

**FEDERAL LANDS IN HENDERSON, NV; FORT RENO, OK;
EUGENE, OR; GREEN RIVER, WY; AND RIVERSIDE COUNTY
AND SAN DIEGO COUNTY, CA**

HEARING
BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED NINTH CONGRESS
SECOND SESSION
ON

S. 1056 S. 1832
S. 2150 S. 2373
H.R. 3507

MARCH 29, 2006



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**FEDERAL LANDS IN HENDERSON, NV; FORT
RENO, OK; EUGENE, OR; GREEN RIVER, WY;
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WEDNESDAY, MARCH 29, 2006

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:33 p.m., in room SD-366, Dirksen Senate Office Building, Hon. Larry E. Craig presiding.

**OPENING STATEMENT OF HON. LARRY E. CRAIG,
U.S. SENATOR FROM IDAHO**

Senator CRAIG. Good afternoon, everyone. The Subcommittee on Public Lands and Forest will be in order. Let me welcome everyone in attendance before the committee this afternoon. And a special welcome to our two panelists this afternoon, Dr. Edward Knipling, administrator for Agricultural Research Service at the Department of Agriculture, and Larry Benna, Deputy Director of the Bureau of Land Management. I want to thank both of you for being here to testify.

We will be taking testimony today on five bills: S. 1056, to direct the Secretary of the Interior to convey to the city of Henderson, Nevada, certain Federal land located in the city, and for other purposes; S. 1832, to authorize the Secretary of the Interior to lease oil and gas resources underlying Fort Reno, Oklahoma, to establish the Fort Reno Management Fund, and for other purposes; S. 2150, to direct the Secretary of the Interior to convey certain Bureau of Land Management Lands to the city of Eugene, Oregon; S. 2373, to provide for the sale of approximately 132 acres of public land in the city of Green River, Wyoming, at a fair market value; and H.R. 3507, to transfer certain land in Riverside County, California, and San Diego County, California, from the Bureau of Land Management to the United States to be held in trust for the Pechanga Band of Luiseno Mission Indians, and for other purposes.

And Senator Wyden, I expect, will be here in a few moments to make comments in relation to the Eugene, Oregon, bill; and Senator Craig Thomas will be here in relation to the Green River bill.

We will observe the 5-minute rule for testimony. The hearing will take all information. The record will remain open for 10 days for the purposes of additional testimony.

So, with that, let us go directly to our panelists today.

Dr. Edward Knipling, administrator, Agricultural Research Service, Department of Agriculture, welcome before the committee. Please proceed.

[The prepared statement of Senator Inhofe follows:]

PREPARED STATEMENT OF HON. JAMES M. INHOFE, U.S. SENATOR
FROM OKLAHOMA, ON S. 1832

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today and for holding this hearing on "The Fort Reno Mineral Leasing Act" (S. 1832).

Fort Reno was established as a frontier cavalry post in 1874, and it played a key role in the settlement of the west. It is a historic site of National significance and it is listed on the National Register of Historic places. Over 9,000 visitors view the fort each year.

In 1948 the U.S. Army turned its lands and buildings, at Fort Reno, over to the U.S. Department of Agriculture. Today, the original site remains intact as a complete frontier post. Dozens of buildings constructed by the military, as early as the 1880's, still stand around the Historic District.

The Agricultural Research Service administers the fort site which includes the Grazinglands Research Facility, the Fort Reno Historic District, and the Fort Reno Science Park.

Many of the historic buildings are in desperate need of restoration. A small agency like the Agricultural Research Service is not financially able to keep up with the continued costs of maintenance of so much aged infrastructure. Independent studies show that over \$18 million is now needed to restore the most important of the many old officers' quarters and other key buildings.

I have been an active supporter of Fort Reno and its facilities. For instance, several years ago I helped secure a Save America's Treasures Grant of \$300,000 to assist a local historical organization with the costs of stabilization of exteriors on those deteriorating buildings that are most in need of renovation. In fiscal year 2004, I arranged for an appropriation of \$2.1 million for construction of two greenhouses for use in research on forage grasses that is conducted by the Agricultural Research Service at the Fort Reno site.

This legislation will provide a revenue-neutral, non-appropriated source of funding which will be adequate to restore the historical buildings of Fort Reno, so they will be here for future generations.

In addition, this bill authorizes the development of the oil and gas that lies beneath Fort Reno's 6,737 acres and places those funds in a special account in the U.S. Treasury that will be utilized for restoration and maintenance of those facilities. These funds will also be used to assist with handling visitors to the fort, historic interpretation and related activities. The remaining funds will be used to pay down the national debt.

The Fort Reno Mineral Leasing Act is fully supported by the governor of Oklahoma, state legislators, local municipalities, the El Reno Chamber of Commerce, the Farm Bureau, the Farmers Union, the Oklahoma Independent Producers Association, the Oklahoma Historical Society, the ARS Administrator at Fort Reno, and both Senator Coburn and me.

I look forward to working with the committee on this Oklahoma specific legislation in markup and toward final passage.

Again, I thank you for allowing me to appear here to today in support of this legislation. Mr. Chairman, this concludes my remarks.

**STATEMENT OF DR. EDWARD B. KNIPLING, ADMINISTRATOR,
AGRICULTURAL RESEARCH SERVICE, DEPARTMENT OF
AGRICULTURE**

Dr. KNIPLING. Thank you, Mr. Chairman. I am, indeed, pleased to be here, and appreciate the opportunity to speak on behalf of S. 1832.

As you indicate, I'm the administrator of the USDA Agricultural Research Service. We are the science research arm of USDA and, as such, we operate over 100 different laboratory locations throughout the Nation on all aspects of agricultural science.

I'm here today to present the administration's views on S. 1832, as you said, the Fort Reno Mineral Leasing Act. Before I provide my remarks, I'd like to submit my full testimony for the record.

Senator CRAIG. Without objection, it'll become a part of the record, Doctor.

Dr. KNIPLING. Mr. Chairman, we appreciate the intent of S. 1832 to continue the preservation of facilities within the historic Fort Reno district; however, the administration does have concerns with the establishment of a mandatory fund from mineral revenues that would normally be deposited in the U.S. Treasury. We look forward to working with the bill sponsor, Senator Inhofe, and members of this committee as the process goes forward.

