

**H.R. 3802, H.R. 4870, H.R. 4917,
H.R. 4919 and H.R. 4952**

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON FORESTS AND
FOREST HEALTH

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

June 20, 2002

Serial No. 107-132

Printed for the use of the Committee on Resources



Available via the World Wide Web: <http://www.access.gpo.gov/congress/house>
or
Committee address: <http://resourcescommittee.house.gov>

U.S. GOVERNMENT PRINTING OFFICE

80-292 PS

WASHINGTON : 2003

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop SSOP, Washington, DC 20402-0001

COMMITTEE ON RESOURCES

JAMES V. HANSEN, Utah, *Chairman*
NICK J. RAHALL II, West Virginia, *Ranking Democrat Member*

Don Young, Alaska, <i>Vice Chairman</i>	George Miller, California
W.J. "Billy" Tauzin, Louisiana	Edward J. Markey, Massachusetts
Jim Saxton, New Jersey	Dale E. Kildee, Michigan
Elton Gallegly, California	Peter A. DeFazio, Oregon
John J. Duncan, Jr., Tennessee	Eni F.H. Faleomavaega, American Samoa
Joel Hefley, Colorado	Neil Abercrombie, Hawaii
Wayne T. Gilchrest, Maryland	Solomon P. Ortiz, Texas
Ken Calvert, California	Frank Pallone, Jr., New Jersey
Scott McInnis, Colorado	Calvin M. Dooley, California
Richard W. Pombo, California	Robert A. Underwood, Guam
Barbara Cubin, Wyoming	Adam Smith, Washington
George Radanovich, California	Donna M. Christensen, Virgin Islands
Walter B. Jones, Jr., North Carolina	Ron Kind, Wisconsin
Mac Thornberry, Texas	Jay Inslee, Washington
Chris Cannon, Utah	Grace F. Napolitano, California
John E. Peterson, Pennsylvania	Tom Udall, New Mexico
Bob Schaffer, Colorado	Mark Udall, Colorado
Jim Gibbons, Nevada	Rush D. Holt, New Jersey
Mark E. Souder, Indiana	Anibal Acevedo-Vila, Puerto Rico
Greg Walden, Oregon	Hilda L. Solis, California
Michael K. Simpson, Idaho	Brad Carson, Oklahoma
Thomas G. Tancredo, Colorado	Betty McCollum, Minnesota
J.D. Hayworth, Arizona	
C.L. "Butch" Otter, Idaho	
Tom Osborne, Nebraska	
Jeff Flake, Arizona	
Dennis R. Rehberg, Montana	

Tim Stewart, *Chief of Staff*
Lisa Pittman, *Chief Counsel/Deputy Chief of Staff*
Steven T. Petersen, *Deputy Chief Counsel*
Michael S. Twinchek, *Chief Clerk*
James H. Zoia, *Democrat Staff Director*
Jeffrey P. Petrich, *Democrat Chief Counsel*

SUBCOMMITTEE ON FORESTS AND FOREST HEALTH

SCOTT McINNIS, Colorado, *Chairman*
JAY INSLEE, Washington, *Ranking Democrat Member*

John J. Duncan, Jr., Tennessee	Dale E. Kildee, Michigan
John E. Peterson, Pennsylvania, <i>Vice Chairman</i>	Tom Udall, New Mexico
Mark E. Souder, Indiana	Mark Udall, Colorado
Michael K. Simpson, Idaho	Rush D. Holt, New Jersey
Thomas G. Tancredo, Colorado	Anibal Acevedo-Vila, Puerto Rico
J.D. Hayworth, Arizona	Betty McCollum, Minnesota
C.L. "Butch" Otter, Idaho	

C O N T E N T S

	Page
Hearing held on June 20, 2002	1
Statement of Members:	
Gallegly, Hon. Elton, a Representative in Congress from the State of California, Prepared statement on H.R. 4917	35
Hansen, Hon. James V., a Representative in Congress from the State of Utah	2
Prepared statement on H.R. 4870	3
Hayworth, Hon. J.D., a Representative in Congress from the State of Arizona	25
Prepared statement on H.R. 3802	26
Prepared statement on H.R. 4919	31
McInnis, Hon. Scott, a Representative in Congress from the State of Colorado, Prepared statement of	2
Peterson, Hon. John, a Representative in Congress from the State of Pennsylvania	7
Prepared statement on H.R. 4952	9
Statement of Witnesses:	
Baliunas, Dr. Sallie, Deputy Director, Director of Science Programs, Mount Wilson Institute	13
Prepared statement on H.R. 4952	15
Ferguson, Jerrell, Diamond Point Summer Homes Association	33
Prepared statement on H.R. 4919	33
Huntress, Dr. Wesley T., Jr., Director, Geophysical Laboratory, Carnegie Institution of Washington	11
Prepared statement on H.R. 4952	12
Thompson, Tom L., Deputy Chief, National Forest System, Forest Service, U.S. Department of Agriculture, Oral statement on H.R. 3802 .	27
Oral statement on H.R. 4870	4
Oral statement on H.R. 4917	37
Oral statement on H.R. 4919	32
Oral statement on H.R. 4952	10
Prepared statement on H.R. 3802, H.R. 4870, H.R. 4917, H.R. 4919 and H.R. 4952	5

LEGISLATIVE HEARING ON H.R. 4870, "MOUNT NAOMI WILDERNESS BOUNDARY ADJUSTMENT ACT"; H.R. 4952, "MOUNT WILSON OBSERVATORY PRESERVATION AND ENHANCEMENT ACT"; H.R. 3802, TO AMEND THE EDUCATION LAND GRANT ACT TO REQUIRE THE SECRETARY OF AGRICULTURE TO PAY THE COSTS OF ENVIRONMENTAL REVIEWS WITH RESPECT TO CONVEYANCES UNDER THAT ACT; H.R. 4919, "TONTO AND COCONINO NATIONAL FORESTS LAND EXCHANGE ACT"; H.R. 4917, "LOS PADRES NATIONAL FOREST LAND EXCHANGE ACT OF 2002"

**Thursday, June 20, 2002
U.S. House of Representatives
Subcommittee on Forests and Forest Health
Committee on Resources
Washington, DC**

The Subcommittee met, pursuant to call, at 9:35 a.m., in room 1334, Longworth House Office Building, Hon. John E. Peterson presiding.

Mr. PETERSON. The Subcommittee on Forests and Forest Health will come to order.

Under Committee rule 4(g), the Chairman and the Ranking Minority Member can make openings statements. If any other statements, they can be included in the hearing record under unanimous consent.

Mr. PETERSON. Representative McInnis, who normally Chairs this Committee, had to fly to Colorado to one of the major fires there. He flew out there this morning. We keep him in our thoughts and prayers as he enters that fire zone. We hope they can get them under control. We commend him for going back to his district at this time.

I am Congressman Peterson, Vice Chair, filling in for him. I will share his statement first and then we will go on to the first bill.

**STATEMENT OF HON. SCOTT McINNIS, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF COLORADO**

Mr. PETERSON. The Subcommittee is meeting today to hear testimony on five bills. The first bill, H.R. 4870, introduced by Chairman Hansen would adjust the boundary of the Mount Naomi Wilderness area to exclude roughly 31 acres that contain utility lines and other developments that aren't compatible with wilderness values and would add approximately 31 acres at the northern boundary to compensate for this exclusion.

The second bill, H.R. 4852 introduced by myself would convey land containing the Mount Wilson Observatory in the Angeles National Forest in California to the Mount Wilson Institute. The Mount Wilson Institute currently operates the Mount Wilson Observatory on land that is leased from the Forest Service. When the land is transferred, the Mount Wilson Institute would assume the obligations of the Forest Service under the current lease.

Third, H.R. 3802 proposed by Mr. Hayworth would amend the Educational Land Grant Act to require the Secretary of Agriculture to pay the cost of environmental reviews with respect to conveyances under that act.

The fourth, H.R. 4919, again introduced by Mr. Hayworth, would direct the Secretary of Agriculture to perform two land exchanges in the Tonto and Coconino National Forests in Arizona.

Finally, the fifth, H.R. 4917, introduced by Mr. Gallegly, would provide for an exchange of lands with the United Water Conservation District of Cal to eliminate private inholdings in the Los Padres National Forest and for other purposes.

Mr. PETERSON. Now, we will recognize Ms. McCollum on behalf of the minority for any opening comments.

Ms. MCCOLLUM. No, thank you.

Mr. PETERSON. Thank you very much.

Mr. Hansen was detained at another meeting. So, I will now begin the discussion on the first bill and share his testimony with you.

**STATEMENT OF JAMES V. HANSEN, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF UTAH**

Mr. PETERSON. Mount Naomi is located in the Wasatch-Cache National Forest near Logan, Utah. It is a beautiful area composed of approximately 44,523 acres, making it one of the largest wilderness areas in the State of Utah. It is host to many different families of both plants and animals and undoubtedly deserves wilderness protection.

Mount Naomi was designated a wilderness area by the Utah Wilderness Act of 1984, which he sponsored. However, some complications have arisen because of the close proximity of the wilderness boundary to Logan city limits.

Management and maintenance problems have been reported by the Forest Service in Logan City, within the southwest corner of the wilderness boundary. Living adjacent to Logan City limits is a utility corridor with sewer lines, including power, communications and water lines. This utilities corridor existed prior to the designation of the wilderness area. Because no motorized or mechanized

equipment is allowed to operate within the wilderness area, maintenance of these facilities is difficult, if not impossible, to conduct.

A simple adjustment of the wilderness boundary would provide a common sense solution to both the utilities corridor's maintenance and the Forest Service management problems. The legislation would adjust the wilderness boundary to exclude the 31-acre parcel that houses the utilities corridor. The new boundary would follow the natural contour lines of Mount Naomi to compensate for this adjustment and prevent a net loss of wilderness.

The Forest Service has identified a separate 31-acre parcel with wilderness characteristics located adjacent to the southern boundary of the wilderness area to be added. The adjustment would thus provide a manageable natural boundary for the wilderness area.

This legislation has support from the local Forest Service, Logan City and Cash County and is the smallest area needed to accomplish this purpose.

Additionally, a small portion of the Bonneville Shoreline Trail has been proposed within the 31 acres adjacent to the Logan City limits. This portion of the trail would connect with a number of other trails in the Bonneville Shoreline Trail system and provide outstanding recreational opportunities for thousands of people each year.

When completed, the trail system will travel along the shoreline of the ancient Lake Bonneville, which stretched from northern Utah to southern Utah, near present-day Cedar City. This trail system has been incredibly popular for hikers, mountain biker and equestrian traffic. This is the only portion of this trail that lies within the wilderness area.

This is good legislation, non-controversial. I urge all of the colleagues to support Mount Nebo Wilderness Boundary Adjustment Act.

