irrigation. Here, they were disposing of hundreds of thousands of acres each year of land on which they might have to come back and reacquire easements and rights.

So, they passed this law. This is a type of law that the executive tries to favor, because it has worked in the past. Now, if it's the will of Congress to modify the law in this case, in terms of the specifics of this particular case, then that's the will of Congress and we accept it.

Senator HANSEN. Thank you, Mr. Turcott. And let me say, I don't mean to apply any criticism at all of the position that you have enunciated on behalf of the Department.

I might observe that sometimes, these old laws cut both ways. I remember the 1872 Mining Act which I thought was rather precise in spelling out rights and going on the public domain and finding a lode, or whatever, established; and certain rights, as I have been told, secured subsequent rights for them to take as an example.

And, I guess what I am saying is it seems as though the Congress in 1964 did recognize the justice that would flow from its actions if it were to move in on certain lands and exercise the right to use an easement which had been retained under the 1890 Act. And, tried to treat the several landowners fairly.

We may be just subjected to that 1890 Act by saying that despite any reservation, or whatever, notwithstanding, they would still be entitled to damages or payment for injuries that they may have sustained.

Would you identify yourself.

Mr. McHALE. I'm John McHale from the Solicitor's Office.

Senator HANSEN. With the Interior?

Mr. McHALE. Interior, yes, sir. With respect to the point you made, that is true. There would be compensation paid and probably it wouldn't mean much difference so far as the payment would be concerned. But that's for reclamation. And the reservation for ditches and canals is broader than that because it preceded the reclamation law.

So, if BLM was to use it, there is a question as to whether that later statute would be applicable. We haven't looked into this, so I can't tell you.

One other point I might make. If a bill like this were enacted to afford relief for an individual, I don't think it would be appropriate to amend the general statute as this bill would.

Senator HANSEN. You say this bill would amend the general—

Mr. McHALE. I haven't got the text of it in front of me, but as I recall it, it's to amend the 1890 Act.

Senator HANSEN. I'm not sure, but I don't believe—it certainly wasn't my intention to try to amend the 1890 Act, but rather to make a single exception to the thrust of that act with respect to the acreage that is included in the bill. Is that your understanding, Director Turcott?

Mr. McHALE. The bill reads to amend the act of 1890 to except a tract, so you would have it incorporated into the general statute. And it would appear in the code.

Senator HANSEN. That's a good point that you make, Mr. McHale. And, if that is your concern, it would seem it's a rather legitimate one. I think that's an error in drafting on my part, and we'll take note.

Mr. McHALE. It might be better to provide that upon a finding, if you wanted to go this way, that if it were no longer needed, then the Government could relinquish it.

Senator HANSEN. What I really intended to, and obviously failed to accomplish, was to point out that by virtue of the topography of this particular tract and the contiguous lands, that might be irrigable later on, then there is no reason, and apparently, the Bureau of Reclamation has indicated they have no plans presently in effect nor in the foreseeable future that would contemplate the exercise of their rights to use the easements that had been retained.

And I appreciate, very much, what you say, and we'll try to make some changes in the bill that is before us, and maybe that will help resolve the problem.

Director Turcott, have you anything further?

Mr. TURCOTT. No, sir.

Senator HANSEN. Thank you all very much. I appreciate your presence here, Mr. Race, and those other members.

Did anyone else have a statement?

Mr. TURCOTT. No.

Senator HANSEN. If I may, there are other bills, I think, that you may be testifying on. And if you would be good enough to, I would like to solicit your submitting them for inclusion in the record.

Mr. TURCOTT. Yes, sir.

Senator HANSEN. And I think maybe that would afford the subcommittee a better opportunity to know in full what you are testifying to, and to permit questions that might be suggested to you in writing, and including your responses as part of that record.

Mr. TURCOTT. Yes, sir. We have a whole set for the staff.

[The prepared statements of Mr. Turcott on the legislation before the subcommittee follow:]

STATEMENT OF HON. GEORGE L. TURCOTT, ASSOCIATE DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

S. 101

S. 101 would direct the Secretary of the Interior to convey all interest of the United States in a 68-acre tract in Geary County, Kansas, to Margaret G. More. The tract in question is identified as No. 37 in "special section 13".

The Fort Riley Military Reservation, Kansas, was created by Executive Order in 1855. The Republican River flows through that portion of the military reservation.

By Joint Resolution of Congress, approved in 1867, the channel of the Republican River in this locality was fixed as the southern boundary of the Fort Riley Military Reservation and the lands south of that river, formerly within the reservation, were granted to the State of Kansas to aid in the construction of a bridge over the Republican River. Subsequently, the lands eliminated from the reservation by that resolution were surveyed, as shown upon a plat approved in 1868. Those lands were patented to the Republican River Bridge Company in June 1868.

The lands in this township which were patented to the bridge company are shown on the plat approved June 19, 1868. The area south of the Republican River in the vicinity here involved is "special section 13" of the township.

The records indicate that beginning about 1903, the Republican River accreted additional lands to the Fort Riley Military Reservation by process of erosion from the right (south) bank of the river and accretive deposits of soil to the left (north) bank of the Republican River, thus forming a large oxbow. This action is well documented by a sequence of aerial photos and maps dating from that period. Since this area is adjacent to Fort Riley there are exceptionally early aerial photos and maps available. The military also has stated it used the area within the loop for maneuvers and other military purposes until the land was severed by an avulsion.

In the spring of 1945 by a sudden avulsive action, the river changed its channel and severed this land from the Reservation by creating a new channel across this oxbow loop.

In 1959 the land was declared by the Department of the Army to be excess to its needs. The Department of the Interior and the General Services Administration determined that the excess land was suitable for return to the public domain because it had not been substantially changed in character. It was transferred to Interior for administration by the Bureau of Land Management. It was surveyed as Tract 37.

This area is not carried as such upon the tax rolls of the County Clerk, Geary County, Kansas. No claim to this land by the Republican Bridge Company or anyone claiming under it was brought to the attention of this Department until notice of proposed sale of the land by the Bureau of Land Management to the State of Kansas was published.

In April 1966, the BLM classified Tract 37, under the Recreation and Public Purposes Act of June 14, 1926, as amended, with other lands, for sale to the Kansas Forestry, Fish and Game Commission. The classification report states that the subject tract is suitable for and needed to provide undisturbed nesting cover for game birds.

Notice of sale was published in the Junction City Republic, Junction City, Kansas.