S. 1832 deals with the Grazinglands Research Laboratory, which is administered by ARS at El Reno, Oklahoma. This laboratory is at the forefront of providing new technologies and management strategies to increase the profitability of forage and livestock production, while at the same time promoting sustainability and productivity in the Nation's grazing land resources. ARS-administered land at this location comprises over 6,700 acres of land and more than 80 buildings, some of which are historic structures within the Fort Reno Historic District. These consist of former U.S. Cavalry installation structures dating from the late 1800's.

USDA acquired the real property by transfer from the U.S. War Department in 1948, and has managed the land for grazing land research ever since. We have also used some of our research funds to maintain, preserve, or restore some of the historic buildings.

The proposed legislation would authorize the Secretary of the Interior, through the Bureau of Land Management, to lease oil and gas resources under the land, with some of the receipts from leasing being deposited into a Fort Reno Management Fund to be used for restoration and management of the historic facilities, as well as to provide visitor and interpretive services.

The bill would also ratify and strengthen our ongoing cooperative research activities with the University of Oklahoma, and authorize the Secretary of Agriculture to lease land for cooperative research and related activities.

Finally, section three of the bill will require congressional authorization to declare the Federal land at the Fort Reno Management Area surplus or excess or otherwise conveyed. This provision makes permanent the existing requirements of law already contained in the 2002 farm bill, which expires at the end of 2007. Notwithstanding any provision of law, ARS has no plans or intentions to curtail its research activities at Fort Reno or to declare any lands excess or surplus.

In summary, Mr. Chairman, ARS is very proud of the contributions made to agricultural science and to farmers and ranchers by the work we do at the Grazinglands Research Laboratory. We very much appreciate the interest of this committee in the laboratory's programs and strategies for preserving the historic structures.

Mr. Chairman, this concludes my remarks, and I'd be pleased to answer any questions that you might have later.

Thank you.

[The prepared statement of Dr. Knipling follows:]

PREPARED STATEMENT OF DR. EDWARD B. KNIPLING, ADMINISTRATOR, AGRICULTURAL RESEARCH SERVICE, DEPARTMENT OF AGRICULTURE, ON S. 1832

Mr. Chairman and Members of the Subcommittee, I am Edward B. Knipling, Administrator of the Agricultural Research Service (ARS). We are the primary intramural science research agency of the United States Department of Agriculture (USDA). ARS operates a network of over 100 research laboratories across the nation on all aspects of agricultural science.

Thank you for the opportunity to appear before the Subcommittee today to present the Department's views on S. 1832, the Fort Reno Mineral Leasing Act. We appreciate the intent of S. 1832 to continue the preservation of facilities within the Historic Fort Reno District. However, the Administration has serious concerns with the establishment of a mandatory fund from mineral revenues that would normally be deposited in the U.S. Treasury; therefore we recommend that section of the bill be removed. We look forward to working with the bill sponsor, Senator Inhofe, and the Committee to address our concerns as the process moves forward.

S. 1832 deals with the Grazinglands Research Laboratory administered by the Agricultural Research Service (ARS) at El Reno, Oklahoma. The Grazinglands Research Laboratory is at the forefront of providing new technologies and management strategies to increase the profitability of forage and livestock production while, at the same time, promoting sustainability and productivity of the nation's grazing land resources. ARS administered land comprises over 6,700 acres and more than 80 buildings, part of which are historic structures within the Fort Reno Historic District consisting of the former U.S. Cavalry installation dating from the late 1800s. USDA acquired the real property by transfer from the U.S. War Department in 1948, and has managed the land for grazing lands research ever since. The bill defines the entire area collectively as the Fort Reno Management Area.

The bill would authorize the Secretary of the Interior to lease oil and gas resources under the land, with some of the receipts from leasing being deposited into a Fort Reno Management Fund to be used for restoration and management of historic facilities as well as visitor and interpretive services. The bill would provide that the land comprising the Fort Reno Management Area would not be declared surplus or excess federal property without an Act of Congress. Finally, the bill would ratify and strengthen our ongoing cooperative research activities with the University of Oklahoma, and authorize the Secretary of Agriculture to lease land for research and related activities.

Concerning oil and gas leasing, all 6,700 acres of the Fort Reno Management Area is within the corporate boundaries of the town of El Reno, Oklahoma, and therefore cannot be leased under existing authorities without Congressional authorization. Under the authority of the Mineral Leasing Act, the Bureau of Land Management (BLM) is responsible for leasing oil and gas resources on all onshore Federal lands, including those lands managed by other Federal agencies. BLM is responsible for review, approval, and issuance of permits and licenses to explore, develop, and produce oil and gas resources on Federal lands. BLM is also responsible for inspection and enforcement of onshore oil and gas wells and other development operations to ensure that lessees and operators comply with the lease requirements and BLM's regulations (43 CFR 3000 and 3100).

Sec. 3(b) of S. 1832 authorizes the Secretary of the Interior to provide for mineral leasing under the Mineral Leasing Act in the Fort Reno Management Area, subject to terms and conditions set by the Secretary of Agriculture to preserve and protect historic properties and ongoing and prospective research activities. Lands located within incorporated cities and towns are excluded from oil and gas leasing under the Mineral Leasing Act, and to overcome that exclusion, Sec. 3(b)(1) of S. 1832 explicitly authorizes oil and gas leasing on the Federal land located within the incorporated city of El Reno, Oklahoma. Sec. 3(b)(2) of the bill provides that no further administrative or environmental analyses shall be required for the leasing and development of minerals at the Fort Reno Management Area.

Section 3 of the bill will require Congressional authorization to declare the Federal land at the Fort Reno Management Area surplus or excess or otherwise conveyed. This provision makes permanent the existing requirements of law already contained in section 10804 of the Farm Security and Rural Investment Act of 2002, which expire at the end of 2007. Notwithstanding any provision of law, ARS has no plans or intentions to curtail its research program at Fort Reno, or to declare any lands excess or surplus.

Sections 5 and 6 provide ARS with authorities to continue its very productive and mutually beneficial research relationship with the University of Oklahoma. The University has currently constructed facilities in the Fort Reno Management Area under easement arrangements with ARS, and there are plans for future cooperative

ventures. We believe this cooperation can be furthered by granting ARS leasing authority.

In summary, ARS is justly proud of the contributions made by the Grazinglands Research Laboratory to improving American agriculture. We appreciate the interest in the Laboratory and the Fort Reno Historic District within the Fort Reno Management Area shown by S. 1832. Mr. Chairman, this concludes my remarks. I would be happy to answer any questions.