[The prepared statement of Mr. Hansen follows:]

**Statement of The Honorable James V. Hansen, a Representative in
Congress from the State of Utah**

Mount Naomi is located in the Wasatch-Cache National Forest near Logan Utah. It is a beautiful area composed of approximately 44,523 acres making it one of the largest wilderness areas in the state of Utah. It is host to many different families of both plants and animals, and undoubtedly deserves wilderness protection.

Mount Naomi was designated a Wilderness Area by the Utah Wilderness Act of 1984, which I sponsored. However, some complications have arisen because of the close proximity of the wilderness boundary to Logan City limits. Management and maintenance problems have been reported by the Forest Service and Logan City. Within the southwest corner of the wilderness boundary, lying adjacent to Logan City limits, is a utility corridor with several lines, including power, communication, and water lines. This utility corridor existed prior to the designation of the wilderness area. Because no motorized or mechanized equipment is allowed to operate within the wilderness area, maintenance of these facilities is difficult, if not impossible, to conduct.

A simple adjustment of the wilderness boundary would provide a common-sense solution to both the utility corridor's maintenance and the Forest Service's management problems. This legislation would adjust the wilderness boundary to exclude the 31-acre parcel that houses the utility corridor. The new boundary would follow the natural contour lines of Mount Naomi. To compensate for this adjustment, and prevent a net loss of wilderness, the Forest Service has identified a separate 31-acre parcel with wilderness characteristics located adjacent to the southern boundary of the wilderness area to be added. The adjustment would thus provide a manageable, natural boundary for the wilderness area. This legislation has support from the local

Forest Service, Logan City, and Cache County, and is the smallest area needed to accomplish this purpose.

Additionally, a small portion of the Bonneville Shoreline Trail has been proposed within the 31 acre area adjacent to the Logan City limits. This portion of the trail would connect with a number of other trails in the Bonneville Shoreline Trail system, and provide outstanding recreational opportunities to thousands of people each year. When completed, the trail system will travel along the shoreline of the ancient Lake Bonneville, which stretched from northern Utah to southern Utah, near present-day Cedar City. This trail system has been incredibly popular for hikers, mountain bikers, and equestrian traffic. This is the only portion of this trail system that lies within the wilderness area.

This is good legislation, and non-controversial. I urge all of my colleagues to support the Mount Naomi Wilderness Boundary Adjustment Act.

Mr. HANSEN. Good work, Mr. Chairman. I do appreciate it. Thank you so much.

I had to give a speech this morning and I couldn't get out in time. Am I excused?

Mr. PETERSON. You are excused.

Mr. HANSEN. Thank you.

Mr. PETERSON. Now, we will introduce the witnesses for our first bill, for H.R. 4870, we had our Chairman of the Committee, Mr. Hansen.

Next is Mr. Thompson, Deputy Chief, National Forest System. Mr. Thompson, we urge you to proceed.

**STATEMENT OF TOM L. THOMPSON, DEPUTY CHIEF,
NATIONAL FOREST SYSTEM**

Mr. THOMPSON. Thank you, Mr. Chairman. Mr. Chairman and members of the Committee, I thank you for this opportunity to appear before you today.

I am Tom Thompson, Deputy Chief of the National Forest System, Forest Service. I am here to provide the Administration's comments on five separate bills. The first one I will talk about is H.R. 4870, which is the Mount Naomi Wilderness Boundary Adjustment Act.

The Department supports H.R. 4870, a bill that would adjust the boundary of Mount Naomi Wilderness in the Wasatch-Cache National Forest in Utah. We believe that this boundary adjustment will add to a higher level of wilderness value, including areas of solitude, scenery and pristine qualities.

The boundary adjustment would exclude approximately 31 acres of land currently part of the Mount Naomi Wilderness and would add, in accordance with valid existing rights, 31 acres to the wilderness area.

The bill also requires the secretary to manage these 31 additional acres pursuant to the Utah Wilderness Act of 1984, which was Public Law 98-428. This is adjustment would provide for the alignment of the Bonneville Shoreline Trail, which is a multi-county recreation trail.

The trail is designed predominately for non-motorized use, which does not conform to a wilderness trail. The boundary adjustment would also eliminate the need for a power line easement within the wilderness area which is also a non-conforming use.

So, the department supports H.R. 4870. I would be happy to answer any questions.

[The prepared statement of Mr. Thompson follows:]

**Statement of Tom Thompson, Deputy Chief, National Forest System,
Forest Service, U.S. Department of Agriculture**

Mr. Chairman and members of the Subcommittee, thank you for the opportunity to appear before you today. I am Tom Thompson, Deputy Chief for National Forest System, Forest Service. I am here today to provide the Administration's comments on five bills:

- H.R. 3802 a bill to amend the Education Land Grant Act, Public Law 106-577, to require the Secretary of Agriculture to pay the costs of environmental reviews for conveyances under that act.
- H.R. 4870 a bill to make adjustments to the boundaries of the Mount Naomi Wilderness Area, and for other purposes.
- H.R. 4952 the Mount Wilson Conveyance.
- H.R. 4919 the Tonto and Coconino National Forests Land Exchange Act
- H.R. 4917 the Los Padres National Forest Land Exchange Act of 2002

The Department supports H.R. 4870 and H.R. 4917 and does not object to H.R. 3802, H.R. 4952 or H.R. 4919. The Department would like to work with the Committee to improve H.R. 4952.

H.R. 3802—A bill to amend the Education Land Grant Act to require the Secretary of Agriculture to pay the costs of environmental reviews.

H.R. 3802 amends Section 202 of the Education Land Grant Act (ELGA) by requiring the Secretary of Agriculture to pay the costs of environmental reviews for conveyances under ELGA.

The Department does not object to the bill. However, the measure would prohibit a school district from paying the cost of environmental reviews if they choose. In some situations, the exchange process may be delayed because the Forest may have other funding priorities or funding limitations. In these instances, a school district may be able to expedite the exchange process by paying the cost of environmental reviews.

To meet this requirement, the Department would likely need to reprogram funding to effectively implement the bill.

H.R. 4870—Mount Naomi Wilderness Boundary Adjustment Act

The Department supports H.R. 4870, a bill that would adjust the boundary of the Mount Naomi Wilderness in the Wasatch-Cache National Forest in Utah. We believe the boundary adjustment will add to a higher level of wilderness value, including the areas solitude, scenery and pristine qualities.

The boundary adjustment would exclude approximately 31 acres of land currently part of the Mount Naomi Wilderness and would add, in accordance with valid existing rights, 31 acres to the wilderness area. The bill also requires the Secretary to manage the 31 additional acres pursuant to the Utah Wilderness Act of 1984 (Public Law 98-428).

This adjustment would provide for the alignment of the Bonneville Shoreline trail, which is a multi-county recreational trail. The trail is designed predominately for heavy non-motorized use, which does not conform to a wilderness trail. The boundary adjustment would also eliminate the need for a power line easement within the wilderness area, which is also a non-conforming use.

H.R. 4952—Conveyance of Mount Wilson Observatory

The Department has concerns with H.R. 4952 and would like to work with the Committee to improve the bill. The bill would convey 110 acres of National Forest System land without consideration to the Mount Wilson Institute. Approximately, 45 acres of the lands to be conveyed are currently leased to the Carnegie Institute of Washington, which in turn permits the Mount Wilson Institute to operate and maintain the Mount Wilson Observatory.

The bill also specifies that if the observatory is ever used for any reason other than scientific, educational, historic, or other public purposes it shall revert to the United States.

The Department believes it is in the public interest for this land to remain available for public recreational use. The area surrounding the observatory has extremely high recreational value as public open space and for dispersed recreation. Mt. Wilson is the center of the densest cluster of trails in the San Gabriel Mountain Range a key destination on an extensive and highly used trail system and connects to approximately 100 trails stretching across the San Gabriel Mountains. A large part of Mount Wilson's popularity is due to an almost 360-degree panoramic view that includes a view of the entire Los Angeles Basin.

The Department also recognizes and supports improving the manner in which the land surrounding the observatory is maintained. For that reason, Regional Forester Jack Blackwell has directed the Forest Supervisor of the Angeles National Forest to address the maintenance issues raised by the Mount Wilson Institute, including hazardous tree removal, adequate water supply and the upkeep of public restrooms. It is my understanding some hazardous trees have already been removed and other efforts are underway to address the other identified maintenance concerns.

Also, the Department would like to ensure that any conveyance of land surrounding the observatory be pursued in a fiscally responsible way. The value of the 110-acre parcel identified in the bill has not yet been determined. It is important that this value be factored into the conveyance proposal.

H.R. 4919—Tonto and Coconino National Forests Land Exchange Act

H.R. 4919 directs the Secretary to exchange approximately 108 acres of land within the Tonto National Forest, northeast of Payson, Arizona and currently occupied by 45 residential cabins under special use permits for 495 acres of non-federal land (known as the Q Ranch) within the Tonto National Forest, east of Young, Arizona. This exchange is identified in the bill as the Diamond Point/Q Ranch Land Exchange.

The bill also directs the Secretary to exchange approximately 222 acres of National Forest System land adjacent to the Town of Payson near the municipal airport for roughly 157 acres of private land (owned by Montezuma Castle Land Exchange Joint Venture) adjacent to the Montezuma Castle National Monument and nearly 143 acres of private land known as Double Cabin Park Lands. Both of the private parcels are within the Coconino National Forest boundary.

H.R. 4919 requires that the values of the non-Federal and Federal land to be exchanged to be equal or equalized as determined by the Secretary through an appraisal by a qualified appraiser and performed in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions and Federal Land Policy and Management Act of 1976.

The bill requires the Secretary to execute the Montezuma Castle and Diamond Point Land Exchanges within 6 months after receipt of an offer from the private landowners, unless the Secretary and the private landowners mutually agree to extend such deadline.

The Department supports the concept of exchanging the National Forest System lands, which were identified in H.R. 4919; however, we can meet this objective by utilizing existing statutory authorities. In fact, the Diamond Point Land exchange is currently being evaluated through our administrative exchange process and we anticipate completing the environmental analysis and making a decision on this proposal in March 2003. However, passage of legislation could conclude this process more quickly.

We have completed an initial review relative to the conveyance of the National Forest System lands adjacent to the Payson, Arizona airport. We believe a competitive exchange process, utilizing competing market forces would best meet the public interest in identifying priority private lands for acquisition. Due to the rapidly changing market variables in this major growth area and multiple interests anticipated for this Federal parcel, this competitive approach would serve as the most reliable means of estimating the market value of the Federal lands.

The Forest Service intends to initiate this competitive proposal this calendar year and all interested parties will be encouraged to participate in this process.

H.R. 4917—To provide for an exchange to eliminate private inholdings in the Los Padres National Forest, and for other purposes

H.R. 4917 authorizes the Secretary to exchange approximately 420 acres of National Forest System land for approximately 340 acres of inholdings in the Los Padres National Forest. The United Water Conservation District of California (UWCD) owns the inholdings.

This exchange would consolidate interior land boundaries on the Ojai Ranger District of the Los Padres National Forest and would provide UWCD with contiguous ownership around Lake Piru.