In August 1966, an objection to the sale of tract 37 was filed by attorneys on behalf of Mrs. Margaret More, on the grounds that Tract 37 appeared to be a tract of land located on some lands owned by Mrs. More, that originally this land was patented to the Republican River Bridge Company and it in turn platted the land in about 1868; that Mrs. More, through her predecessors in title, has continuous title from the Republican River Bridge Company to herself to lands which included the portion of the Republican River Bridge Company plat included in Special Section 13. They stated further that their client's family had owned and farmed the land, except for the portion that was covered by trees, for a period in excess of 20 years.

Mrs. More's protest was dismissed by the BLM's Wyoming office on the grounds that the land had become a part of the withdrawn public land in the Fort Riley Military Reservation. An appeal was taken to the Director. However, in the interim, Mrs. More initiated action against the Secretary in the United States District Court for the District of Kansas. The court proceeding was suspended by stipulation and a color-of-title application filed by the plaintiff.

The color-of-title application was subsequently rejected because withdrawn lands are not subject to disposal under the Color of Title Act.

The subject lands are a part of a $1\frac{3}{4}$ -miles by $\frac{1}{4}$ mile wide strip of alluvial sand deposit lying between the Republican River and "City Route 77" commencing just north of the city limits of Junction City, Kansas (pop. 22,000). The More Sand Company now produces sizeable quantities of commercial sand (used principally in concrete masonry, etc.) from a series of pits all located $\frac{1}{4}$ to $\frac{3}{4}$ mile southeast of the subject land in the same strip. The sand business has been operating in the strip for 18-20 years according to local residents.

This strip is essentially the only river sand site available to the Junction City area and to the extensive Fort Riley military installation which dominates the economy of the Junction City community and Geary County.

The entire strip is now zoned as Heavy Industrial-B and is designated specifically for the production of "Rock, Gravel, Sand and Clay."

There is no legal access to the land. Exit points from alternate route #77 are located near the southeast and southwest extremities of the subject tract. Any legal access to the tract would have to cross several feet of private lands owned by Margaret G. More. Kansas law provides for establishing such access in the event landlocked tracts warrant such action.

The area has good potential for game bird production. The fact that it is fairly close to town might restrict hunting somewhat. However, wildlife produced in the area would disperse along the river and could be hunted elsewhere.

Of at least equal significance is the river access this parcel would afford. There are reported to be not many miles of "public" river in Kansas. The property therefore has significant public recreation values.

If the land were conveyed to the State under the Recreation and Public Purposes Act in accordance with its classification, the United States would retain the minerals and the right to develop them.

The Geological Survey has reported that the land involved is prospectively valuable for oil and gas. There is some oil production in Geary County; however, the nearest oil field is 12 miles to the east.

We know of no reason to grant the land to Mrs. More; and because of the public values in the lands, we cannot recommend that it be sold to her. We therefore recommend against enactment of S. 101.

S. 155

S. 155 would direct the Secretary to convey all right, title, and interest of the United States in lands in Scotts Bluff County, Nebraska to Robert L. Summerville, without payment of consideration.

S. 155 is an effort to resolve a long-standing dispute between this Department and the Summervilles relating to the title to the land in question, an island in the Platte River, Nebraska. We recommend that the bill not be enacted. We know of no circumstances which would warrant disposing of the

interest of the United States in the subject property through private relief legislation.

The facts in this matter are rather complex.

The land involved was originally surveyed in 1877. The island was not shown on the original survey. The Summervilles' predecessors to the riparian lands received their patents between 1890 and 1918.

The land was resurveyed in 1935. At that time the island was in existence and included in the survey. The surveyor felt that the evidence indicated that the island had been in existence at the time of the original survey despite the fact that it was not mentioned. That is the position of the United States.

Around 1940 an attempt was made to enter the island under a homestead entry. The Summervilles protested claiming ownership. This Department denied the homestead entry on other grounds, but advised the Summervilles that it was our position that the lands were public lands.

In 1966 the island was patented to Scotts Bluff County, Nebraska, under the provisions of the Recreation and Public Purposes Act. The Summervilles brought an action in State court against the United States and the County claiming title to the land. The action against the United States was dismissed because of lack of jurisdiction. The Nebraska Supreme Court held that between the Summervilles and the County, the Summervilles had the right of possession. The County subsequently quitclaimed any interest it might have to the United States.

The Supreme Court holding was based on a factual conclusion that the island had formed after the original survey.

The Supreme Court of Nebraska acknowledged that it was deciding the ownership issue between two private individuals, each of whom derived title from a patent of the United States. It was not deciding the matter of the rights or title of the United States. This Department has always taken the position that the island is public land, and we know of no reason to change that position.

Furthermore, the bill grants all of the right, title, and interest of the United States in this land. This is more than the Summervilles would have if the island were simply recognized as accretion to the riparian lands. The original patent to part of the riparian lands owned by the Summervilles contained a reservation of a "right-of-way for ditches or canals constructed by authority of the United States." The proposed bill would not retain this reservation.

The reservation for ditches and canals serves a potential public purpose. Similar reservations are found in hundreds of patents issued by the United States. Releasing the reservation would not only establish a dangerous precedent, but might put the United States in a position of having to repurchase the right if the need for ditches and canals arose in the area. Changing land conditions may warrant such use in the future although the need may not exist at the present moment. The philosophy and Congressional direction which generated the inclusion of the reservation has not changed.

Another objection to this bill is that it grants the land in question to Robert L. Summerville of Scotts Bluff County, Nebraska. Presumably Mr. Summerville is the proper grantee and the owner of the riparian rights. However, it might be that others also have the same or similar interest in or claims to the island that Mr. Summerville has.

Since the Summervilles were successful in the State Supreme Court, and the County quitclaimed its interests in the subject lands to the United States, we assume that the Summervilles are in possession at this time. We know of no special circumstances which led to introduction of S. 155 at this time, when it is clear that the Summervilles have been aware of the claims of the United States at least since 1940.

S. 301

S. 301 would authorize the Secretary of the Interior to convey at a discounted price approximately 2,500 acres of public land to the Middle Rio Grande Conservancy District, a political subdivision of the State of New

Mexico. The Conservancy District would in turn convey these lands at a reduced rate to qualified applicants described in the bill.

This bill is similar to S. 2253 in the 93rd Congress, and other bills in earlier Congresses.