Senator CRAIG. Doctor, thank you very much.

Now let us turn to Larry Benna, deputy director for the Bureau of Land Management.

Larry, welcome.

**STATEMENT OF LAWRENCE E. BENNA, DEPUTY DIRECTOR,
BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE
INTERIOR**

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

I'm here today to testify on four different lands bills proposed. I thank you for the opportunity to testify.

The Bureau of Land Management manages nearly 262 million acres of surface land, primarily in 12 Western States. As the Nation's largest Federal land manager, we administer the public lands for a wide range of multiple uses.

The Federal Land Policy and Management Act, or FLPMA, directs the BLM to make decisions about the appropriate use of the public lands through the development of resource management plans, which involve extensive public participation. Where appropriate, FLPMA allows the BLM to convey certain lands out of public ownership if, for example, it has been identified for disposal through a land-use planning process and serve important public objectives, such as community expansion and economic development.

In partnering with local communities across the West, we understand there are needs and are efforts that ensure a balanced approach to local land-use management. At the same time, we make every effort to ensure that taxpayers are fairly compensated for the removal of public lands from Federal ownership, and that the conveyances are in the public interest.

The various BLM-related bills before the subcommittee today cover a wide range of Federal land issues, but, at their core, all are intended to support the needs of local communities. I will discuss each individual bill.

S. 1056, the Southern Nevada Limited Transition Area Act, would convey, without consideration, approximately 547 acres of BLM public lands to the city of Henderson, Nevada, for economic development adjacent to the Henderson Executive Airport. The bill permits the city of Henderson to sell any portions of the conveyed lands for nonresidential development through a competitive bidding process. Eighty-five percent of the revenues generated from the sales would be deposited into the special account established by the Southern Nevada Public Lands Management Act and used by the Secretary of the Interior for the uses specified in the Act.

BLM recognizes the growth occurring in the city of Henderson and supports S. 1056. We would like to work with the committee and sponsors of the bill on several changes dealing with the terms and conditions or any future sales of the lands by the city of Henderson, the reversionary clauses, and other minor modifications.

S. 2150, the Eugene Land Conveyance Act, directs the Secretary of the Interior to convey to the city of Eugene, Oregon, without consideration and subject to valid existing rights, a parcel of approximately 12 acres currently under the administrative jurisdiction of the BLM for the purposes of constructing an environmental education center and establishing a wildlife viewing area. This parcel is located within the city limits of Eugene, Oregon.

The BLM purchased the parcel in 1979, for \$510,000. Oregon and California appropriated—grant-lands appropriated funds. If the parcel to be conveyed under S. 2150 were public-domain land, the BLM could convey it under the authority of the Recreation and Public Purposes Act. However, because the BLM purchased the parcel with O&C funds, it is designated as revested Oregon and California railroad grant lands, and the Recreation and Public Purposes Act does not apply. The BLM supports the conveyance authorized by S. 2150.

S. 2373, the city of Green River Land Conveyance Act, directs the BLM to sell, at appraised fair market value, approximately 132 acres of public land to the city of Green River, Wyoming. The land would be used for development along Interstate 80, east of Green River, a growing community that needs room to expand.

The BLM supports S. 2373, but would like to work with the sponsors of the bill and the committee on certain changes, including the timeframes established in the bill, in order to ensure sufficient time for completion of the processes and work necessary to do the conveyance.

Finally, H.R. 3507, the Pechanga Band of Luiseno Mission Indians Land Transfer Act, directs the Secretary of the Interior to transfer two parcels of public land, totaling approximately 991 acres in Riverside, California, currently managed by the BLM, into trust status for the benefit of the tribe. The BLM has worked with the tribe over the past several years concerning their interest in acquiring these two parcels of land to add to their reservation for protection of their cultural, historic, and natural values.

In 2005, the tribe entered into a memorandum of understanding with the Fish and Wildlife Service and the BLM, which states that the tribe will manage the lands for conservation purposes. The bill requires the lands be managed in accordance with this memorandum.

The Department of the Interior supports H.R. 3507, but we do recommend certain technical and clarifying amendments that are outlined in my written testimony.

Mr. Chairman and members of the subcommittee, this concludes my statement. I will be happy to try and answer any of your questions.

[The prepared statement of Mr. Benna follows:]

PREPARED STATEMENT OF LAWRENCE E. BENNA, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ON S. 1056, S. 2150, S. 2373, AND H.R. 3507

Mr. Chairman, thank you for the opportunity to testify. The Bureau of Land Management (BLM) manages 261.8 million acres of surface land primarily in 12 western states. As the Nation's largest Federal land manager, the BLM administers the public lands for a wide range of multiple uses including energy production, outdoor recreation, livestock grazing, and by conserving natural, historical, cultural, and other resources. The Federal Land Policy and Management Act (FLPMA) directs the

BLM to make decisions about the appropriate use of the public lands through the development of resource management plans using a collaborative public process.

FLPMA allows the BLM to convey lands out of public ownership if, for example, they have been identified for disposal through the BLM land use planning process in order to serve important public objectives, such as community expansion and economic development. In partnering with local communities across the West, we understand their needs and are supportive of efforts that ensure a balanced approach to local land use management. As a matter of both policy and practice, the BLM generally requires receipt of fair market value for any public lands transferred out of public ownership. This serves to ensure that taxpayers are fairly compensated for the removal of public lands from Federal ownership while also supporting local communities.

The various BLM-related bills before the Subcommittee today cover a wide range of Federal land issues, but at their core all are intended to support the needs of local communities. I will discuss each bill individually.

S. 1056, SOUTHERN NEVADA LIMITED TRANSITION AREA ACT

S. 1056, the Southern Nevada Limited Transition Area Act, would convey without consideration approximately 547 acres of BLM public lands, defined in the bill as the “transition area,” to the City of Henderson, Nevada, for economic development adjacent to the Henderson Executive Airport. The BLM recognizes the massive residential growth occurring in the City of Henderson, and understands the need for the City to plan land use in such a way that development around the Henderson Executive Airport is compatible with the nature of airport operations. The BLM supports the intent of S. 1056 and would like to work with the Committee and sponsors of the bill on several changes to clarify the terms and conditions of any future sales of the lands by the City of Henderson, the reversionary clauses, and other minor modifications.