The bill requires the UWCD to construct a gravel parking area upon UWCD lands for the Potholes trailhead of the Los Padres National Forest. It also would protect the existing Federal Energy Regulatory Commission License for less than a 5-mega watt generator at the outfall.

The Department supports H.R. 4917, but we are concerned about the control the bill would give UWCD regarding restricting public vehicle access. Any decisions on regulating vehicle access should be made in consultation with the Los Padres Forest Supervisor. Additionally, the bill does not specify whether the Forest Service or

United Water Conservation District of California will pay for the associated cost of the land exchange. We believe it is in both parties interest to have UWCD significantly share in the costs of processing this transaction. Finally, we believe that any receipts from cash equalization that are deposited into the Sisk Act Fund should be used to acquire replacement lands within the Los Padres National Forest instead of being used toward facilities. We would like to work with the Committee to address these concerns.

Conclusion:

This concludes my statement. We look forward to working with the Committee on making the suggested modifications as noted above, and I would be happy to answer your questions.

Mr. PETERSON. Thank you very much. Do we have any questions of the witness?

We thank you for appearing. We will move on to the next issue.

Mr. PETERSON. Dr. Wesley T. Huntress, Jr., Director of the Geophysical Laboratory, Carnegie Institution of Washington; and Dr. Sallie Baliunas, Deputy Director, Director of Science Programs, Mount Wilson Institute.

Let me remind the witnesses that under our Committee rule you must limit your oral statement to 5 minutes, but your entire statement will appear in the record.

I will start with my opening statement and then I will hear the witnesses.

**STATEMENT OF HON. JOHN PETERSON, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF PENNSYLVANIA**

Mr. PETERSON. Mr. Chairman, thank you for the opportunity to present my position on H.R. 4952 of the bill to preserve and enhance Mount Wilson Observatory for the purpose of safeguarding the special, splendid national treasure.

I favor the research done there by the scientists at Penn State University in my district and other universities throughout our country. The Penn State researchers developed and used their unmatched state-of-art device costing approximately \$5 million to study infrared light from stars in fine detail.

Majestically poised in the San Gabriel Mountains north of Los Angeles, Mount Wilson Observatory has the calmest air of any site on the North American continent. The steady air and strings of clear nights so typical on Mount Wilson have made the site a premier resource for astronomy since 1889 when Harvard first placed a telescope there.

In 1904, the visionary American scientist, George Ellery Hale of Carnegie Institution of Washington founded the complex of instruments that were home to the largest telescopes in the world and would dominate astronomy for the first half of the 20th Century.

With the mighty 100-inch telescope, the great American-born astronomer, Edwin Hubble and his colleague, Milton Humason, once a mule driver, found the evidence for the unimaginably vast distance between galaxies and for the expansion of the universe.

With the largest telescope in the world, the genius of Hubble took the last step in the Copernican Revolution. The earth is not the cosmos. The sun is not the center. Our galaxy is not the center. There is no center. Instead, we see everywhere expansion from a beginning about 15 billion years ago.

Beyond the historical importance of Mount Wilson, the calm, clean air of the mountain has led to a renaissance in research there. With advances in technology, Mount Wilson is now home to the most powerful new telescopes in the world. Georgia State University is just completing a 1,000-foot diameter optical interferometer and Berkeley is expanding its Infrared Interferometer.

The two arrays of telescopes are showing with unprecedented detail "star and planet nurseries," distant solar systems, and death throes of stars. Georgia State's CHARA array can see detail as fine as a quarter held 10,000 miles away, or as small as a footprint on the moon. The new technology telescopes work best at Mount Wilson's unequalled skies.

The Observatory's revitalization owes to the non-profit Mount Wilson Institute, which has the authority to manage the site into the 22nd century. The institute has preserved this astronomical treasure and opened its invaluable sky resources to American scientists who come to build 21st telescopes that offer light on humankind's place in the cosmos.

Telescopes have been peering at the starry skies atop Mount Wilson as far back as 1889. For 87 years Mount Wilson's telescopes worked on private land. In 1976, 1100 acres of land, including the approximately 40-acre Observatory parcel and 60 acres that formed the entryway and public face of the Observatory were deeded from private ownership to the United States Forest Service.

Over the last 20 years the U.S. Forest Service facilities have deteriorated to such a degree that the health and welfare of the forest, public and Observatory are at risk. The scientists and dedicated personnel of the Observatory have paid with scarce research funds and sweat equity to preserve the health of the land and forest. Their contributions have been especially beneficial to the 60-acre gateway parcel that is entirely under U.S. Forest Service ownership.

The Institute has demonstrated that it is best suited to own and care for the land for the public good.

My bill seeks to legitimize the de facto preservation that Mount Wilson Institute has been providing to the public site and needs to enhance the facility.

I ask that approximately 110 acres composed of the Observatory and its gateway be conveyed to the Institute. The United States benefits from the conveyance in at least two ways. First the cost of preserving and enhancing the facility for the greatest scientific, historical and educational good would shift to the private, rather than the public resources. Second, if the site were not used for scientific or educational purposes, the land would revert back to the Forest Service.

A precedent for this transfer has recently been set by the Department of Interior and National Park Service which is now deeding 313 historic lighthouses to qualified nonprofit groups who will preserve them for generations to come.

Mount Wilson is a priceless historic shrine, and an irreplaceable astronomical resource. To preserve and enhance Mount Wilson's exploration of the cosmos, the land of this unique facility should be transferred to the Institute, which cares enough to have invested heavily in its new future for all humankind.

I guess basically my theory is, why should the Forest Service who gets \$1 for the lease, have to use their very scarce resources when they are billions of dollars behind in maintenance all over their system?

Why should we use National Forest Service money when this Institute can raise private funds to keep this facility in fine shape?

It just makes sense. If it would ever stop being used in the scientific way that it is being used, it would then go back to the Forest Service. So, it would remain in public ownership. The Institute really serves all the institutions that serve there.

[The prepared statement of Mr. Peterson (H.R. 4952) follows:]

Statement of The Honorable John Peterson, a Representative in Congress from the State of Pennsylvania, on H.R. 4952

Mr. Chairman, thank you for the opportunity to present my position on H.R. 4952, a bill to preserve and enhance Mount Wilson Observatory for the purpose of safeguarding this splendid national treasure. I favor the research done there by the scientists at Penn State Univ. in my district, and other universities throughout our country. The Penn State researchers developed and use there an unmatched, state-of-the art device costing approximately \$5 million to study infrared light from stars in fine detail.

Majestically poised in the San Gabriel Mountains north of Los Angeles, Mount Wilson Observatory has the calmest air of any site on the North American continent. The steady air and strings of clear nights so typical on Mount Wilson have made the site a premier resource for astronomy since 1889 when Harvard first placed a telescope there.

In 1904, the visionary American scientist George Ellery Hale of Carnegie Institution of Washington founded the complex of instruments that were home to the largest telescopes in the world and would dominate astronomy for the first half of the 20th century. With the mighty 100-inch telescope, the great American-born astronomer Edwin Hubble and his colleague Milton Humason, once a mule driver, found the evidence for the unimaginably vast distance between galaxies, and for the expansion of the Universe. With the largest telescope in the world, the genius of Hubble took the last step in the Copernican Revolution: the earth is not the center of the Cosmos, the sun is not the center, our galaxy is not the center—there is no center. Instead, we see everywhere expansion from a beginning about fifteen billion years ago.

Beyond the historical importance of Mount Wilson, the calm, clear air of the mountain has led to a renaissance in research there. With advances in technology, Mount Wilson is now home to the most powerful new telescopes in the world. Georgia State University is just completing a 1,000-foot diameter optical interferometer, and Berkeley is expanding its Infrared Interferometer. The two arrays of telescopes are showing with unprecedented detail “star and planet nurseries,” distant solar systems, and death throes of stars. Georgia State’s CHARA array can see detail as fine as a quarter held 10,000 miles away, or as small as a footprint on the moon. The new technology telescopes work best at Mount Wilson’s unequalled skies.

The Observatory’s revitalization owes to the non-profit Mount Wilson Institute, which has the authority to manage the site into the 22nd century. The Institute has preserved this astronomical treasure and opened its invaluable sky resources to American scientists who come to build 21st century telescopes that offer light on humankind’s place in the Cosmos.

Telescopes have been peering at the starry skies atop Mount Wilson as far back as 1889. For 87 years Mount Wilson’s telescopes worked on private land. In 1976, 1100 acres of land including the approximately 40-acre Observatory parcel and 60+ acres that form the entryway and public face of the Observatory were deeded from private ownership to the USFS.

Over the last twenty years the USFS facilities have deteriorated to such a degree that the health and welfare of the forest, public and Observatory are at risk. The scientists and dedicated personnel of the Observatory have paid with scarce research funds and sweat equity to preserve the health of the land and forest. Their contributions have been especially beneficial to the 60-acre gateway parcel that is entirely under USFS ownership.

The Institute has demonstrated that it is best suited to own and care for the land for the public good.

My bill seeks to legitimize the de facto preservation that Mount Wilson Institute has been providing to the public site, and needs to enhance the facility. I ask that approximately 110 acres composed of the Observatory and its gateway be conveyed to the Institute.

The United States benefits from the conveyance in at least two ways. First, the cost of preserving and enhancing the facility for the greatest scientific, historical and educational good would shift to private, rather than public resources. Second, if the site were not used for scientific or educational purposes, the land would revert to the USFS.

A precedent for this transfer has recently been set by the Dept. of Interior and National Park Service, which is now deeding 313 historic lighthouses to qualified nonprofit groups who will preserve them for generations to come.

Mount Wilson is a priceless historic shrine, and an irreplaceable astronomical resource. To preserve and enhance Mount Wilson's exploration of the Cosmos, the land of this unique facility should be transferred to the Institute, which cares enough to have invested heavily in its new future for all humankind.

Mr. PETERSON. We are going to keep going here. There is a journal vote at 10. At some point in time we will have to run for that. I now recognize Mr. Thompson for his statement.

**STATEMENT OF TOM L. THOMPSON, DEPUTY CHIEF,
NATIONAL FOREST SERVICE**

Mr. THOMPSON. Again, thank you, Mr. Chairman and Members of the Subcommittee. I will now present the Administration's position on H.R. 4952 which is the conveyance of Mount Wilson Observatory.

The department has concerns with H.R. 4952 and would like to work with the Committee to improve the bill. The bill would convey 110 acres of National Forest Service System land without consideration to Mount Wilson Institute.

Approximately 45 acres of the lands to be conveyed are currently leased to the Carnegie Institute of Washington, which in turn permits the Mount Wilson Institute to operate and maintain Mount Wilson Observatory.

The bill also specifies that if the Observatory is ever used for any reason other than scientific, educational, historic or other public purposes, it shall revert to the United States. The Department believes that it is in the public interest for this land to remain available for public recreation use. The area surrounding the observatory has extremely high recreation value as public open space and for dispersed recreation.