We have in past years recommended a favorable report if certain changes were made in the bill. However, as a result of a reevaluation of the whole situation, we cannot support enactment.

We have had opportunity recently to look at more lands and occupants than was possible previously. Through our inventory and planning systems, which we have been developing and perfecting over the period this legislation has been under consideration, we have been addressing the general trespass problem in New Mexico. We see for the first time the magnitude of the problem, and that past concepts of it have been incomplete and perhaps wishful. We are convinced that the problems in the Middle Rio Grande Conservancy District are not unique or different from problems encountered in other parts of New Mexico. They should not be handled as such.

The Department does not need additional authority to resolve existing occupancy and status problems. The Small Tract Act, Color-of-Title Act, Public Sale Act, and Recreation and Public Purposes Act supply sufficient authority to resolve all questions involved.

There is no way short of land survey to describe the tracts that are occupied and in use and to separate them from the unoccupied and unused tracts. The Conservancy District maps are wholly inadequate for this purpose and for patent purposes. They leave boundaries unfixed on the ground. The use of these maps to pass title will not settle title problems because the descriptions are not adequate for retracement. Title based on Conservancy District maps would give a false sense of security to purchasers as to the value of their title. Boundary disputes between "landowners" would be protracted and indeterminate without such a cadastral survey.

There never has been a complete inventory of the occupancies by BLM or anybody else. Without knowing who the occupants are, there is no way to know who are the beneficiaries of the legislation. We cannot substantiate the statement that most of the lands are occupied. Neither can we substantiate that all of the occupied lands have been occupied for generations, many predating the acquisition of the territory by the United States. Many occupancies are recent in origin.

Without a complete inventory, there is no way to know the actual value of the tracts. Without the inventory, there is no way to know the actual acreage involved, or the actual uses, or the public values which might be yielded.

We know of no basis for the \$5,626.45 price specified in the bill. The lands covered by the bill may have a value of upwards of \$5,750.00. Conveying the lands at a token price would set a dangerous precedent which would soon be pursued by other unlawful occupants of national resource lands.

The lands are in two withdrawals—for reclamation and for power site purposes.

This legislation may be contrary to Federal flood plain law and policy.

Other problems with the bill are discussed in the Department's report. I will not detail them at this time.

In short, the legislative "solution" to the problem proposed by S. 301 would, through a short-range device, attempt to solve a long-term and complicated problem. Instead, it will create many new and, possibly, more vexing problems.

A better approach would be for the Department to develop a program that would resolve each case on its own facts and merits and provide a long-term solution for the issues.

S. 1365

S. 1365 would authorize the Secretary of the Interior to transfer to the city of Haines, Alaska, all right, title, and interest remaining in the United States to certain lands and improvements in the city of Haines. No conveyance of such land would be made unless the City makes certain assurances to the satisfaction of the Secretary. Further, after such assurances are made, and as consideration for the conveyance, the City would agree that any

alternate property acquired or buildings constructed would vest in the United States if such new property is not used for public purposes.

We would have no objection to enactment of S. 1365 if amended as suggested in our report.

The land in question, about 30,746 square feet, consists of several tracts, all conveyed to the city of Haines pursuant to the Act of August 30, 1950.

The Act of August 23, 1950 (64 Stat. 470) directs the Secretary to convey to local officials all right, title, and interest of the United States to any parcels and improvements thereon for school or other public purposes, whenever he determines that the lands or improvements are no longer required by the Alaska Native Service for school purposes. The Act requires a reservation of minerals to the United States, together with the rights to prospect for and remove them and provides that the lands and improvements can be used for school and public purposes only. Finally, it provides that if the Secretary determines that the grantee has failed to observe the foregoing restrictions for a period of at least one year, he may declare a forfeiture of the grant, and the lands and improvements would revert to the United States.

A deed for the lands described in S. 1365 was issued to the city of Haines on March 19, 1953. It quitclaimed the land to the City subject to all "terms, conditions, and limitations and reservations" in the 1950 Act. Although the land has been used for several public purposes, we understand that it is in a residential area and no longer appropriate for public use. The City would like to sell the land and use the receipts to construct a building or purchase land to be used for public purposes.

Although conveyance of the land in question would not directly affect any programs or operations of this Department and we know of no expression of interest in the land by other parties, we believe that the bill as presently drafted would defeat the purpose of the 1950 Act which was to grant land as well as improvements, to the City, not to provide a source of private profit or municipal revenue. The 1950 Act and the patent thereunder are broad, in that the lands may be used for any public purposes.

We believe it would be preferable for the land to revert to the U.S. and if unsuitable for return to the public domain to be disposed of through routine GSA procedures. However, in recognition of the City's land use planning objectives and needs, we would not object to enactment of S. 1365, if amended as we suggest in our report to preserve a Federal interest in land in Haines. Our amendment, like the 1950 Act and deed, would reserve the mineral interests to the U.S. Proceeds from the land could be used only to acquire other land.

The State and City may also wish to examine the possibility of reconveyance of the property to the United States, and subsequent selection by the State for the purpose of reconveying the land to the City without any reversionary restriction or requirements. If so, the Department will look into the matter to determine if this approach could be used on the tract in question.

S. 1872

S. 1872 would expand the exterior boundary of the Cibola National Forest in New Mexico to encompass specified lands including private State and Federal lands. The Department has no objection to transfer of public domain lands described in paragraph 1 or 2 of Section 1 of the bill to the administration of the Cibola National Forest. The Forest Service is in a better position to manage this area.

The 4,556 acres described in paragraph 1 were set aside and withdrawn by Executive Order in 1870 as Fort Wingate Military Reservation. Fort Wingate was at one time a part of what is now Cibola National Forest, but has continuously been used by the military even while within the forest boundary. These lands have value for recreation and timber production.

The Army Corps of Engineers which has administered the area has declared the land excess to its needs, and the lands have been found suitable for return to the public domain. The tract is bounded on the east and south

by Forest Service lands, on the west by Indian lands, and on the north by Fort Wingate. Transfer of the tract to the Forest Service would not affect any Department programs or operations.

Most of the 14,476 acres described in paragraph 2 were reconveyed to the U.S. through exchanges under the Taylor Grazing Act. These lands have value for wildlife, grazing and timber production. The remainder is other public domain and State-owned land. Transfer of the lands covered in paragraph 2 would not affect any Department programs.

We defer to the Forest Service on the lands described in paragraphs 3 and 4, comprising about 7,390 acres of privately-owned lands.