S. 1056 establishes development areas around the Henderson Executive Airport similar to the Airport Environs Overlay District—otherwise known as the McCarran Airport Cooperative Management Area (CMA)—established by the Southern Nevada Public Lands Management Act (SNPLMA), Public Law 105-263, that ensures compatible development around McCarran Airport. The public lands proposed for conveyance in S. 1056 are directly west and south of the Henderson Executive Airport, which is east of Interstate-15 and north of the Sloan Canyon National Conservation Area. These lands are within the disposal boundary established in SNPLMA and have been identified for disposal by the BLM as part of SNPLMA’s land disposal process.

S. 1056 directs the City of Henderson to plan and manage the lands for nonresidential development, and requires that any development comport with noise compatibility requirements defined in section 47504 of title 49, United States Code. The bill permits the City of Henderson to sell any portions of the conveyed lands for nonresidential development through a competitive bidding process, but for not less than fair market value, and subject to the noise compatibility requirements. The City of Henderson may also elect to retain parcels for recreation or other public purposes under the Recreation and Public Purposes Act.

The revenue generated from any sales of the lands by the City of Henderson would be distributed as follows: 85 percent would be deposited into the special account established by SNPLMA; 10 percent would be retained by the City of Henderson as compensation for costs incurred by the City in carrying out land sales and to fund infrastructure to serve the Transition Area; and 5 percent would be returned to the State of Nevada for use by the State’s general education program.

In order to ensure that the public interest is met, we recommend that Section 3(b) of the bill be amended to clarify that in addition to receiving fair market value for the direct sale of the lands, fair market value should also be received for any lease, exchange, or conveyance of the lands of any sort by the City of Henderson. This would be consistent with the terms in Section 4(g)(4) of SNPLMA that authorizes the conveyance of land by Clark County in the McCarran Airport CMA. We would also like to work with the Committee and sponsors of the bill to modify the reversionary language in Sections 3(e)(1) and (2) of the bill to make the language consistent and at the Secretary’s discretion. Finally, Section 2(5) needs to be updated to reflect the correct date of the map entitled “Southern Nevada Limited Transition Area Act.”

S. 2150, EUGENE LAND CONVEYANCE ACT

S. 2150, the Eugene Land Conveyance Act, directs the Secretary of the Interior to convey to the City of Eugene, Oregon, without consideration and subject to valid

existing rights, a parcel of approximately 12 acres currently under the administrative jurisdiction of the BLM for the purposes of constructing an environmental education center and establishing a wildlife viewing area. The BLM supports the conveyance authorized by S. 2150; however, we have some concerns and would appreciate the opportunity to work with the sponsor and the Committee on minor technical amendments.

The parcel to be conveyed under S. 2150 is located within the city limits of Eugene, Oregon. The BLM purchased the parcel on September 21, 1979, with \$510,000 of Oregon and California Lands Act (O&C) appropriated funds. The BLM originally planned to build its Eugene District Office on the parcel; however, about half the site was determined to be occupied by wetlands, and the Eugene office was built at another location. We have not had the site appraised since the original purchase.

If the parcel to be conveyed under S. 2150 were public domain land, the BLM could convey it under the authority of the Recreation and Public Purposes (R&PP) Act (43 U.S.C. 869 et seq.). However, because the BLM purchased the parcel with O&C funds, it is designated as "Revested O&C Railroad Grant Lands", and the R&PP Act does not apply.

An old ranch house located on the parcel, known as the "Red House", was converted for office use and currently hosts employees and volunteers associated with the West Eugene Wetlands (WEW) Partnership. The WEW Partnership includes the BLM, the City of Eugene, The Nature Conservancy, the U.S. Army Corps of Engineers, the Oregon Youth Conservation Corps, the U.S. Fish and Wildlife Service, the McKenzie River Trust, and the Willamette Resources and Educational Network (WREN). The WEW Partnership (primarily the City of Eugene and The Nature Conservancy) have worked to leverage Federal dollars to reach nearly \$4.5 million for acquisition and management of the wetlands.

In addition, the Eugene 4J School District and the Bethel School District joined with the WEW Partnership to form the WEW Education Center Partnership. This group is working to build the Wetlands Education Center on the parcel to be conveyed under S. 2150. The wetlands education program has secured funding from a wide variety of public and private sources, including the U.S. Department of Education, the City of Eugene, the Eugene 4J School District, the Environmental Protection Agency, the Oregon Watershed Enhancement Board, the Collins Foundation, and private donations. The Education Center will contain the Rachel Carson Center for Natural Resources (a 4J High School), the Northwest Youth Corps, laboratories and green houses, visiting classrooms and office space for WEW Partnership staff. In May 2002, voters in Eugene approved a school bond that included the first installment for construction of the Rachel Carson Center for Natural Resources.

The following are concerns we would like to address through technical amendments:

- *Survey*: The BLM has a survey from its purchase of the property in 1979 that is adequate to support the BLM's issuing a Quit Claim Deed to the City of Eugene. If this meets the sponsor's intentions, Section 3(b)(1) should be amended to state "12.36 acres," and the "Survey" in section 3(b)(2) should refer to the existing survey from the 1979 acquisition.
- *Reversion*: We urge that Section 3(c) be amended to make reversion at the Secretary's discretion.

S. 2373, CITY OF GREEN RIVER LAND CONVEYANCE ACT

S. 2373, the City of Green River Land Conveyance Act, directs the BLM to sell at appraised fair market value approximately 132 acres of public land to the City of Green River, Wyoming. The land would be used for development along Interstate-80 east of Green River. The Department of the Interior supports this proposal, but would like to work with the sponsors of the bill and the Committee on certain technical changes.

Green River, Wyoming, is a growing community located west of Rock Springs along the Green River in southwest Wyoming. The 132 acre parcel proposed for conveyance straddles Interstate-80 and could be appropriate for community expansion. We understand this is the intention of the City of Green River. These lands have not been identified for disposal in the BLM land use planning process. The land is currently authorized for grazing, and sufficient access and acreage for grazing would remain available if the lands were conveyed. There are no mineral leases or mining claims on the parcel.

S. 2373 requires the Secretary to convey all right, title, and interest to the land within 180 days after the City submits an offer to acquire the land. The proceeds from the sale of the lands are to be deposited in the Federal Land Disposal Account

established under the Federal Land Transaction Facilitation Act, Public Law 106-248, to be expended in accordance with that Act.

We would like an opportunity to work with the Committee and the sponsors of the bill on certain technical changes, including the timeframes established in section 3(a) of the bill in order to ensure sufficient time for completion of a land use plan amendment in accordance with section 202 of the Federal Land Policy and Management Act and completion of the necessary environmental reviews and clearances.