Mount Wilson is the center of the most dense cluster of trails on the San Gabriel Mountain Range, a key destination on an extensive and highly used trail system and connects with approximately 100 trails stretching across the San Gabriel Mountains. A large part of Mount Wilson's popularity is due to an almost 360-degree panoramic view that includes a view of the entire Los Angeles Basin.

The Department also recognizes and support improving the matter in which the land surrounding the Observatory is maintained. For that reason, Regional Forester Jack Blackwell has directed the forest supervisor of the Angeles to address the maintenance issues raised by the Mount Wilson Institute including hazardous tree removal, adequate water supply and upkeep of public restrooms.

It is my understanding that some hazardous trees have already been removed and other efforts are underway to address the other

identified maintenance concerns. Also, the department would like to ensure that any conveyance of land surrounding the Observatory be pursued in a fiscally responsible way.

The value of the 110-acre parcel identified in the bill has not yet been determined. It is important that this value be factored in to the conveyance proposal.

Now that is my testimony and I would be happy to answer questions.

Mr. PETERSON. Thank you, and now we recognize Dr. Huntress.

**STATEMENT OF WESLEY T. HUNTRESS, JR., DIRECTOR,
GEOPHYSICAL LABORATORY, CARNEGIE INSTITUTION OF
WASHINGTON**

Mr. HUNTRESS. Thank you, Mr. Chairman. My name is Wesley Huntress, Jr. I am the Director of the Geophysical Laboratory, which is one of the five scientific research institutions at the Carnegie Institution of Washington.

I am here representing Maxine Singer, who is President of the Carnegie Institution, but was unable to attend.

I would like to give the Committee a kind of a sense of the history of the Institution's involvement with Mount Wilson and the Forest Service. Carnegie Institution is a Congressionally chartered institution, founded and endowed by Andrew Carnegie 100 years ago this year, as a matter of fact. Its mission is to discover new knowledge through scientific research, achieving that through the support of exceptional individuals, one of whom you have mentioned already, George Ellery Hale, who in 1904 received approval from the Carnegie Institution to establish the Mount Wilson Observatory. Over the next 20 years, he built telescopes for the study of the sun and two large optical telescopes, the 60-inch and 100-inch, which is still there today.

In their time, they were the largest telescopes in the world. That lasted until 1948 when the Carnegie Institution and Cal Tech inaugurated the 200-inch on Mount Palomar. So, for the first half of the last century, the 20th century, the Mount Wilson Observatory set the standard for astronomy and made the United States the world leader in these sciences.

The greatest astronomers of that period were, in fact, Carnegie staff members, including Edwin Hubble, who joined the staff in 1919 and over the 20 years following that he transformed our understanding of the universe. As you have heard this morning, he made major discoveries with that 100-inch telescope.

But of greater significance, he demonstrated that the universe is made up of many galaxies in addition to our own Milky Way and that all distant galaxies are moving away from us. In other words, the universe is expanding.

In the 1970's, driven by an interest to study objects in the southern skies, the Carnegie set up an observatory in northern Chile. During the 1980's, the light pollution over the Los Angeles Basin became an increasing threat to the use of Mount Wilson. So, at the end of that decade, the Institution decided to put all of its resources in astronomy in Chile and to close Mount Wilson.

Nevertheless, there was much useful work that could still be done at Mount Wilson, particularly in education. So, the Carnegie

Institution was quite pleased when the independent Mount Wilson was formed and proposed to operate the mountain and its facilities.

We had a formal agreement established in 1991. But Carnegie Institution remains the owner of the Observatory. The land on which the Observatory stands is currently leased to the Carnegie Institution by the U.S. Forest Service and anticipating the end of this 99-year lease in 2003 and in view of the request by the Mount Wilson Institute and its productive scientific activities, the Carnegie Institution applied to the Forest Service for a 99-year extension of this lease which was granted in March of this year.

We learned of the current proposed legislation about 3 weeks ago. We do have some questions with regard to our ownership and responsibility for the buildings and equipment on Mount Wilson and our legal relationship with the Mount Wilson Institute.

I would like the Committee to know that we have a very good relationship with the Mount Wilson Institute. We are not adverse to the bill. We wish only to make a considered judgment. Our principal interest is in the protection and the preservation of those historic buildings on the land.

Thank you for your attention.

[The prepared statement of Mr. Huntress (H.R. 4952) follows:]

Statement of Dr. Wesley T. Huntress, Jr., Director, Geophysical Laboratory, Carnegie Institution of Washington, Washington, D.C.

Good morning. My name is Wesley T. Huntress, Jr. and I am Director of the Geophysical Laboratory, one of the five scientific research departments of the Carnegie Institution of Washington. I am here for Maxine Singer, President of the Carnegie Institution, who was unable to attend. I would like to give the Committee a sense of the history of Institution's involvement with Mt. Wilson and the Forest Service. The Carnegie Institution is a Congressionally chartered institution founded and endowed by Andrew Carnegie 100 years ago this year. Its mission is to conduct fundamental scientific research to discover new knowledge, in the words of the founder, "for the benefit of man". Andrew Carnegie stated that this mission was to be achieved through the support of 'exceptional' individuals.

One of the first of these exceptional individuals was George Ellery Hale. In 1904 he received approval from the Carnegie Institution to establish the Mount Wilson Observatory and the Observatory's offices in nearby Pasadena, California. There, over the next 20 years, he built telescopes for study of the sun and two large optical telescopes, one with a 60-inch mirror, and one with a 100-inch mirror. They were in their time the largest telescopes in the world and would remain so until 1948 when the Carnegie Institution and the California Institute of Technology inaugurated the 200-inch telescope at Palomar. For the first half of the 20th century, the Mount Wilson Observatory set the standard for astronomy and astrophysics and made the United States the world leader in these sciences. The greatest astronomers of that period were Carnegie staff scientists including perhaps the most famous of them all, Edwin Hubble.

In 1919 Edwin Hubble joined the staff of the Mount Wilson Observatory. Over the next 20 years Hubble transformed our understanding of the universe. He made many major discoveries with the 100-inch telescope, but of greatest significance he demonstrated that the universe is made up of many galaxies in addition to our own Milky Way and that all the distant galaxies are moving away from us; in other words, the universe is expanding. After Hubble's death in 1953, staff member Allan Sandage continued the thrust of Hubble's work on the expansion of the universe and to this day works on the question of the rate of the expansion and thus the age of the universe.

In 1969, driven by an interest in studying the objects seen from southern skies, the trustees of the Institution obtained property in northern Chile and constructed the Las Campanas Observatory. During the 1980's, light pollution over the Los Angeles area became an increasing threat to the use of the Mount Wilson telescopes. By the end of that decade, the Institution decided to put its resources for astronomy at Las Campanas and to close Mount Wilson. Nevertheless, there was much useful work that could still be done at Mount Wilson. The Institution was therefore

pleased when the independent Mount Wilson Institute was formed and proposed that it operate the mountain and its facilities. A formal agreement was established in 1991 between the two institutions. The agreement involves no flow of funds in either direction but does require certain periodic reports from the Mount Wilson Institute to the Carnegie Institution, which remains the owner of the Observatory.

The land on which the Observatory stands is currently leased to the Carnegie Institution by the U.S. Forest Service. Anticipating the end of this 99-year lease in 2003, and in view of a request by the Mount Wilson Institute and the productive scientific activities carried out on the mountain under its auspices, the Carnegie Institution applied to the Forest Service for a 99-year extension of this lease. The extension was approved by the Forest Service in March of this year following the payment of one dollar. We only recently learned of this proposed legislation to transfer title of the land on which the Mt. Wilson Observatory stands from the Forest Service to the Mt. Wilson Institute, and we have not had sufficient time to understand the implications with regard to our ownership and responsibility for the buildings and equipment on Mt. Wilson or on our legal relationship with the Mt. Wilson Institute. We have many questions that remain to be answered in this regard, so that at the present time we cannot say whether we can support or oppose.

Thank you for your attention. I will be pleased to respond to your questions.

Mr. PETERSON. Thank you, Dr. Huntress.
Our next witness is Sallie Baliunas.

**STATEMENT OF SALLIE BALIUNAS, DEPUTY DIRECTOR OF
SCIENCE PROGRAMS AT MOUNT WILSON INSTITUTE**

Ms. BALIUNAS. Thank you Mr. Chairman and distinguished members of the Committee. I am grateful for the opportunity to provide information on H.R. 4952. Since 1989, I have been Deputy Director of Mount Wilson Institute. I have worked at the Observatory conducting research for 26 years.

In the 21st century, Mount Wilson's calm air remains a priceless resource to astronomers. They have built cutting edge research and new technology telescopes and instruments. Our scientists come from all over the world, most notably scientists from Berkeley, Georgia State, Penn State, University of Illinois, Harvard, Smithsonian, UCLA, USC, JPL, Cal Tech, Hawaii, Chicago, the National Optical Astronomy Observatories all rely on this priceless calm air of the skies above Los Angeles.

As a result of this, Mount Wilson Institute, just in the last 10 years, has overseen approximately \$62 million investigated from public and private sources in new telescopes, new assets, improvements and maintenance both on our facility and on the adjacent public lands of the Forest Service which are critical for the access to our facility.

Now, the history of this is that in 1976, 1100 acres were given to the Forest Service from a private company. Forty-five acres are the leasehold for the observatory and there is approximately 60 acres of a front gateway. In that front gateway area to the Observatory it includes roads built by the private company, two parking lots, restrooms, drinking fountains, stairs, picnic facilities, retaining walls, fences and several dilapidated buildings that have been abandoned.

Through my 26 years of research at the Observatory, these public facilities have deteriorated from terrible to disrespectful. In the last 10 years Mount Wilson Institute has been requesting that the Forest Service meet its obligations, both on the entryway parcel

whose facilities have severely deteriorated, and on the Observatory grounds.

Visitorship has fallen from about 1500 people per weekend to about 50. Now the public is ill served by this. The Forest Service no longer, for example, opens and shuts the security gate. Mount Wilson Institute is forced to open and shut the Forest Service security gate in order to allow the public entryway to the public land.

We provide the security. We have often swept the trash away. We now provide the toilet facilities for the public. There is just one immediate concern that is very hazardous and that is the extreme risk of fire. This year may be the worst for fire risk in the 112-year history of the mountaintop Observatory.

On the Observatory parcel, the 1905 lease requires the Mount Wilson Institute and the Forest Service to share the burden of reducing fire hazard. This includes removing the trees and shrubs too close to buildings and other code requirements.

My current and prior site supervisors report that the Forest Service has rarely met its share of risk abatement. That has left the Institute bearing essentially all the cost in order to protect not only its employees, their families, visitors and the public, but also the forest and its facility.

Now, as for trees, the Institute has for several years been requesting permission to remove trees that are fire and falling hazards or that interfere with the operation of the telescopes. Only recently, but we are extremely grateful, that inspection and permission to remove some of these trees has been granted. The backlog of just serious tree problems is so great that 100 trees need to be removed as quickly as possible.