This legislation is necessary because the Act of June 15, 1926 requires Congressional action in order to create or add to an existing forest in the State of New Mexico.

S. 2004

S. 2004 would release a reservation for school purposes contained in a patent issued to the city of Hobart in 1929, for a tract of land identified as Block 10 in the bill, when the City deeds another parcel of land to the Board of Education. The deed from the City to the Board of Education would provide that in the event that this alternate parcel is sold, the proceeds shall be used for educational purposes.

The reservation in the patent from the Federal government to the city of Hobart was required by the Act of May 2, 1890.

The City has indicated to this Department that Block 10 is no longer used for school purposes, that the school on Block 10 was torn down in 1966 and that the property is currently vacant. We have been advised that the Board of Education desires to construct a new high school on a tract of equal value and size owned by the City.

The City, a municipal corporation, is willing to transfer that land to the Board if a new patent free of restrictions could be obtained for Block 10. It appears that the City wishes to use Block 10 for other public purposes.

Although neither the 1890 Act nor the patent contain any language of reverter to the United States for failure to use the property for educational purposes, in our judgment the intent of Congress was clearly that such use be the only one.

This Department generally opposes the removal of reverters or restrictive clauses such as those contained in the 1890 Act and the patent because such removal tends to defeat the purposes of the original grants of lands and encourages local governments to acquire nearby Federal lands and then sell them for a source of revenue. Furthermore, we are not in favor of relinquishing an interest in Federal land without fair consideration.

At the same time, however, we recognize that changing times and conditions may necessitate changes in appropriate land uses. Optimum land use may well be hindered by requiring the continued use of the subject land for educational purposes. The optimum benefit from educational lands may best be accomplished by allowing lands presently required for such use to be utilized for other public purposes in order to acquire more suitable school land elsewhere. However, it has not been demonstrated in this case that the lands already granted for school purposes are not suitable as such or that the tract which the City would make available is more suitable and in line with changed conditions. Further, there is no requirement in the bill that the alternate lands must be used for school purposes.

It is for these reasons that we have stated that we would have no objection to S. 2004 if amended along the lines of the draft submitted with our report on this bill.

Under our substitute bill, the Secretary would convey to the city of Hobart all remaining right, title and interest of the U.S. in Block 10 and issue a new patent thereto when the City has shown to the satisfaction of the Secretary that the lands so conveyed will be sold by the City for fair market value; that lands of comparable value to Block 10, more appropriate for school purposes, will be transferred to the Board of Education for use for school purposes in perpetuity; and that any amount by which the proceeds

for any sale of Block 10 exceed the fair market value of property transferred to the Board for school purposes will be paid to the United States. Once these requirements are satisfied, the city of Hoart, in consideration for the conveyance and new patent, would agree that any alternate property acquired for school purposes will vest in the United States if use thereof for school purposes ceases. The City will include this provision in any document of transfer or conveyance to the Board of Education, and execute a deed to this effect and deliver such deed to the Secretary.

In summary, our substitute draft bill would assist the City and Board of Education to achieve their land use and educational goals while carrying out the purpose of the original grant of lands to the City and preserving Federal interest in lands in Hobart. This draft bill insures that certain additional conditions are met and assurances given before the reservation is removed.

S. 2286

S. 2286 would further amend the Act of June 9, 1906, to authorize the Secretary of the Interior to quitclaim to the City of Albuquerque the reversionary interest of the United States in an additional 2.9 acres of land identified as parcel 1.

We have no objection to enactment.

The Act of June 9, 1906, authorized the conveyance of approximately 640 acres of land to the city of Albuquerque, New Mexico, for park and other public purposes with a reversionary interest in the United States if the property was used for unauthorized purposes. The Act was amended in 1950 to permit sale of up to $\frac{1}{2}$ of the 640 acres upon the condition that the proceeds therefrom be used for the construction of a public auditorium.

Under the 1950 Act, about 217 acres were sold. The City is unable to convey any of the remaining acreage authorized by the 1950 Act because the Civic Auditorium has been constructed and paid for.

In 1974, the 1906 Act was again amended to authorize conveyance of two parcels, totaling about 1 acre, that were no longer suitable for park or other public purposes and to require that proceeds be spent on acquisition of specific lands for park purposes.

Ordinarily, the Department opposes the relinquishment of a reversionary interest in land. Reverters are attached to land primarily to ensure that the land, usually conveyed gratis or at less than fair market value, will be used for the purpose it was conveyed. In this instance, however, because of inclusion of the conditions in the 1974 amendment, we believed that the purpose for the conveyance of the two parcels to the City would in essence continue to be carried out and the United States would not lose an interest in land.

S. 2286 would modify the description of parcel 1 in the 1974 amendment to describe, about 3.66 acres rather than the .7041 acres now included in parcel 1. This has been characterized as a relatively simple measure to correct an error in the land description for parcel 1 contained in Public Law 93-574. We do not agree with this characterization. In fact, enactment would result in over five times the acreage in parcel 1 and would quadruple the total acreage which would be conveyed under the 1974 amendment.

The tract in question, including the additional acreage proposed, is a compact area located next to the City Animal Shelter and is well suited to commercial development. The City has informed us that it is no longer suitable for park and other public purposes.

Consistent with our position on the 1974 amendment, in view of the protections and conditions in the 1974 Act, which would also be applicable to the subject additional acreage, including requirements that the City of Albuquerque demonstrate to the satisfaction of the Secretary that the lands are no longer suitable for public purposes and that proceeds be used to acquire urgently needed parklands, we believe that the public interest will be protected. Accordingly, while we do not agree that S. 2286 only involves a technical correction, we do not object to it.

S. 2511

S. 2511 would authorize the Secretary of Agriculture to convey by quit-claim deed all right, title, and interest of the United States to certain land situated in Boise, Idaho, and comprising approximately 5.22 acres. The conveyance would be made in exchange for improvements of at least equal value to the lands being conveyed, to be constructed on another tract of approximately 2.50 acres, in Boise, that is currently withdrawn for use as an administrative site, or on a comparable parcel in the vicinity.

We have no objection to enactment of the bill, if amended as the Department of Agriculture suggests in its report.

Although the transaction proposed in the bill relates to Forest Service facilities, we believe it could also benefit BLM, because the tract on which the improvements would be constructed would be adjacent to the proposed site for the BLM Boise District complex. It may be possible for the agencies to arrange for joint use of the facilities for fire dispatching, parking, loading, and vehicle washing, among others.