H.R. 3507, PECHANGA BAND OF LUISENO MISSION INDIANS LAND TRANSFER ACT

H.R. 3507 is substantially similar to legislation (H.R. 4908) on which we testified in the 108th Congress. This legislation directs the Secretary of the Interior to transfer two parcels of public land totaling approximately 991 acres in Riverside County, California, currently managed by the Bureau of Land Management (BLM), into trust status for the benefit of the Pechanga Band of Luiseno Mission Indians.

The Department of the Interior supports H.R. 3507, but recommends certain technical and clarifying amendments to the bill. While several of the changes we recommended when we testified during the 108th Congress have been remedied in H.R. 3507, certain issues remain.

The BLM has worked with the Pechanga Band of Luiseno Mission Indians over the past several years concerning their interest in acquiring these two parcels of land to add to their reservation. Both parcels are covered by BLM's 1994 South Coast Resource Management Plan (RMP), which does not identify the parcels for disposal. The Department understands that the Tribe has passed a Tribal resolution committing the Tribe to conserving the parcels' cultural and wildlife values. In addition, on November 11, 2005, the Tribe entered into a Memorandum of Understanding (MOU) with the U.S. Fish and Wildlife Service and the BLM, which states that the Tribe will manage the lands for conservation purposes. Recognizing the Tribe's interest in obtaining the land for cultural and conservation purposes, the BLM today would be supportive of amending its land use plan to enable the transfer to proceed. However, that process could take several years to complete and the Tribe has sought this legislation to obtain the parcels more quickly through the legislative process.

The first parcel is 19.83 acres and contains significant cultural properties, including burials, of high importance to the Tribe. It is an isolated public land parcel characterized by rolling coastal sage scrub and surrounded by private, generally residential, lands. In response to potential threats to the cultural resources of the parcel, the BLM instituted a Public Land Order (No. 7343) in 1998 that withdrew the entire parcel from surface entry, mining, mineral leasing, and mineral material sales. No other encumbrances, including mining claims, are known to exist on the lands. A Memorandum of Understanding between BLM and the Pechanga Tribe was initiated in 2001 which outlines cooperative management of the parcel, including preservation of its cultural resources values. The Tribe owns and maintains an adjacent parcel of land containing another portion of the Pechanga Historical Site.

The second, and much larger parcel, is 970.96 acres and is adjacent to the Tribe's reservation. These lands are included in the Western Riverside County Multi-Species Habitat Conservation Plan and the Fish and Wildlife Service (FWS) has found them to be significant for their connectivity with rivers and as a wildlife corridor. The Tribe and others were consulted on the Plan, and these wildlife values are encompassed in the Tribal resolution referenced above. This rugged parcel is characterized by a dense mix of oak woodlands, chaparral and coastal sage scrub, and slopes throughout the parcel are steep and eroded. The parcel also includes a service road right-of way, as well as a 10-inch waterline and water tank that was granted for 30 years to the Rainbow Municipal Water District in 1983. No other encumbrances, including mining claims, are known to exist within this parcel.

Finally, H.R. 3507 requires that the land conveyed to the Pechanga be administered in accordance with the MOU referenced above between the Tribe, the U.S. Fish and Wildlife Service, and the BLM.

While the Department of the Interior supports the transfer of the lands from the BLM to the Tribe, we recommend a few technical and clarifying amendments. First, the bill requires the BLM to complete a new survey. We recommend that the lands to be transferred be surveyed "as soon as practicable," rather than within 180 days, as currently required by the bill.

Second, we recommend language be added to the bill that specifies that any improvements, appurtenances, and personal property will be transferred to the Tribe in fee at no cost and that the Department of the Interior is not responsible for any improvements, appurtenances, and personal property that may be transferred along with the lands. The Department feels this change is necessary to address concerns

about the Federal government having a fiduciary obligation to repair and maintain any acquired improvements.

Third, the bill references the MOU between the Tribe and the U.S. Fish and Wildlife Service. The BLM also was a signatory of the MOU and we recommend that the measure reflect that.

Finally, the BLM recently became aware of an unauthorized power line on a small portion (12.8 acres) of the southwest edge of the larger parcel to be transferred. We understand the power line was built in 1979. We would like to work with the Subcommittee and the bill's sponsor to address this matter.

The Department has had a cooperative working relationship with the Pechanga Tribe on the proposed land transfer and supports the bill's enactment with the necessary modifications we have outlined.

Mr. Chairman, this concludes my testimony. I will be happy to answer any questions.

Senator CRAIG. Well, Larry, thank you very much for your testimony.

Before we come back to both of you for questions, I've now been joined by my colleagues from Oregon and Wyoming. Let me turn first to Senator Ron Wyden to make any comments he would wish to make on any of these pieces of legislation, but I assume, more specifically, the city of Eugene issue.

STATEMENT OF HON. RON WYDEN, U.S. SENATOR FROM OREGON

Senator WYDEN. Thank you very much, Mr. Chairman. And thank you for holding this hearing, as well. I think, like everyone today, we're being pulled in just so many directions, and I just wanted to stop by for a minute and talk about my support for S. 2150.

This is another piece of legislation where Senator Smith and I have teamed up. We try to tackle all of these issues in a bipartisan way because of their importance for Oregon. The education center that is envisioned by this legislation would be the culmination of over a decade of work on the part of local folks to preserve the West Eugene Wetlands. This is a planned campus that would eventually hold laboratories, greenhouses, a reference library, and public gathering places that would include an exhibit hall, an auditorium, and three classrooms that serve the 2,200-acre West Eugene Wetlands.

Senator Smith and I have felt that with the city of Eugene as a key partner with the BLM and others in building this environmental education center, it would really be a model for a collaborative approach that involves the BLM and the wetland partnership that we think could have national implications for environmental education. The Rachel Carson Natural Resource School would be moved from its current location at Churchill High School to this site to serve as a magnet school with several districts in Lane County eligible for services and participating in the Youth Corps programs, as well. Part of those Youth Corps in the area, which you and I have talked about, is adjudicated youth, which I think is a natural for the kind of multiple-use approach that you and I have looked for in the natural resources area, and that Senator Thomas has been so supportive of, as well.

So, this is a bipartisan bill produced by the Oregon congressional delegation with a BLM/city of Eugene alliance. We thank you very much for your cooperation.