On the Forest Service parcel that is the gateway to the Observatory, we have urged for some time that fire hazards be addressed. A related and extremely serious issue is the nearly empty 300,000-gallon cistern that is the only firefighting water for about one-half mile.

The pump for this Forest Service tank had broken and remained broken for nearly a year. Now the tank cannot be filled from the nearby wells, which are now mostly dry owing to the severe drought this year, in time for firefighting preparedness. The public has lost a huge amount of benefits from this.

The Mount Wilson Institute has been taking on the public obligations to open these recreational facilities. We have paid a quarter of a million dollars just in the last 6 years to meet these Forest Service obligations.

The costs have been borne by donors, scientific grants from Federal and State agencies and the Board of Trustees and the scientists who work to preserve and enhance this irreplaceable site unanimously support the proposed land transfer.

We are hoping to ensure that the unique capabilities of the Observatory are developed and used for the highest scientific and educational purposes and for the intellectual and practical benefit of humankind.

Thank you for your time.

[The prepared statement of Ms. Baliunas (H.R. 4952) follows:]

**Statement of Sallie Baliunas, Ph.D., Deputy Director and Director of
Science Programs, Mount Wilson Institute**

Chairman McNinnis and distinguished Members of the Subcommittee:

I am grateful for the opportunity to provide information on H.R. 4952. I have been conducting astronomical research at Mount Wilson Observatory since 1976. Since 1989 I have been Deputy Director of Mount Wilson Institute, the non-profit organization authorized to operate the Observatory into the 22nd century. My research there has been part of my official duties as scientist at the Harvard-Smithsonian Center for Astrophysics for 22 years.

As Mr. Peterson noted, Harvard College Observatory first installed a telescope on Mount Wilson in 1889, on then-private land. By 1904, George Ellery Hale had begun planning to place there the next two largest telescopes in the world. With some of the world's greatest scientists using the most magnificent telescopes at the site with extraordinarily calm air, the Observatory became the origin of profound leaps of knowledge about humankind's place in the Cosmos.

21st century on Mount Wilson—Today top scientists from Berkeley, Georgia State University, Penn State Univ., Univ. Illinois, Harvard-Smithsonian Center for Astrophysics, UCLA, USC, JPL, Cal Tech, Univ. Hawaii, Univ. Chicago and National Optical Astronomy Observatories (NOAO) conduct cutting-edge research with new-technology telescopes and instruments set in the priceless calm skies above Los Angeles. As a result of this precious calm air, Mount Wilson Institute in the last ten years has overseen the approximately \$62 million invested from public and private sources in new assets, plus improvements in and maintenance of existing assets that support astronomy and education. (A letter from the Director of the CHARA, Prof. Hal McAlister, the most powerful optical interferometer in the world, is attached as Appendix A).

Public land and assets In 1976 an 1100-acre parcel of land containing the Observatory's 40 or so acres left private ownership and came to the USFS. The donated parcel also holds approximately 60 acres with visitor facilities built and donated to the public by the former private owner. This area forms the gateway to the Observatory, and includes roads, two large parking lots, restrooms, drinking fountains, stairs, picnic facilities, retaining walls, fences, and several buildings that have been abandoned for several years.

Through my 26 years of research at the Observatory the public facilities have deteriorated. In the last ten years, Mount Wilson Institute has been requesting that the Forest Service meet its obligations both on the public "gateway parcel" and on the Observatory grounds. There are two main concerns about USFS fulfillment of its obligations. First is for managing forest and public risk; and second is for the public benefit. A list of concerns that have been given to the USFS in ongoing communications is attached (Appendix B). I wish to discuss one important example in detail.

Immediate hazards: Fire risk This year may be the worst for fire risk in the 112-year history of the mountaintop observatory. On the Observatory parcel the 1905 Lease requires that Mount Wilson Institute and USFS share the burden of reducing fire hazards. This includes removing trees and shrubs too close to buildings. My current and a prior site supervisor report that USFS has rarely met its share of fire risk abatement. The Institute has borne essentially all the cost in order to protect not only its employees, their families, visitors and the public but also the forest and facility.

As for trees, the Institute has for several years been requesting permission to remove trees that are fire and falling hazards, or interfere with the operation of the telescopes. (The 1905 Lease allows the Institute to remove trees that unduly affect telescope viewing). Only recently have inspection and permission been granted; the backlog of serious tree problems is so great that approximately 100 trees need to be removed as quickly as possible.

On the USFS parcel that is the gateway to the Observatory, we have urged for some time that fire hazards be addressed. A related issue is the nearly-empty USFS 300,000-gallon cistern that is the only fire-fighting water for one-half mile. The pump for the tank had broken and remained so for nearly a year, and now the tank cannot be filled from the nearby wells in time for fire fighting preparedness.

Lost public benefits Per the 1905 Lease, the Observatory must be open free to the public. Moreover, the Institute believes that public access to the Observatory is an important mandate. Because USFS controls the access parcel, its dilapidated condition has decreased visitorship by more than a factor of ten in the last ten years. There are unsafe staircases, failed retaining walls, dead trees, broken fences, and attractive nuisances. The public restrooms have been closed for broken fixtures and

a failed septic system. The Institute now pays over \$10,000 per year for portable facilities on USFS land.

Mount Wilson Institute has paid about \$250,000 just in the last six years (the period for which I summed the costs) to meet USFS obligations. The costs have been borne by donors, plus scientific grants from Federal and state agencies. Mount Wilson's Board of Trustees and the scientists who work to preserve and enhance this irreplaceable site unanimously support the proposed land transfer in order to ensure that the unique capabilities of the Observatory are developed and used for the best and highest scientific and educational purposes, for the intellectual and practical benefit of humankind.

Thank you for your time and attention.

**Appendix A: Statement from Prof. Hal McAlister, Director of CHARA
(Center for High Angular Resolution Astronomy) on Mount Wilson**

From: Harold A. McAlister
Sent: Tuesday, June 18, 2002 1:38 PM
Subject: Re: Mt. Wilson Institute Agreement

Dear Cong. Peterson:

I am pleased to comment on aspects of CHARA's presence on Mt. Wilson in connection with the proposed transfer of the land occupied by observatory facilities from the USFS to MWI. The CHARA Array consists of six telescopes, distributed over the observatory grounds, whose beams of light are relayed to a central beam combination laboratory and are combined interferometrically to synthesize a single telescope some 350 meters in diameter. The scientific mission for the Array is the study of details on the surfaces of other stars and the determination of basic physical parameters for stars (such as their mass, distance, temperature, diameter and luminosity).

Our facility, which consists of 17 separate structures, was constructed between 1996 and 2001 at a capital cost of approximately \$14M with approximately 45% of these funds provided by a grant from the National Science Foundation. My University provides an annual operating budget of approximately \$350K for our activities on Mt. Wilson. Our access to this wonderful site was formalized on 30 Oct 1995 when our President signed a Memorandum of Understanding with the Mount Wilson Institute. This agreement provides us access to the site and speaks to mutual obligations regarding infrastructure availability and upkeep. Our relationships with MWI have consistently been positive at all levels, and our staff has worked well with MWI mountain staff on numerous occasions to mutual benefit.

I strongly support this land transfer for several reasons. First, it recognizes that MWI has been acting de facto as the entity with sole responsibility and liability (although with no privileges or authority) for maintaining grounds and facilities (including public facilities) at the Observatory. Second, MWI is now embarking on an ambitious program to enhance its viability through the introduction of new scientific opportunities and programs of public outreach, and land ownership will be a critical enhancement of the Institute's prospects towards achieving these goals through private fundraising efforts. Finally, I know that USFS resources are thinly stretched, and it simply makes good sense to turn over this limited and highly specialized site to the management of a group whose sole purpose is the preservation and furtherance of the Mount Wilson Observatory.

In response to your question of the accuracy of stating that CIW "owns" the Observatory, which I view as being defined by the land reservation set aside for astronomical research and all the buildings and facilities therein, it is clear that CIW does not own the land nor does it own the modern generation of facilities and buildings constructed there by Georgia State, UC Berkeley, the Naval Research Laboratory and others. CIW does indeed own the structures and telescopes it constructed prior to its closing those facilities in the late 1980's.

Sincerely,

Harold A. McAlister Regents' Professor of Physics and Astronomy
Director, Center for High Angular Resolution Astronomy
Georgia State University
Atlanta, GA 30303

CHARA Website:="http://www.chara.gsu.edu/CHARA/index.html"
MACROBUTTONHtmlResAnchorhttp://www.chara.gsu.edu/CHARA/index.html

Appendix B: List of immediate concerns and risks transmitted to USFS

- USFS must provide opening and closing of USFS electric access gate to public areas. This activity includes a security sweep of the public area at gate-closing, and search for and attention to unattended or inadequately-doused cooking fires.
- The USFS 300,000 gallon reservoir has only 7 feet of water (the maximum depth is 30 feet). Water should be added to ensure adequate reserve for fire fighting capability.
- Two long-dead tall dead ponderosa pines on the public roads are falling hazards.
- Dead tree limbs on the public buildings are fire hazards.
- Brush clearance is inadequate near public buildings.
- The abandoned A-frame building is so dilapidated that it must be removed. (On June 9, 2002, USFS kindly boarded the building from accidental access.)
- USFS bathrooms remain closed and unrepaired. If USFS opts to keep them closed in order to conserve water this year, the USFS should install portables nearby along with a hand-washing station. (Mount Wilson currently pays for portables on USFS site.)
- USFS needs to commit to plow snow from its portion of the access road.
- USFS needs to remove some trees too close to the roadways to ensure plowing safety.
- USFS needs to widen its electric Front Gate for passage by emergency vehicles.
- USFS needs to repair potholes on its access road.
- USFS needs to repair its asphalt at the Front Gate entrance.
- USFS safety fences need repair.
- USFS retaining walls need repair.
- Some public stairs and walkways are unsafe.
- USFS needs to designate an area of the lower parking lot for emergency/rescue helicopter landing (LA County is re-issuing its long-standing request).
- USFS needs to commit to its partial responsibility for fire prevention (brush and tree clearance) on the Observatory parcel.
- USFS needs to inventory and keep repaired its water facilities.
- USFS needs to ensure that public trash is consistently removed and kept from bears.

Mr. PETERSON. We thank both of you, Dr. Huntress and Dr. Baliunas and Mr. Thompson.

Mr. Inslee, do you have any questions for the panel?

Mr. INSLEE. I do. Thank you very much. My questions might reveal not total familiarity with this issue, so you will forgive me.

Could you tell us what guarantees are to the public? Essentially, as I understand it, this is a grant without consideration to a non-profit organization. What is the situation regarding the nonprofit? Could it at some time sell the property? Are there any restrictions in that regard or could the nonprofit go out of existence and sell the property?

What guarantees are there of further public use, if you will tell us.

Ms. BALIUNAS. This bill conveys to Mount Wilson Institute, which is a nonprofit. If we become a nonprofit, I presume the Secretary of Agriculture will come in and remove the land because of the reversion clause in there. But the language isn't quite right to do that. Then it should be made right.