The joint site plan involves a total of 17½ acres (15 acres of BLM lands and the 2½ acre tract withdrawn for the Forest Service in November 1969 by Public Land Order 4747 as part of a larger tract for an administrative site for the Intermountain Forest and Range Experiment Station). Under S. 2511 and our proposed plan, it is contemplated that the Forest Service may relinquish the 2½ acres they currently hold and use another 2½ acres located elsewhere on the 17½ acre tract.

The entire 17½ acre site is vacant land surrounded by development, including the Boise Fire Center, an airport, and a privately-owned industrial complex. From a planning standpoint, we believe that relocation of Forest Service facilities to an already developed area is sound and would have no objection to construction of permanent facilities on the tract.

S. 2837

S. 2837 would amend the Act of August 30, 1890, as amended, to except certain lands in Carbon County, Wyoming, from the provision of the Act requiring that patents for lands west of the 100th Meridian contain a reservation to the United States for a right-of-way for ditches and canals. The lands in the bill comprise approximately 130 acres.

We recommend that the bill not be enacted.

The land in question was conveyed into private ownership by patents issued around the turn of the century. Pursuant to the Act of August 30, 1890, both patents contained a reservation to the United States of a right-of-way for ditches and canals constructed by authority of the United States. The 1890 Act requires that such a right-of-way be reserved in all patents taken up after August 30, 1890, under any of the public land laws or on certain entries or claims west of the 100th Meridian. The lands are located within the exterior boundaries of the Medicine Bow National Forest.

The present owner of the land has indicated that he wants to develop the property for sale as cabin sites. It appears that he wants to subdivide and sell less than 50 lots for this purpose. However, he indicate that compliance with new requirements imposed upon such sales by the Department of Housing and Urban Development pursuant to the Interstate Land Sales Full Disclosure Act might cost \$30,000, and that his gross sale would amount to less than \$50,000.

Further, the owner has indicated that under the HUD regulations, if his title is free of any liens or encumbrances and less than 50 lots are involved, he may apply for an exemption from registration and avoid the \$30,000 cost. He claims that HUD has informed him that in order to qualify for this exemption, the reservation to the United States of a right-of-way for construction of ditches and canals must be removed.

We have been advised by HUD that the sale of subdivisions of less than fifty lots would be exempt regardless of encumbrances in any event, under the Interstate Land Sales Full Disclosure Act.

Thousands of acres of land west of the 100th Meridian have been patented since 1890 with the subject reservation to the United States, and development on these lands has taken place despite the encumbrance. Enactment of S. 2837 would set an unfavorable precedent for the many existing similar situations throughout the western United States.

Reservations for ditches and canals serve a definite public purpose, and it is in the public interest to retain them. If the title restrictions under the 1890 Act were to be deleted, as under S. 2837, the United States might eventually be forced to buy back easements necessary for ditches and canals at a later date. We cannot predict what future needs for such systems will be. Thus, if we give up these reservations, the United States may be forced to reacquire them at appreciated and inflated prices when a specific need arises.

We see no special circumstances or equities in this case. We have no indication that this situation is unique to the land in this case but, rather, is probably a common one in the West. The removal of the reservation by private legislation is not an appropriate remedy.

We have someone here today from HUD to answer any questions you may have on their regulations.

S. 2798

S. 2798 would direct the Secretary of the Interior to convey, without consideration, to the city of Yakutat, Alaska, all right, title, and interest of the United States in the land described therein, about 1 acre, upon request of the city of Yakutat. The conveyance would be conditioned upon the use of the land for public school or other public purposes or upon the use of the revenues derived from the lease, sale or other disposition of such lands for public school or other public purposes.

We recommend that S. 2798 not be enacted, but would have no objection to enactment of the substitute draft bill as recommended in our report.

The patent for the lands covered by this bill was issued under the Act of August 23, 1950. The Act directs the Secretary to convey to local officials all right, title, and interest of the United States to any parcels and improvements thereon for school or other public purposes, whenever he determines that the lands or improvements thereon are no longer required by the Alaska Native Service for school purposes. The Act requires that all such conveyances reserve minerals to the United States, together with the right to prospect for and remove them, and provides that the lands and improvements thereon will be used for school and public purposes only, and that the school facilities must be available to all Native children. Finally, the 1950 Act provides that if the Secretary determines that the grantee has failed to observe the foregoing restrictions for a period of at least one year, he may declare a forfeiture of the grant, and the lands and improvements would revert to the United States to become part of the public domain.

The patent for the subject lands was issued on April 20, 1954, to the city of Yakutat. The patent contained a reversionary clause providing that the land could be used only for school or other public purposes, and reserved to the United States not only the mineral rights, but various rights-of-ways, including those for canals and ditches. The lands described in the patent amount to 41,169 square feet (almost an acre), rather than the 41.169 square feet described in line 12, page 2 of the bill.

We understand that the City no longer needs the property for schools. An old, uninsulated school building constructed during World War II for Native children is located on it. This building is now used mainly for storage and office space. A new school has been built on a 25 acre tract on the outskirts of town. The City does not envision the need for more municipal land, and would like to remove the reversionary clause so that this land can be sold and revenues used for public purposes. We know of no definite plans as to the use of the expected revenues, or the development of the property.

The purpose of the 1950 Act, under which the subject tract was patented, was to provide land for public purposes, not to provide a source of private profit or municipal revenue. The Act and the patent are broad, in that the lands may be used for any public purpose, not just school purposes.

We do not believe the sale of property for private development (even if the revenues were used for public purposes) would be in keeping with the intent

day school for the Choctaw Indians. The consideration to be paid for the conveyance was to have been \$500.00.

Through a misunderstanding of the desires of the Department of the Interior, the grantors had the deed recorded among the county records of Leake County, Mississippi, before it had been submitted to the Department of the Interior for approval. As a matter of fact, the Commissioner of Indian Affairs had recommended to the Secretary of the Interior that the deed of conveyance not be accepted. The Secretary approved the recommendation of the Commissioner of Indian Affairs, and the deed of conveyance was not approved or accepted.

In order for the conveyance to have been effective, it was necessary for it to be approved by the Department of the Interior. Since there was no such approval, title did not pass and the United States acquired no interest in the land. The Bureau of Indian Affairs in fact acquired a nearby tract of land on which it established a day school for the Choctaw Indians. Accordingly, this Department has no interest in the land involved in this Act.