Senator CRAIG. Ron, thank you very much.
Now let me turn to Senator Craig Thomas to make any comments he would like to make, and/or ask questions.

**STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR
FROM WYOMING**

Senator THOMAS. OK, thank you, Mr. Chairman. I am sorry to be a little late. This is a busy time of year, as you know, all kinds of folks are here.

I am particularly interested, as you might imagine, in the S. 2373. And I'm glad I got here in time for Mr. Benna's comments on it.

This is a very important bill to a rather small town in Wyoming, a small town that is on I-80, which has a lot of traffic and a lot of travel; and lots of problems recently, as a matter of fact, because of travel. It's also in an area where there's a good deal of economic energy activity going on. And this little town is surrounded entirely by Federal land. And in order to have some expansion for the town, and then, maybe just as importantly, to have an alternative method of moving to some health activities in Rock Springs, which is a neighboring town, this land is necessary.

So, I appreciate the agency being willing to do this. You mentioned working out some details. We'll be glad to work with you on that.

And so, Mr. Chairman, I appreciate it, and hope we can move along with this bill.

Senator CRAIG. Thank you very much, Craig, for those comments.

I've got a couple of questions I'd like to ask, and then I think that will conclude the hearing.

Doctor, in the Fort Reno Mineral Leasing Act, this bill calls for ratification of a science park instrument. Can you explain what it is we would be ratifying?

Dr. KNIPLING. Yes, Mr. Chairman. The so-called science park is a 23-acre area within the confines of the larger laboratory land holdings that has been set aside for cooperative research with universities. Currently, we are providing, through an easement or a permit arrangement, space for the University of Oklahoma to occupy a research facility. We had to use this short-term easement permit instrument because we do not have long-term leasing authority in our agency. So, the so-called ratification would make whole, so to speak, and sustain, the current instrument for the longer term, but also then provide lease authority for similar potential future activities that might come up.

Senator CRAIG. OK. Could you make sure that my staff has a complete copy of these documents?

Dr. KNIPLING. Yes, we will.

Senator CRAIG. Last, would leasing for oil and gas in any way interfere with the agricultural research currently occurring on the site?

Dr. KNIPLING. No, we do not expect it to have any interference. With today's technology for oil and gas drilling, the wellhead at the surface occupies very little space, perhaps something less than the size of this room. And then, of course, that, in turn, services several hundred acres of underground resources. So, we expect the surface

activity to be minimal, environmentally sound, unobtrusive, and have no effect on the research programs.

Senator CRAIG. Surely. Thank you.

Larry, several questions here. As it relates to the Nevada bill, it's my understanding that this bill would modify land-sales authority provided under the Southern Nevada Lands Act. Has the Department implemented programs for ensuring accountability of the use of the funds generated by the program?

Mr. BENNA. Yes, Mr. Chairman, we have. And we are quite confident that the funds that are generated by the Southern Nevada Public Lands Management Act are being used effectively. We have a process in place that is a joint effort between all of the partners engaged in implementing SNPLMA, as it's called. This includes the Federal partners, as well as the cities of North Las Vegas and Henderson. It involves public participation and public review of projects and lands that are proposed for purchase or development with the funds that are developed from SNPLMA. The Secretary of the Interior makes the final decision on which projects go forward. Under this proposed bill, the funds that are generated from the sale of lands in this bill would go into the Southern Nevada Public Land Management Act special account at the same percentage as authorized under the Southern Nevada Public Lands Management Act.

Senator CRAIG. This bill would not interfere with the Department's ability as it relates to accountability.

Mr. BENNA. Absolutely not.

Senator CRAIG. OK.

Mr. BENNA. It should—would have no effect at all.

Senator CRAIG. In the Eugene Land Conveyance Act, as a partner, BLM has supported this effort, to date, with both land and appropriated funds. Will this conveyance commit BLM to additional long-term costs as a function of this partnership?

Mr. BENNA. Mr. Chairman, I did want to start out by saying that we are very proud of this partnership. It's been in place since, I believe, 1994. And, as Senator Wyden has indicated, it is a very good model for both cooperative conservation and working together with local communities and partners.

We have provided some monetary support to this project in the past. What is envisioned for the future, as Senator Wyden indicated, is the development of an environmental education center. That is being—it's envisioned to be funded, in part, by the partners. BLM's contribution to that is the land that we would be conveying under this bill. And that, in essence, would complete our financial obligation to the project.

Senator CRAIG. OK. It's my understanding, in relation to the Green River conveyance, that the BLM currently has the authority to convey this land administratively. In the absence of legislating it, how long would it take for a complete conveyance of this property?

Mr. BENNA. I believe, Mr. Chairman, that the issue we have here is that the lands are not designated for disposal in a BLM—current BLM land-use plan. And for us to complete this transaction, we would have to do a plan amendment, which is, at times, a fairly lengthy process. The length of the process is, in good part, due to requirements for public participation and other administrative

processes. There is also a NEPA, National Environmental Policy Act, requirement, as well. So, the time could take us up to a year or so to complete a plan amendment.

Senator CRAIG. Up to a year?

Mr. BENNA. Yes.

Senator CRAIG. That's kind of minimal, isn't it?

Mr. BENNA. It is an amendment.

Senator CRAIG. Yes.

Mr. BENNA. And, again, depending on the issues that may arise with this—

Senator CRAIG. Yes, I'm sure that's why the Senator is pursuing it in the method he is.

Senator THOMAS. It's already been pending for some time.

Senator CRAIG. Last, Larry, in the Pechanga Band of the Luiseno Mission land transfer, I understand that just in the last 2 days BLM has discovered a 240 kV power line in trespass on lands to be conveyed in the Act, a power line that is nearly 30 years old. I say this with a slight degree of disbelief. How does a power line of this size go undetected on your land for 30 years?

Mr. BENNA. That's a very good question, Mr. Chairman.

Senator CRAIG. That's why I ask it.

[Laughter.]

Mr. BENNA. I think there's a few things at play here. I think one is, the lands where this power line crosses—and it's a very small segment of the BLM lands; I think there's about 12 or so acres this power line infringes upon—is an isolated tract of BLM land. It's not used for any particular development purposes or anything. It's not frequently visited. So, it's just one of those instances where, I guess, when the power line was put in place—

Senator CRAIG. Did the surveyors get it wrong at that time? Was that the problem?

Mr. BENNA. Possible. I mean—

Senator CRAIG. There is not a right of way on that land for that power line?