But we have no intention of selling the land. We can't.

Mr. INSLEE. Maybe you could explain to me why you could not. If there is a grant to the nonprofit, what restrictions are there?

Ms. BALIUNAS. The language in the bill says that Mount Wilson Institute, as a nonprofit, will operate this. So, Mount Wilson Institute is not a nonprofit. I presume we are in violation of the lan-

guage of the bill and the reversion clause comes into effect. The determination would be made by the Secretary of Agriculture.

Furthermore, if we are not conducting research there, if we are not using this as an observatory, the reversion clause also comes into effect.

Mr. INSLEE. Mr. Peterson could help me on this. As I understand it, there would be a requirement to be operated as an observatory?

Ms. BALIUNAS. Yes.

Mr. INSLEE. I appreciate that.

Ms. BALIUNAS. Either nonprofit. So, both conditions have to be met.

Mr. INSLEE. To what extent is this whole proposal a response to your perceptions that there has just been a lack of fulfillment of obligations by the lessor in this situation?

Ms. BALIUNAS. I have been working with the Congressmen, Mr. Moorhead, Mr. Rogan, currently Mr. Schiff and in the future, in January, Mr. Dreier, to address these issues, for 10 years. There has been very little response. We are pleased that there has been response over the last few weeks.

But this is now catch-up of more than 10 years of severe deterioration and open hazards on this land.

Mr. INSLEE. Maybe this is kind of an esoteric question, but I will ask it to you anyway. We have a lot of circumstances where national forest lands are not adequately repaired. We have, for instance, an \$8 billion backlog in maintenance of our forest groves.

How do we separate those situations from what you are proposing? I mean the logical extension of this is when Congress fails to appropriate enough to maintain these public lands, is the extension of this that we just sort of privatize them, we give them away to nonprofits?

Where do we draw boundaries in that regard? That is an open question to anyone.

Mr. PETERSON. If I could respond to that, my thought processes are, because you just hit the nail on the head, the \$8 billion backlog. This is used for the public good. It is an observatory used by institutions all over this country. It is the finest place for observing the stars and sun that there is in this country. So, it is for the public good.

It would seem to me that it is foolish to require the Forest Service, when they have a \$1 lease, to continue to use those scarce resources to maintain this facility when the lessor could raise private funds to keep it up.

The reversion clause is strong. If anybody wants to make it stronger, I am glad to work with them. But if it is not used as a research facility, as it has been, then it goes back to the Forest Service; it is theirs.

So, it is not a matter of putting it into private or for profit hands. It is strictly for the public good. Shouldn't we relieve the Forest Service of this cost? In my view that makes public policy sense when the institute has in the past shown it can raise funds and has often done the Forest Service maintenance work and plowed the snow and dealt with the water problems and dealt with the restaurant facilities and things which are not uncommon across the

country because of the lack of resources appropriated by Congress for the Forest Service and other agencies.

So, to me it just seems like nothing is going to change except there will be private resources brought to bear to maintain this facility. To me, that just makes public policy sense. It is sort of like taking the problem away from the Forest Service.

But if this is not used as a research facility, it goes back to the forest service.

Mr. INSLEE. Could I have one more question? What is the coolest thing ever discovered at the observatory?

Ms. BALIUNAS. Oh, I would say in the days of Hubble, the expansion of the universe, the origin of space time 15 billion years ago.

Mr. INSLEE. I was at a Flagstaff observatory and I thought they said that one had something to do with the Hubble research. Are they making that up?

Ms. BALIUNAS. No. What happened is they had a smaller telescope and had done initiative measurements and had seen an expansion of the galaxies. But because Hubble looked at that and said, that needs to be done with the biggest telescope in the world, he came to Mount Wilson and turned his genius for telescopes and the fantastic night sky there to charting expansion of the universe. So, it was the work at Lowell that was the seed for it.

Mr. INSLEE. Is there any relationship between the expansion of the universe and the expansion of the Federal deficit? Perhaps you can work on that.

Ms. BALIUNAS. One is expanding and one is accelerating.

Mr. PETERSON. Well, we have a journal vote. I am told we should go. Does anybody have a quick question before we go?

Mr. HOLT. Mr. Chairman, I would be happy to use my time now. I think we have another probably 14 minutes.

Mr. PETERSON. Go ahead. Mr. Holt from New Jersey.

Mr. HOLT. Thank you, Mr. Peterson.

Actually, Ms. McCollum was here first. Perhaps she would like to go first. I apologize.

Ms. MCCOLLUM. You have the gavel, but I would like to be able to hear the testimony, feel that I can record my vote and come back and ask intelligent questions. I am at a loss for what to do.

Mr. PETERSON. Do you want to proceed, Mr. Holt, and then we will go vote and then we will come back and Ms. McCollum can proceed. We will keep the panel here.

Mr. HOLT. Thank you, Mr. Chairman. Well, there are a number of questions that come to mind here, partly because of my long standing personal interest in Mount Wilson and the science that has come from there. In my former career as a physicist, and specifically a solar physicist, I have been very interested in your work, Dr. Baliunas, and the work of others from Mount Wilson, and in fact, have used work that has come out of there.

So, I want to do anything I can to see that Mount Wilson continues this great tradition.

First of all, just to get a sense of what we are talking about in this conveyance of land, I understand the Forest Service has not done a formal value assessment of this. But can you give us some idea? Are we talking about a few million dollars or many tens of millions of dollars in value of the land here?

Mr. THOMPSON. Yes. There hasn't been a formal appraisal done of the property, but the estimates that I have been given are around \$1 million per acre value. That would be, obviously, for 100 acres would be \$100 million, but that is without the basis of a sound appraisal.

Mr. HOLT. So we are talking about significant value here, so I have some idea of the scale.

Mr. Thompson, one more question: When were you first aware of Mount Wilson Institute's complaints about the level of maintenance?

Mr. THOMPSON. I am not sure. I am sure at the district level, as the previous witness has testified, there have probably been ongoing discussions for a number of years. I do know that the regional forester in the region has kept this as one of the top priorities, aside from fire, to put her energy on, on the forest.

There have been meetings and commitments made to turn the maintenance situation around, specifically with regard to trees and toilets and some of the other issues with regard to the tank and other things. There are obviously some pressing problems that need to be dealt with. The region and the forest and the district ranger are all committed to put the energy into it at the appropriate opportunity to make some significant improvements.

Mr. HOLT. Dr. Huntress, in the period reports that come to Carnegie Institution, I presume, from the management organization at Mount Wilson Institute, have these problems that are being described today been reported?

Mr. HUNTRESS. No, Mr. Congressman, we had no reports in these periodic updates as to any particular difficulties with the Forest Service.

Mr. HOLT. Well, I ask these questions because it sounds as if there are some legitimate concerns about maintenance. If visitors have fallen off from more than 1,000 to fewer than 100, that is, I think, a measure that something is wrong. If the institute is in fact taking on work that the Forest Service used to do or could do, we should address that.

But it is not clear to me that the conveyance of the land is the best way or the only way to address it.

Dr. Baliunas, what I am trying to understand, is your goal here to see that the land is conveyed or that the services are provided?

Ms. BALIUNAS. I want what is best for the land. I want the best public access to the observatory. Our mandate is to provide information, knowledge, be free and open to the public. It is in our 1905 lease agreement that we would be free and open to the public. It is difficult to do when the front gate is locked, unless we provide that service.

Mr. HOLT. OK, so your goal is to see that the front gate is open—

Ms. BALIUNAS. Our goal is to see that the public visitors are best served and that the health of the land is preserved.

Mr. HOLT. If you are currently shouldering the cost of plowing the road and hiring somebody to open the gate and renting the Porta-Potty and so forth, how would your expenses be less if the land were transferred to you? You will be doing those jobs, whether the land belonged to the Forest Service or it belonged to Mount Wilson Institute.

Ms. BALIUNAS. Yes, but they would be done with more assurance, more regularity and more assurance.

Mr. HOLT. I guess I don't understand why. I mean you can hire somebody with all the authority you want to open the gates or you can hire somebody with as good a plow truck as you want, regardless of who owns the plant.

Ms. BALIUNAS. But not for the Forest Service facilities. It is very difficult for us to take on that liability without having the authority to do that. So, for example, fixing the restrooms that are up there, we do not have the authority to do that unless we are given the facility.

Mr. HOLT. The reason I am raising these questions is because it seems rather suddenly and without any expectation that the Carnegie Institute is aware of, suddenly the land needs to be conveyed in order that this maintenance takes place.

I can understand the risk of fire. That is something that clearly must be addressed soon. I hear this from all of you. But it is not clear to me that the conveyance of these hundred acres necessarily means that.

I mean if the Forest Service is not doing a good job of fire prevention just outside the hundred acres, that could be as devastating to you as whether they are doing it within the hundred acres.

The point is we want to see the Forest Service protecting that area, not just for the sake of the tradition that resides there at Mount Wilson, but for the current work. I am not sure that the conveyance of this hundred acres would make that any easier.

With regard to the expenses and difficult of the Mount Wilson Institute, maintaining it, providing for tourists and so forth, it seems to me that is the same regardless of who owns the land. If there specific roadblocks literally or figuratively that the Forest Service is putting in the way of the Mount Wilson Institute's maintenance, I would like to see a list of those things and then we can see whether each one of those things can be addressed by further arrangements with the Forest Service or whether it can be addressed by a conveyance of the land.

If it turns out that a conveyance of the land makes sense, then we can talk about whether it should be done in some fee simply arrangement or with the taxpayers gift to an institute that is in some sense serving the public.

Ms. BALIUNAS. I have a preliminary list attached to my testimony. July 1, with the forester, we will go through a much longer list.

Mr. HOLT. I think we need to take time to get a full list here. This is not a small matter.

Mr. PETERSON. This meeting is in recess. Please hurry back. We have three more bills and we have to be out of this room at 11 o'clock. This meeting is in recess.

[Recess.]

Mr. PETERSON. The Committee is called back to order. The Committee hearing was suspended for a vote

We will go now to Ms. McCollum from Minnesota for her questions.

Ms. MCCOLLUM. Thank you, Mr. Chairman. As this is my first term on the Committee, I have a couple of really brief background questions for the Forest Service.

Sir, do you ever have instances where the Forest Service works with community organizations, community volunteers and non-profits to go in and fix up, work on portions of open space to make them more accessible for the public.

Mr. THOMPSON. Yes, we do. There are numerous examples around the country where we work in partnership with communities, friends of a place, those kinds of things, to enhance and bring together volunteers. An example that I would use —

Ms. MCCOLLUM. That is fine. I just wanted to know if you did that, sir.

The other question that I have is more for the spokesperson for the institute. We keep hearing about this 1905, because it was a 99-year lease. Maybe the Forest Service can help with this, too. Was there a gate? Were there public facilities? Were those all in place in 1909 or have they been added since then?