We understand that Mr. Barnett has owned the 20-acre tract since 1953. We have no objection to enactment of H.R. 4941 which would remove any cloud on Mr. Barnett's title that may have been caused by the confused transactions in the 1920's.

Senator HANSEN. Thank you very much for your appearance here this morning.

Before the hearing is concluded, may I observe that Senator Bellmon, by virtue of other commitments, was not able to be here today, and I ask unanimous consent that his statement, in favor of S. 2004, and a resolution of the Independent School District No. 1, of Hobart, Okla., be included in the record at this point, along with a statement from Congresswoman Shirley Pettis.

[The prepared statements of Senator Bellmon and Congresswoman Pettis follow:]

STATEMENT OF HON. HENRY BELLMON, A U.S. SENATOR FROM THE STATE OF OKLAHOMA

The purpose of this bill is to remove the reservation for school purposes in patent numbers 1022741 on block 10 in Hobart, Oklahoma when said city deeds to the Board of Education of the city of Hobart a parcel of land on the outskirts of said city so that a new high school may be constructed on the edge of Hobart.

The land in question is block 10 which was deeded to the city of Hobart, Oklahoma on January 23, 1929 with the reservation that it be used for school purposes. The Emerson School Building which was located on block 10 was torn down and removed in December 1966. Since that time this block has been vacant of all buildings but is valuable property to the Community of Hobart. Hobart desires to use block 10 for other public uses.

The City of Hobart, acting through its duly elected Mayor and Council, on January 22, 1974, has agreed to convey to the Board of Education of Hobart, Oklahoma, a certain tract of real estate of comparable value to block 10, which the Hobart school system needs and desires as a building site for a new high school building, parking lot, school auditorium, access streets and other appropriate improvements.

The conveyance by the City to the Board is contingent on block 10 being re-patented by the United States Government to the City of Hobart without the aforesaid reservation, or otherwise absolutely vested in fee simply to the City of Hobart, Oklahoma.

Mr. Chairman, the town of Hobart is badly in need of a new high school building, parking lot, school auditorium, access streets and other appropriate improvements. The Hobart School Board does not own an appropriate site for building. The City of Hobart has agreed to convey an acceptable site to the Hobart School Board if the reservation is removed from block 10. I urge the Congress to prompt, favorable action on this bill.

of the 1950 Act. In any event, we see no reason why the rights-of-way and mineral rights already reserved to the United States should be forfeited by this type of private legislation.

Conveyance of the land in question would not affect any programs or operations of this Department. We know of no expression of interest in this land by other parties. Further, we do not at this time envision that the land would be suitable for return to the public domain. Thus, if this property reverts to the United States, it would in all likelihood undergo routine procedures for the disposal of surplus property under the regulations of the General Services Administration. We believe that disposals under these procedures would be preferable, but in recognition of the City's changing land use needs, we would not object to enactment of a substitute draft bill, which would preserve the Federal interest in lands in Yakutat if Congress chooses to resolve this matter through legislation.

Under the draft bill, notwithstanding the 1950 Act, the Secretary would issue a new patent to the City for the described land without a use restriction, but containing all the other reservations to the United States under that Act. The conveyance would be made when the Secretary is satisfied that: the land would be sold at fair market value; other lands of comparable value would be acquired and used for school or other purposes in perpetuity; and any amount by which the proceeds of any sale exceed the fair market value of the alternate lands would be paid to the United States. Title to any alternate property would vest the United States if such property ever ceased to be used for school or other public purposes.

H.R. 1466

H.R. 1466 would convey one acre of land, more or less, located in the town of Twenty-nine Palms, California, to the Twenty-nine Palms Park and Recreation District, a political subdivision of the local government.

The United States had purchased this one-acre tract in 1911 by warranty deed from the Southern Pacific Railroad Company for a fee of \$5.00 for use as a cemetery site for the members of the Twenty-nine Palms Band of Mission Indians. The cemetery contains remains of the ancestors of the Twenty-nine Palms members having Chemehuevi blood. The land is presently administered by the Bureau of Indian Affairs.

H.R. 1466 would require that the tract be used only as a cemetery and historical museum site for the public. Use of the land for any other purpose would cause title to revert to the United States.

The Twenty-nine Palms Band of Mission Indians is not located in the area, and does not have the means to maintain the cemetery plot. For this reason, the band is in favor of having the cemetery conveyed to the Twenty-nine Palms Park and Recreation District in order to preserve the cemetery and protect the sacred burial ground of their ancestors from any adverse use. The district has agreed to assume responsibility for the cemetery. After the tract is conveyed to the Park and Recreation District, it plans to move a stone house from private land and reconstruct it on this historical site for use as an Indian museum to preserve Indian artifacts.

The appraised value of the cemetery site is \$500. Even though the district is not in a position to expend any funds to purchase the site, we are assured that it will beautify the property and preserve its historical significance if the land is conveyed to it. To support and respect the band's wishes and to protect this cemetery site and its historical significance, we recommend that H.R. 1466 be enacted.

H.R. 4941

H.R. 4941 would authorize the Secretary of the Interior to convey to Oscar H. Barnett, by quitclaim deed or by other appropriate instrument, without consideration, all right, title, and interest of the United States to a certain tract of land in Leake County, Mississippi.

We recommend enactment of this legislation.

Our records indicate that in 1922, C. W. Triplett, Jr., and his wife purported to convey a 20-acre tract of land to the United States for use as a

RESOLUTION

Whereas, certain real property located in the City of Hobart, Oklahoma to-wit: Block 10 (together with other property not covered herein) in the Original Townsite of the City of Hobart, Kiowa County, Oklahoma was patented by the United States Government to the City of Hobart, Oklahoma with the following words of reservation, "reserved for school purposes." That said patent bears the date of January 23, 1929 and is recorded in Book 240 at Page 270 the records of Kiowa County, Oklahoma, a certified copy of the County Clerk's record of said patent being attached hereto and made a part hereof; and

Whereas, said Block 10 is no longer used by Board of Education, Independent School District No. 1, Hobart, Oklahoma, A Municipal Corporation, and the former school building located thereon having been torn down and removed in December of 1966, and said Block 10 being vacant of all buildings but valuable property to the Community of Hobart, and desired by the City of Hobart, Oklahoma, a Municipal Corporation, for other future public uses; and

Whereas, the City of Hobart, acting through its duly elected Mayor and Council, on January 22, 1974, has agreed to convey to Board of Education, Independent School District No. 1, Hobart, Oklahoma, a certain tract of real estate of comparable value to said Block 10, which said Board of Education needs and desires as a building site for a new high school building, parking lot, school auditorium; access streets and other appropriate improvements, said conveyance by the City to the Board being contingent on said Block 10 being re-patented by the United States Government to said City of Hobart, Oklahoma without the aforesaid reservation, or otherwise absolutely vested in fee simple to the said City of Hobart, Oklahoma, a Municipal Corporation; and with the agreement of the Board of Education to pay for street improvement on the south side of the said property to be deeded by the City to Board of Education, Independent School District No. 1.