Mr. BENNA. I think—

Senator CRAIG. It's required.

Mr. BENNA. The power line was issued in 1979. And this was about 3 years or so after passage of the Federal Land Policy and Management Act. So, at that time, apparently, some of the paperwork, or whatever, was not in the best of shape that it could be in.

Senator CRAIG. No, OK.

Mr. BENNA. And, again, we don't frequent this parcel very often, so—

Senator CRAIG. So, what can be done to correct the situation in relation to this bill?

Mr. BENNA. Again, we would like a little time to think about this, because I did find out about this yesterday, as a matter of fact. But there are—I think there are several options that we can look at. And there are two general categories of the options that might be available. One is if there is an administrative remedy for this that would not require legislation, or an amendment, or a modification to the proposed legislation. There are some other options that could be either legislative in nature or a combination of

legislative and administrative proposals. We'd like to have the opportunity to work with the subcommittee to try and work out some——

Senator CRAIG. Well, we've got to get it right before we do it, that's for sure.

All right. Gentlemen, thank you very much. As I've said, the record will remain open, for any additional questions or information to be submitted, for a period of 10 days. And we thank you very much for coming to testify today on these bills.

Mr. BENNA. Thank you, Mr. Chairman.

Senator CRAIG. The committee will stand adjourned.

[Whereupon, at 2:59 p.m., the hearing was adjourned.]

APPENDIX

Additional Material Submitted for the Record

DEPARTMENT OF AGRICULTURE,
AGRICULTURAL RESEARCH SERVICE,
Washington, DC, April 7, 2006.

Hon. JAMES INHOFE,
U.S. Senate, Washington, DC.

DEAR SENATOR INHOFE: Your letter of March 20, 2006, asked for our comments on a white paper being circulated by the Cheyenne-Arapaho Tribes of Oklahoma regarding S. 1832, the Fort Reno Mineral Leasing Act. On March 27, 2006, we sent a preliminary response. Since then, we have received additional assistance from our Office of the General Counsel in providing you with more detailed information on this matter. Therefore, we ask that you include this supplementary letter in the hearing record.

There is a long history concerning the Cheyenne-Arapaho Tribes' claims to the Federal lands now comprising the Grazinglands Research Laboratory at Fort Reno administered by the Agricultural Research Service. We believe the basic facts are undisputed.

- The original Cheyenne and Arapaho Indian Reservation encompassed about 4 million acres in western Oklahoma and included the Fort Reno lands.
- From the original reservation, President Chester Arthur created the Fort Reno Military Reserve by an executive order dated July 17, 1883. Neither the original request for the military reserve, nor the executive order setting it aside provided that the lands revert to the Tribe at any time in the future.
- In 1890, the Tribes agreed to cede 4.6 million acres to the United States including the Fort Reno site. By that agreement, the Tribes agreed to "cede, convey, transfer, relinquish, and surrender forever and absolutely, without any reservation whatever, express or implied, all their claim, title and interest of every kind and character in and to the lands." (26 Stat. 1022).
- This cession agreement was duly ratified by Congress in 1891 (26 Stat. 1022), and the Tribes were paid \$1,500,000 in compensation.
- In 1948, the Fort Reno lands were transferred from the Army to the Department of Agriculture by enactment of Public Law 80-494 (62 Stat. 197).
- Congress passed legislation in 1920 (41 Stat. 738), 1926 (44 Stat. 769) and 1928 (45 Stat. 380) which authorized the Tribes to sue the United States to settle outstanding claims. The Tribes sued in 1929, but the case was dismissed in 1941 for failure to prosecute. (92 Ct. Cl. 607).
- Acting pursuant to the Indian Claims Commission Act of 1946, the Tribes brought claims against the United States. In a 1965 settlement, damages in the amount of \$15 million were paid to the Tribes to "finally settle and dispose of all rights, claims or demands which the petitioner has asserted or could have asserted." (16 ICC 162).

Based on the above, which are matters of public record, we believe that it is settled that the Fort Reno lands were severed from the Tribes reservation in 1883, and that compensation to the Tribes was paid in 1891 and again in 1965.

We disagree with the Tribes contention that the United States Government agreed to return Fort Reno to the Tribes when the lands ceased to be used for military purposes and that they were never compensated. The Tribes contend the 1883 executive order provides for a return of the lands when it stated: "that whenever any portion of the land so set apart may be required by the Secretary of the Interior for Indian purposes, the same shall be abandoned by the military upon notice to that effect to the Secretary of War." However, this language does not provide a reverter of the lands, but rather conditions for the transfer of the land to Interior on a determination by the Secretary of the Interior that such lands are necessary for

Indian purposes. No such determination was made prior to Congress' transfer of Fort Reno to the Department of Agriculture in 1948.

Further, any question about reversion was clearly resolved by superseding events, namely the 1891 ratification of the agreement between the United States Government and the Tribes, and the settlement of the claims asserted before the Indian Claims Commission. Indeed, the 1890 agreement ceding land to the United States expressly states that the Tribes agreed:

. . . to cede, convey, transfer, relinquish, and surrender forever and absolutely, *without any reservation whatever, express or implied*, all their claim, title and interest of every kind and character in and to the lands.

(26 Stat. 1022), emphasis added.

The Tribes' March 2006, memorandum alludes to the opinion of the Solicitor of the Department of the Interior as supporting their claims. In an internal memorandum dated February 26, 1999, the Solicitor did write on this subject saying that the Tribes have "credible arguments" to support their claims. This Agency and our legal counsel disagree with the Solicitor's memorandum as a matter of both fact and law. The above facts clearly show the lands in question were ceded to the United States and compensation paid to the Tribes.

As a final note, the Tribes allege that S. 1832 is designed to prevent the Tribes from regaining their land. As previously stated, these are not Tribal lands. In the 1980s the Tribes alleged that the lands were underutilized and, as a consequence, should be declared surplus so that the Tribes could take them over. We disagree. Acting according to law and in the public interest, we believe that the Agricultural Research Service has been a responsible and effective steward of the Fort Reno lands. We have no plans or intentions of declaring any of these lands as excess or surplus to our needs. The research we are providing American agriculture at the Grazinglands Research Laboratory is significant and demonstrable, and will be continued.

Thank you for the opportunity to provide these comments.

Sincerely,

EDWARD B. KNIPLING,
Administrator.

CITY OF EUGENE, OREGON,
MAYOR'S OFFICE,
Eugene, OR, March 23, 2006.