Ms. BALIUNAS. I think I can answer that. The 1905 lease was with a private company. No, the gateway facilities were not in place. Through a series of bankruptcies and buyouts, a later private company ended up with a large parcel surrounding the observatory, including the observatory.

They put in place the public facilities that then were deeded in 1976 to the Forest Service. So, the Forest Service was left these facilities.

Ms. MCCOLLUM. To the Forest Service, and please forgive me if I am asking a question that would seem obvious to you, but as I said, this is the first time I have worked on this issue here.

In Minnesota, when I served on the Resources Committee, when the State Forest Service System leased land out, when the DNR leased land out, the person we leased it to was responsible for the maintenance.

It appears that the Forest System doesn't handle leases in that way. Could you tell me, are leases written specific for what the agreed-upon areas are and if so, I would very much like to see a copy of the lease that we are describing here today in the future.

Mr. THOMPSON. Well, there obviously are some differences between a lot of the kinds of uses that we with the special use permits where we have a permit. This is a lease and it is different.

I don't have the specifics, but I would be more than happy to provide details of that lease to you.

Ms. MCCOLLUM. I thank you. Well then, I am just going to lay a few things out because I know this bill is still in progress. I have a concern that we have a lot of, you know, "You are responsible for this." No, you are not responsible for this. You have a leave for this. You are using the land. It is available to you yet you expect me to do all the maintenance kind of stuff.

Being a mom, it kind of reminds me sometimes of the sibling kind of squabbling about things. That is what it felt like reading this. That is what it sounds like today hearing it again. So, I think that sometimes you just need to get back down to basics. You have to look at what the original agreement was, not what people promised each other or thought it has evolved to over the past 99 years

because the same people still aren't here any more. As we proceed forward, whether it be a lease agreement or whatever, things need to be spelled out clearly who is responsible for what.

To the Forest Service, I would personally at this time think I would lean toward figuring out who is responsible for what. This is a value that is given to the institute to be able to have the land and maybe work out one of the agreements between the institute, Carnegie, and the Forest Service. The Forest Service still has the land in a form. But we figure out a way to work with the non-profits to get volunteer groups in there to do what needs to be done with the Forest Service adding some supplies and some materials.

Thank you, Mr. Chairman.

Mr. PETERSON. Ms. Baliunas, would you spell out what is in the lease currently?

Ms. BALIUNAS. The lease is now renewed until the year 2203. Specifically on the issue of forest fire abatement, the 1905 lease says that the lessor and the lessee will share the cost of abating forest fire risk on the land. Our 40 acres leased from the — we do take care of the roads going through there. The problem is the gateway area, the 60 acres through which one has to travel, that is totally Forest Service land and for example, they must plow the roads, they must keep those roads safe and secure. That has not been done and we have had to do that. So, that is not a question of the lease; that is a question of the Forest Service responsibility.

Mr. PETERSON. OK. We are going to conclude on this bill. I just would like to make one statement. It is my view that this property is used for the public good. I mean Mount Wilson Institute is a service to all our research universities. It is not for the private good. It is for the public good. It is a publicly used facility.

The landowner happens to be the Forest Service. With a \$1 lease for one hundred years, they certainly don't get anything back if they are responsible for all the maintenance. I saw it as an offer from the institute. Correct me if I am wrong, but if you own the land, you can go out to the public and get donations that will allow you to keep this in tiptop shape. There will be no more arguments.

The use will not change. It will be exactly like it is. If you ever stop using it for what you are using it for, it is back to the Forest Service. So nothing changes. I am kind of practical. It just seems to make sense to me that if Mount Wilson Institute thinks they can raise the money privately and keep it in tip top shape and increase visitorship and make it more available to the public, that is a win-win.

Then the Forest Service would no longer have to use its very scarce dollars to maintain this property when they don't get any cash back from it.

To me that just seems like a practical thing. If either of you would like to comment on that, Mr. Thompson or Ms. Baliunas.

Mr. THOMPSON. Well, as I said in my testimony, we look forward to working with you to resolve some of these issues. We have concerns maintaining the existing public use of the property. We also are dedicated and committed to working to resolve the maintenance issues through partnership, through bringing together all the interests and improving the situation and the maintenance there no matter what happens.

So, we are committed to do that. The regional forester is committed to do that and we certainly look forward to doing a much better job in the years ahead.

Mr. PETERSON. Do you have a concluding comment?

Ms. BALIUNAS. We look forward to working with the Forest Service to make a sterling relationship here, to really keep this property right.

Mr. PETERSON. Mr. Huntress, do you have any closing comments?

Mr. HUNTRESS. I think that in fact if the Forest Service and the Mount Wilson Institute can find a way to protect this property and make sure that the historic buildings and instruments on the top of that mountain are preserved, protected and maintained in the public interest, that would be in the best interest of everybody.

Mr. PETERSON. I didn't see the gentleman from Arizona come back. Mr. Hayworth, you are recognized.

Mr. HAYWORTH. Well, Mr. Chairman, wow, maybe the diet is working; probably not.

To the witnesses, good morning. To my colleagues, thank you for being here. Thanks to all our panelists.

Dr. Baliunas, if you could just amplify for the record and describe the relationship between Mount Wilson and the Carnegie Institute, please, exactly how it works?

Ms. BALIUNAS. We have an agreement that says we will operate the observatory and there will be no money exchanged between Mount Wilson and Carnegie, that is Carnegie will not put money into the observatory and we will not have to pay any rent or any consideration to Carnegie for that.

That permanent agreement went into place in 1992, but it has been a temporary operating agreement since 1989. We have put \$62 million into the site.

Mr. HAYWORTH. Now, this is something that needs to be amplified for people. I understand there may be some undercurrents. I don't understand what the implications and suggestions or aspersions have been today in terms of this. But it seems to me to be a very straightforward process.

Would you repeat the figure again, the amount of money?

Ms. BALIUNAS. Since 1992, when the permanent agreement went into place, \$62 million of improvements, maintenance and upkeep that we have raised from public and private resources have gone onto not only the 45-acre parcel of the observatory, but the maintenance we have had to do and upkeep on the Forest Service.

Mr. HAYWORTH. \$62 million. Is there a way to estimate how much of that has gone into upkeep that you have talked about and that is apparently sorely lacking?

Ms. BALIUNAS. We have only done the bare minimum on the Forest Service land because we don't have the authority, but for the past 6 years, which is all I have tallied so far, it has been a quarter of a million dollars.

Mr. HAYWORTH. And this legislation, again to reiterate, would simply give you the authority to do some of the work that has not yet been done. I would hope that we can, in the works of my friends from the Forest Service, work this out because I think about the time you started this relationship, about 1982, a former

Democratic member of the New York City Council wrote a book entitled, "The Death of Common Sense."

It seems to me imminently reasonable and straightforward that when an entity wants to step in with full transparency and the authority of Congress statute and the certainty that if the nature of the project should change, boom, the relationship is severed, it seems to me imminently practical, despite some of the suggestions here, that that be allowed, in the full transparency of enterprise and good public policy.

It is interesting that some would try to characterize this in other ways. I thank the witnesses. I thank the Chairman.

Mr. PETERSON. We thank the witnesses. We thank the members.

Mr. PETERSON. We will now move on to our next bill and recognize Mr. Hayworth for his comments.

**STATEMENT OF J.D. HAYWORTH, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ARIZONA**

Mr. HAYWORTH. Well, I thank you, Mr. Chairman, for the chance to offer testimony today. Mr. Chairman, the Education Land Grant Act, nicknamed HELGA, sets up a national mechanism to convey small parcels of U.S. Forest Service land to local educational agencies for purpose of renovation, expansion or construction of school facilities.

Mr. Chairman, my colleagues and those who join us today, you need to understand this. This bill was signed into law on December 28, 2000, nearly 18 months ago. Now, after nearly a year and a half, implementation procedures are finally being completed so that forest supervisors will know how to process applications received from school districts.

It is sad to say, but implementation of this Education Land Grant Act by the U.S. Forest Service would be laughable if it weren't such a tragedy for so many of our nation's schools. Forest Service personnel circumvented the will of Congress in so many instances that they may well have been conducting a clinic entitled, "How to administratively kill legislation we don't like."

Mr. Chairman, perhaps those of us in Congress should call it, "What is wrong with bureaucracy." Mr. Chairman, in a Resources Committee held last week to investigate the analysis/paralysis problem at the Forest Service, I outlined some of the frustrations I have encountered in simply trying to get the Forest Service to implement the law of the land.

I will not repeat the long run around given to me by Forest Service staffers that very nearly sabotaged an Education Land Grant Act conference I hosted in Phoenix last year. However, I will simply say that the experience demonstrated to me exactly what constitutional officers trying to follow the letter of the law are up against in terms of bureaucratic inertia.

Ultimately, in the recent past, though there have been some phone calls and signs of promise, it is sadly accurate to report the Forest Service have demonstrated extreme reluctance to complete the implementation of this law.

Additionally, Forest Service staff has administratively determined that schools that apply for conveyance under this Act would need to pay for various administrative costs, analysis, and environ-

mental compliance assessments. In fact, the interim directive that has now finally been distributed states various costs to be borne by school districts, “nominal costs includes the nominal fee of \$10 per acre conveyed plus all costs directly associated with the project that the Forest Service may incur to evaluate and process the school district’s request to acquire National Forest Service lands under ELGA such as costs associated with National Environmental Policy Act Compliance, document preparation, surveys, posting of property monuments, markers or posts and recordation.”

Another memo distributed by former Forest Service Deputy Chief James Furnish, mentions that even staff time used to process requests will need to be paid by the school districts. The costs associated with the conveyance under ELGA are truly minimal to the Forest Service, a comparative drop in the bucket for this agency. Such costs, however, can be absolutely prohibitive to school districts seeking to expand their facilities, forcing school districts to pay for such costs violates both the spirit and the intent of the law.

Instead of jealously guarding their bureaucratic power, perhaps more accurately bureaucratic license — still in our constitutional republic power belongs to the people — instead of jealously guarding their bureaucratic license, the Forest Service needs to consider the contribution that ELGA conveyances would make to our society, to our school children.

These school children deserve the best possible education and the best possible setting. Unfortunately, it is the reality that many school districts cannot afford the cost of acreage and a new school facilities.

I authored the Act. Let me again state this for the record: The purpose of HELGA, the purpose of the Education Land Grant Act was to he cash-strapped school districts by eliminating the expensive costs associated with purchasing lands. Under current conditions, this will not become a reality for many school districts unless the law is now amended to ensure that scarce education funds are not tied up in paying for Forest Service bureaucracy and administrative costs.

We must take action.

I thank the Chairman for his time and my colleagues for their indulgence.

[The prepared statement of Mr. Hayworth (H.R. 3802) follows:]

**Statement of The Honorable J.D. Hayworth, a Representative in Congress
from the State of Arizona**

Mr. Chairman, the Education Land Grant Act (HELGA) sets up a national mechanism to convey small parcels of U.S. Forest Service land to local educational agencies for the purpose of renovation, expansion, or construction of school facilities. This bill was signed into law on December 28, 2000 (P.L. 106-577), nearly 18 months ago. Now, after 18 months, implementation procedures are finally being completed, so that Forest Supervisors will know how to process applications received from school districts.