Whereas, both the said Board of Education and the Mayor and Council of the City of Hobart desiring that the United States Government re-patent said Block 10 in the Original Townsite of the City of Hobart, Kiowa County, Oklahoma, to the said City of Hobart, Oklahoma a Municipal Corporation absolutely, all for the benefit of the said Board of Education, the City of Hobart, and the people of the City of Hobart; now, therefore, be it

Resolved unanimously by the Board of Education, Independent School District, No. 1, Hobart, Oklahoma, That Harvey Reimer, Superintendent of Independent School District No. 1, Hobart, Oklahoma, or his successor in function, be and he is hereby designated as the proper official of said Independent School District No. 1, Hobart, Oklahoma, by whom negotiations with the United States Government are to be prosecuted, together with appropriate officials of the City of Hobart, Oklahoma, to secure a new patent or other muniment of title from the United States Government conveying Block 10 in the Original Townsite of the City of Hobart, Kiowa County, Oklahoma to the said City of Hobart, Oklahoma, a Municipal Corporation in order to effect the exchange of lands desired by both the City of Hobart and the Board of Education; be it further: *Resolved,* That Independent School District, No. 1, Hobart, Oklahoma is ready, willing and able, and is hereby authorized to pay all external administrative expenses incident to obtaining title to Block 10 for the City of Hobart, Oklahoma, and incident to obtaining a survey and legal description of the property to be deeded by the City of Hobart to Board of Education, Independent School District No. 1, Hobart, Oklahoma and any other expenses including abstracting, street improvement costs, legal fees or otherwise which the transactions may require, the City of Hobart, Oklahoma to bear no expense.

Be it further resolved that certified copies of this resolution be furnished to the City Clerk of the City of Hobart, Oklahoma a Municipal Corporation, and any and all appropriate officers or departments of the Government of the United States of America in order to effect the transaction aforesaid.

In testimony whereof, we herewith sign our names and attach the seal of said institution for it and in its behalf this 24th day of January, 1974.

Board of Education Independent School District No. 1, Hobart, Oklahoma,
A Municipal Corporation

FRANCES CAMPBELL,
President.

Attest: Beatrice Rhea, Secretary.

CERTIFICATE

I hereby certify the within and foregoing to be a true and correct copy of a Resolution passed and adopted by the Board of Education, Independent School District No. 1, Hobart, Oklahoma, in a meeting held on the 24 day of January, 1974.

BEATRICE RHEA.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 6, 1976.

Hon. FLOYD K. HASKELL,
*Chairman, Subcommittee on the Environment and Land Resources,
Committee on Interior and Insular Affairs, U. S. Senate,
Washington, D.C.*

DEAR CHAIRMAN HASKELL: Thank you for alerting me to your Subcommittee's hearing on February 26, 1976, to consider legislation my late husband sponsored, H.R. 1466, to convey certain federally owned land to the Twentynine Palms Park and Recreation District.

I would very much like to testify before your subcommittee but, unfortunately, I have a commitment at the time of your hearing. Attached is a statement in support of H.R. 1466 which I would appreciate having made part of the official record of your hearing.

Naturally, I welcome the Subcommittee's action on this measure and hope you will favorably report H.R. 1466 to the full Interior Committee.

With best wishes, I am

Sincerely yours,

SHIRLEY N. PETTIS,
Member of Congress.

[Enclosure.]

STATEMENT OF HON. SHIRLEY N. PETTIS, A U.S. REPRESENTATIVE FROM THE STATE OF CALIFORNIA

Mr. Chairman and Members of the Subcommittee, I would like to thank you for taking up H.R. 1466, a bill to convey certain federally owned land to the Twentynine Palms Park and Recreation District. As you know, this legislation was introduced by my late husband at the start of this Congress.

The amount of land which is the subject of this bill is only one acre. This acre of land contains the ancestral remains of the Chemehuevi Tribe of the Twentynine Palms Band of Mission Indians. The Band is most anxious that the cemetery character of the property be preserved, and have requested that the land be conveyed to the Twentynine Palms Park and Recreation District so the land will be maintained and preserved as a historical site. It was in response to this request that Jerry sponsored H.R. 1466, and similar measures in previous Congresses.

As far back as October 1948, the Twentynine Palms Band has been interested in restoring and beautifying the cemetery. In June of 1963, the Twentynine Palms Park and Recreation District, assumed an interest in acquiring the plot and expressed a wish to reconstruct a historical stone house on the land as a museum for Indian artifacts and to preserve the cemetery. The Bureau of Indian Affairs was contacted and steps were taken to arrange a transfer of the federally owned land to the District. In a meeting of the Twentynine Palms Band and representatives from the Bureau of Indian Affairs and the Twentynine Palms Park and Recreation District on August 27, 1967, members of the Band voted in favor of the transfer of the cemetery to the District, and the District agreed to accept the land.

Consideration has been given to turning the site over to the General Services Administration for disposal, but this would be grossly unfair to the Indians who have expressed their earnest desire to have the sacred burial ground of their ancestors protected from any adverse use. Conveying the land to the Twentynine Palms and Recreation District will respect the wishes of the Indians and insure the preservation and upkeep of the cemetery with its historical significance.

The Twentynine Palms Park and Recreation District, as well as the community of Twentynine Palms, is very pleased at the prospect of receiving the cemetery site. The conveyance of the Chemehuevi cemetery plot to the District will be of invaluable benefit to many people. Not only will the sacred, ancestral burial ground of the Twentynine Palms Band of Mission Indians be preserved and well cared for, but the many visitors and tourists to the area will be able to enjoy and gain a better knowledge of the California Indians from the historical site.

Again, Mr. Chairman, the people of my district and I are happy the Subcommittee is considering H.R. 1466. I am personally pleased this will carry Jerry Pettis' name when it is eventually sent to the President to be signed into law.