Sen. LARRY CRAIG,
Chairman, Subcommittee on Public Lands and Forests, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Sen. RON WYDEN,
Ranking Member, Subcommittee on Public Lands and Forests, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR CHAIR CRAIG AND RANKING MEMBER WYDEN: Thank you for scheduling a hearing on the Eugene Land Conveyance Act of 2005 (S. 2150) and allowing this opportunity to comment on the legislation.

Since 1994, the Congress has been actively engaged in supporting the West Eugene Wetlands by providing over \$11 million to fund preservation and conservation of critical wetlands in the Eugene area. The West Eugene Wetlands Partnership formed in 1994, including the City of Eugene and the Bureau of Land Management, and has since grown to include the Eugene School Districts 4J and Bethel 52, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers and the nonprofit organization, Willamette Resources and Educational Network (WREN), as well as the BLM and the City of Eugene. This partnership meets regularly to identify and resolve planning, funding and operating issues for the West Eugene Wetlands Area. A critical component of this effort is a creation of a permanent environmental education center in the West Eugene Wetlands Plan Area.

To accomplish this, the City requests congressional approval for this land transfer from BLM to the City for the education campus site. The site targeted for the center is the federally-owned BLM property that is commonly known as the "Red House" property at 751 S. Danebo Street in Eugene, Oregon.

This property was chosen as the desired location for the education center for several important reasons: (a) its location in the heart of the West Eugene Wetlands; (b) it is already in public ownership; (c) it is easily accessible off of West 11th Avenue and the Fern Ridge bike path; and (d) it has served as the hub of activity in

the wetlands area since the original West Eugene Wetlands partnership was formed in 1994.

WEST EUGENE WETLANDS EDUCATION CENTER

The West Eugene Environmental Education Center is a planned campus with several major components:

- Resident classrooms, laboratory, and greenhouse,
- West Eugene Wetland Partnership office, reference library building, interpretive wing, and greenhouse,
- Public building that includes an exhibit hall, auditorium, and three classrooms.

The Rachel Carson Natural Resource School will be moved from its current location at Churchill High School to this site adjacent to Amazon Creek and the West Eugene Wetlands. The intent is to convert the program into a magnet school with several districts in Lane County eligible for its services. It will initially serve up to 60 students for Phase 1 and 120 students at full build out. It will eventually contain additional classroom facilities for participating youth corps programs, including adjudicated youth.

Since 2002, the City and its partners have provided educational and interpretative programs to school groups, families, and adults; serving 8,975 participants. An onsite yurt is the temporary classroom. Volunteers log more than 500-hours annually. Adults, college and high school students mentor, lead educational programs, and assist with wetland restoration. The existing program is not sustainable without a permanent structure. Primitive conditions meet minimal safety and sanitary standards, do not allow for year-round programming, nor meet universally accessible requirements (ADA) or the growing need for community programs.

BLM TRANSFER

The interagency partnership working on the education center came to two points of agreement regarding the Red House parcel. One, the Red House parcel presented the best site for the education center, due to its central location within the WEW, its proximity to public transit and bicycle transportation routes, and its public ownership status. The education partnership also agreed that construction, operation, and governance of the education center would function most smoothly if the Red House parcel moved to City ownership.

The City has experience in developing and running public facilities with partner agencies and groups, such as the 4J school district; City government is designed to reflect local preferences, interests, and needs, keeping the education center focused on the community it serves; and City ownership provides a platform that is more attractive to foundation and granting organizations than is federal ownership, allowing greater success in the realm of private fund raising.

In conclusion, this transfer will enable the West Eugene Wetlands Partnership to proceed with plans for a visionary education center in West Eugene, and enhance the Congress' support for the West Eugene Wetlands. For all these reasons, the City of Eugene urges you to support the Eugene Land Conveyance Act (S. 2150). Thank you for your consideration.

Sincerely,

KITTY PIERCY,
Mayor.

SAN DIEGO GAS & ELECTRIC,
A SEMPRA ENERGY UTILITY,
San Diego, CA, March 31, 2006.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Hon. LARRY B. CRAIG,
Chairman, Subcommittee on Public Lands and Forests, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Re: Comments for the Record, H.R. 3507

DEAR CHAIRMEN DOMENICI AND CRAIG: We are writing to provide our formal comments for the record regarding H.R. 3507, a bill to transfer certain Bureau of Land Management (BLM) lands and improvements thereon in Riverside and San Diego counties to the Pechanga Band of Luiseno Mission Indians (Tribe), to be held in trust

for the Tribe. We ask that our letter be included in its entirety in the hearing record for the March 29, 2006 hearing on H.R. 3507 before the Subcommittee on Public Lands and Forests.

H.R. 3507 will transfer over 900 acres in the California counties of Riverside and San Diego from the BLM to the Pechanga Tribe (Tribe). San Diego Gas & Electric (SDG&E) has determined that, due to some unresolved survey issues, approximately 1500 feet of an existing 51-mile SDG&E 230 kV transmission line is likely inadvertently located within the property to be conveyed to the Pechanga Tribe at the immediate southern boundary in San Diego county. The affected area is believed to be approximately 12.82 acres, as generally shown on the maps included with this letter.

The 230 kV transmission line was originally built in the 1970's in a 300 foot wide corridor. With the exception of this small piece of the line, the remainder of the transmission corridor immediately south of the likely affected area is otherwise located on SDG&E fee land.

This 230 kV transmission line is an integral part of SDG&E's service network. The line generally carries power into our Escondido substation, and at other critical times supplies power to our Orange County customers. The line is essential in helping to manage congestion and overloads throughout the SDG&E transmission system.

As drafted, H.R. 3507 would transfer both the underlying lands, and any transmission facilities determined to be on those lands, to the Tribe in trust upon enactment. It is clear that the intent of H.R. 3507 was not to transfer the existing SDG&E transmission line; neither the BLM nor the Company was aware until recently of this boundary issue.

SDG&E is committed to working with the Congress, the BLM, and the Pechanga Tribe to address this newly-discovered boundary issue in the most expeditious and fair manner possible. We believe that the affected acreage on which a small portion of the existing 230 kV transmission line corridor may run should be excluded from transfer to the Tribe in order to preserve SDG&E's flexibility to address, among other things, necessary maintenance and access issues for this critical transmission corridor over the long-term.

Sincerely,

JAMES P. AVERY,
Senior Vice President-Electric.

[Enclosures.]

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