Senator HANSEN. Let me ask before the hearing is concluded, if Mr. Russell, one of the witnesses, has anything further to say. I say that because Mr. Russell has come a long, long way. It's quite a stretch from Rollins, Wyo., to Washington, D.C., and I didn't want to close the record.

Mr. RUSSELL. Just one thing, Senator Hansen, in comment to Mr. Race's statement of the cost involved.

The cost of developing the report, as far as registration fees, is the small end of it. The big costs involved are primarily fact analysis and data-gathering research. To give the committee an example, in response to my inquiry, HUD forwarded to me a copy of an example registration report. It is in two parts. The first part being presented to HUD, the second to be presented to each buyer. The sum total would run around 50 pages of written material.

Even though there are some areas which don't specifically even apply to, in my estimation, to the particular type of subdivision in question, the rules and regulations are very clear that you must specifically comment to each and every section.

For example, some of the areas involved which could become—well, one of the particular areas which can become very involved or very complex is the specific question as to whether or not either of the landowners are involved in any other subdivisions, and if they are, then it gets quite specific on what they have to report as to any other subdivisions.

The comment made by Mr. Race that he has seen subdivision developers produce their own reports. It would be my answer to that, if they do, it's only after they've produced quite a number under the direction of an attorney, because it's an extremely complex rule and regulation and the reporting requirements are just as difficult and complex.

It's taken me, personally, a great length of time to even come to the degree of understanding this rule and regulation that I have today. I would say, that it's possible that the referral of \$30,000, by the Department of Housing and Urban Development, might be a little high. It is not a great deal high.

Senator HANSEN. Thank you very much, Mr. Russell.

If there are no other witnesses to be heard, the subcommittee hearing will stand adjourned.

[Whereupon, at 11:25 a.m., the hearing was adjourned.]

[Subsequent to the hearing Senator Gravel submitted the following:]

MIKE GRAVEL
ALASKA

United States Senate

WASHINGTON, D.C. 20510

March 23, 1976

Honorable Floyd K. Haskell
Chairman
Subcommittee on the Environment and
Land Resources
Senate Committee on Interior and Insular
Affairs
Washington, D.C. 20510

Dear Senator Haskell:

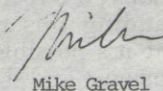
Enclosed for your review and the consideration of the full Interior and Insular Affairs Committee is a draft substitute for S. 1365, a land conveyance bill for the City of Haines, Alaska. On February 26 hearings on this measure were completed by the Subcommittee on Land Resources. The Department of the Interior presented testimony and a report on the bill; the testimony and report has been reviewed by the municipality. Full Committee markup has been scheduled.

The Mayor of the City of Haines advised me by telegram on March 16 of the city council's decision to accept the Department's recommendations for modification of S. 1365. As drafted, S. 1365 would allow the city to acquire other property or a building with the proceeds from the sale of the school reserve properties, with title to the new property, (either land or a building) to vest in the United States should the city ever discontinue use of such property for public purposes. The Department expressed opposition to providing for the contingent interests of the Federal government to be vested in a building and suggested the alternative of allowing the city to only obtain land with the proceeds of the sale of the school properties. The city has agreed and the Department's suggested modifications to S. 1365 are reflected in the enclosed substitute.

I request that this letter be made a part of the Committee record on S. 1365.

Your consideration is sincerely appreciated.

Sincerely,



Mike Gravel

Enclosure

cc: Honorable Gail J. Wallace
Mayor
City of Haines

94th CONGRESS

2nd SESSION

S.

1365

(NOTE.—Fill in all blank lines except those provided for the date, number, and reference of bill.)

(STAFF DRAFT)

IN THE SENATE OF THE UNITED STATES

Mr. STEVENS (for himself and Mr. Gravel)

introduced the following bill; which was read twice and referred to the Committee on

Interior and Insular Affairs

A BILL

TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY TO THE CITY OF HAINES, ALASKA, INTERESTS OF THE UNITED STATES IN CERTAIN LANDS.

(Insert title of bill here)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that notwithstanding the provisions of the Act of August 23, 1950 (64 Stat. 470), requiring that lands patented thereunder be used only for school or other public purposes, the Secretary of the Interior (hereinafter "the Secretary") is hereby authorized and directed to issue a new patent or deed to the City of Haines, Alaska, for the following described lands, without such a use restriction, but containing all other reservations to the United States required by that Act, upon relinquishment of the existing deed, provided that the requirements of Sections 2 and 3 of this Act have been met:

Beginning at the northwest corner of lot 17 in block 13, which is the same as corner 1 of the Native School Reserve;

Thence north 76 degrees 23 1/2 minutes west 58.11 feet to corner numbered 2;

Thence south 17 degrees 58 minutes west 165.26 feet

to corner numbered 3;

Thence south 76 degrees 45 minutes east 82.08 feet
to corner numbered 4;

Thence north 9 degrees 38 minutes east 164.65 feet
to corner numbered 1, the place of beginning;

Containing 17,531 square feet.

Lots 8 and 9 of block 13 in the townsite of Haines,
Alaska, containing a total of 7,330 square feet.

Lot 17 of block 13 in the townsite of Haines, Alaska,
containing a total of 5,885 square feet.

SEC. 2. No conveyance may be made under this Act
unless the City of Haines has shown to the satisfaction of
the Secretary that —

(1) the City of Haines will sell such land and
improvements referred to in the first section at not less than
fair market value;

(2) the proceeds from the sale thereof will be used
to acquire property to be used for public purposes; and

(3) any amounts by which the proceeds from the sale
of such lands and improvements referred to in the first section
exceed the acquisition costs of property under clause (2) shall
be paid to the United States.

SEC. 3. If the requirements of section 2 are satisfied,
the Secretary is authorized and directed to enter into an
agreement or agreements with the City of Haines, Alaska,
whereby, in consideration of a quitclaim deed to the City of
Haines of all right, title, and interest remaining in the United
States in and to those lands and improvements referred to in
the first section of this Act which have been conveyed to
the City of Haines, the City of Haines —

(1) agrees that title to any property acquired
with the proceeds of the sale of such property and
improvements referred to in the first section of this

Act will vest in the United States if such property acquired with the proceeds from such sale ever ceases to be used for a public purpose; and

(2) agrees to execute, within ninety days after acquiring such lands, a deed to this effect and deliver said deed to the Secretary of the Interior.

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