In fact, implementation of the Education Land Grant Act by the U.S. Forest Service would be laughable if it weren’t such a tragedyour nation’s schools. Forest Service personnel circumvented the will of the U.S. Congress in so many instances that they may as well have been conducting a clinic entitled “How to Administratively Kill Legislation We Don’t Like.” Perhaps we should call it, “What is Wrong with Bureaucracy.”

Mr. Chairman, in a Resources Committee hearing held last week to investigate the “Analysis Paralysis” problem at the U.S. Forest Service, I outlined some of the

frustrations I have encountered in simply trying to get the Forest Service to implement the law of the land. I will not repeat the long run-around given me by Forest Service staffers that very nearly sabotaged an Education Land Grant Act conference I hosted in Phoenix last year. However, I will simply say that the experience showed me just what I am up against. Ultimately, the Forest Service has shown extreme reluctance to complete the implementation of this law. Additionally, Forest Service staff has administratively determined that schools that apply for a conveyance under this Act would need to pay for various administrative costs, analyses, and environmental compliance assessments. In fact, the Interim Directive that has now finally been distributed states various costs to be borne by school districts:

“Nominal costs includes the nominal fee of \$10 per acre conveyed, plus all costs directly associated with the project that the Forest Service may incur to evaluate and process a school district’s request to acquire National Forest Service lands under ELGA, such as, costs associated with National Environmental Policy Act (NEPA) compliance, document preparation, surveys, posting of property monuments, markers, or posts, and recordation.”

Another memo, distributed by former Forest Service Deputy Chief James Furnish, mentions that even staff time used to process requests will need to be paid by school districts.

The costs associated with a conveyance under ELGA are truly minimal to the Forest Service a drop in the bucket for the agency. Such costs, however, can be absolutely prohibitive to school districts seeking to expand their facilities. Forcing school districts to pay for such costs violates the spirit and the intent of the law. Instead of jealously guarding their bureaucratic “power”, the Forest Service needs to consider the contribution ELGA conveyances would make to society and to our school children.

These school children deserve the best possible education in the best possible setting. Unfortunately, the reality is that many school districts cannot afford the costs of acreage and new school facilities. The purpose of the Education Land Grant Act was to help cash-strapped school districts by eliminating the expensive costs associated with purchasing lands. Sadly, this will not become a reality for many school districts unless the law is now amended to ensure that scarce education funds are not tied up in paying for Forest Service bureaucracy and administrative costs.

Mr. PETERSON. We thank the gentlemen. We recognize Mr. Thompson from the Forest Service.

**STATEMENT OF TOM L. THOMPSON, DEPUTY CHIEF,
NATIONAL FOREST SERVICE**

Mr. THOMPSON. Thank you, Mr. Chairman and members of the Subcommittee. I will provide the Administration’s comments on this bill, H.R. 3802.

H.R. 3802 amends Section 202 of the Education Land Grant Act by requiring the Secretary of Agriculture to pay the costs of environmental review for conveyances under ELGA. The Department does not object to this bill. However, two points: The measure would prohibit a school district from paying the cost of environmental reviews if they choose.

In some situations the exchange process might be delayed because the forest may have other funding priorities or funding limitations. In those instances, the school district might be able to expedite the exchange process by paying the costs of the environmental reviews. But I believe the way the legislation is drafted, that would not be allowed.

Also, to meet that requirement the Department would likely need to reprogram funding to effectively implement the bill.

That concludes my statement on the bill. I would be happy to answer questions.

Mr. PETERSON. The gentleman from Arizona.

Mr. HAYWOOD. Again, Mr. Thompson, we thank you for being here this morning and thank you for your comments.

Let's explore the reasoning and the concerns you have. Is it possible that in the interaction between local Forest Service officials and school districts, that you cite that school districts, if we don't delineate the fact that school districts could "fast track" this by paying these bills, doesn't that just put into law, if we were to articulate that, yet another excuse for bureaucratic inertia?

Doesn't that say, well, gee, if you want to move this faster, you pony up the jack, you come across with the dough. By that purpose we can go ahead and defeat the intent of the legislation.

Mr. THOMPSON. Let me just say, that is not the intent of the comment there. The intent was to at least provide the possibility for school districts to do that if they felt like that would help expedite it and there was not funding available at that point in time.

Mr. HAYWORTH. OK. I am sure that is not the intent, but as I have seen, an interaction with a sabotage of conferences called by constitutional officers, by certain Forest Service officials, and again for the record, Mr. Chairman, let me say that I think many people work in good faith. I have had conversations with the Under Secretary on these matters and I understand that people are trying to put good things in place.

My purpose is, in our hearing today, to shake off the tendency that some folks have in some regions to act like royalty concerning the forest. In fact, you mentioned something else that just again offers what is a challenge and I am not going to dispute, especially with the horrific fire, the Rodeo fire burning now in what is my Congressional district and the possibility of Show Low and Pine Top, Arizona being evacuated today, not to mention the other fires we have seen across the west and the laudatory the Forest Service does.

Mr. Thompson, in your testimony you also offered remarks that said, and I think this came up last week as well, to the effect that with so many duties this falls administratively down the list. That can be the rationale for slow action.

If you have to fund it, well, that drops it on down the list, too. Perhaps we should take it under advisement that next to fire fighting we should articulate the ability for rural school districts to purchase these conveyances of public land are the highest and best use of government land. Would that be helpful to move this up the priority list in the purview of the Forest Service in implementing the law of the land? Should I add that language to reflect the intent of Congress?

Mr. THOMPSON. Mr. Hayworth, I think the challenge that we have in setting priorities for these land issues is simply one of making sure that our folks at the ground level are responsive and are working very closely with the school districts.

At this point in time we are proceeding with vigor in responding to the applications we have. We recognize that there will always be a choice of priorities. That is why I did state in the testimony that we are going to have to reprogramming some of our priorities in looking for ways to fund this. It is going to be a consequence, but we look forward to doing that.

Mr. HAYWORTH. But again, and I thank you, Mr. Thompson, and obviously to the extent that you are there to administer and implement what is the law of the land, perhaps food for thought today, Mr. Chairman and my colleagues, is to take a look at language that would specify that next to fire danger and obvious recreation, the highest and best use.

Perhaps that articulates further and moves this up on the hit parade of priorities nationwide. And again, let me clear up any misnomer, while this is most dramatic in the rural west, our studies indicate 44 of the 50 States can be helped by this legislation that should be fully implemented.

I thank the gentleman for his comments and the Chairman for the generous use of the gavel and the time.

Mr. PETERSON. The gentlelady from Minnesota, Ms. McCollum.

Ms. MCCOLLUM. Thank you, Mr. Chairman. Just so I understand little bit of legislative history and how it impacts the Forest Service, sir, this Act was implemented. Was there any funding that came with the Education Land Grant Act? In other words, you had new responsibilities, was there any appropriation that came with the new responsibilities?

Mr. THOMPSON. Not that I am aware of.

Ms. MCCOLLUM. Not that you are aware of. So, in other words, to implement the Act, you take it out of hide. You take it out of current programming that you are already doing. If you have to do environmental compliance studies or anything else, there is no funding.

Mr. THOMPSON. Well, it certainly is a responsibility of ours to administer the law and issue the regulations and implement it at the ground level. We assume that as our responsibility as an agency.

Ms. MCCOLLUM. I understand that, sir, but I am also trying to understand. Your responsibility to implement it, I would think, would come with our responsibility to fund it in order to allow you to do your job.

The other question I have for you, sir, you have a separate line appropriation for forest fires. It appears that there was no funding and following this Act enabling you to implement it as effectively as it should have been. I don't disagree with what the gentleman is saying.

The people who work for the Forest Service who would be responsible for working on the land exchanges, are they the same employees that are responsible also for managing and watching what is going on, that we have effective fire fighting going on right now? Are those the same individuals?

Mr. THOMPSON. Well, right now we have about 13,000 people that are on fire duty in the United States. That is closely approaching what we had in the 2000 fire season. It affects all of our people in many different ways, even people who are not directly on the fire line are called up for work in different ways.

So, yes, there certainly is an effect of the fire situation. For the next 3 months, we are obviously going to be putting a tremendous amount of priority on fire. We do have lands people, people who would work on this kind of thing, who are called out and on fire teams. I hope that answers your question.

Ms. MCCOLLUM. Mr. Chairman, I can certainly see the gentleman's frustration with not having it done, but I become concerned when we ask more and more, whether it be the Forest Service or any other group, the Department of Education. We talk about unfunded mandates, how we shouldn't have unfunded mandates. But I think sometimes we need to sit down and maybe reprioritize, as you suggested, or realize and listen seriously that there are some needs, especially with the Forest Service with what is going on right now with employees being torn both ways.

I would like to learn more about it and find out how we can be more effective so that we can accomplish your goal.

Mr. HAYWORTH. Would my friend from Minnesota yield?

Ms. MCCOLLUM. I am out of time.

Mr. HAYWORTH. Mr. Chairman, could I be recognized?

Mr. PETERSON. The Chair recognizes the gentleman from Arizona.

Mr. HAYWORTH. Very briefly. I thank my friend from Minnesota for her comments.

Just a couple of notes that I think we need to amplify for the record. When the legislation was proposed, before it was signed into law, it was deemed to be revenue neutral with minimal costs. The costs, sadly for many rural school districts, what the Federal Government deems "minimal" are substantial costs for poor, rural schools.

Indeed, I would hope that even dealing with the horrific fires that we deal with now, that we can evaluate and get the help of the Forest Service to serve these rural school children in the districts.

I thank you all.

Mr. PETERSON. I want to thank the members and the witnesses. The members of the Subcommittee may have some additional questions for the witnesses. We ask you to respond to those in writing. The hearing record will be held open for 10 days for those responses. That includes the previous bill we just passed. I failed to read that paragraph for the record.

Mr. PETERSON. Now we introduce our fourth bill, H.R. 4919. We are very short on time. We need to be very quick. We have two more bills and only a few minutes.

Mr. PETERSON. I recognize the gentleman, Mr. Hayworth.

Mr. HAYWORTH. Mr. Chairman, I thank you. I will move expeditiously.

H.R. 4919, the Tonto and Coconino National Forests Land Exchange Act authorizes, directs and expedites two land exchanges in the Tonto and Coconino National Forests in Arizona. The Montezuma Castle, Payson Airport land exchange and the Diamond Point Land exchange.

This legislation authorizes the Forest Service to enter into equal value land swaps to acquire a 157-acre parcel of private land to enhance and protect the Montezuma Castle National Monument as well as a 143-acre open meadow wildlife habitat known as Double Cabin Park. Both parcels are in the Coconino National Forest.

In exchange, approximately 221 acres of National Forest property adjoining the Town of Payson Municipal Airport would be acquired. The property is held by the Montezuma Land Exchange

Joint Venture, an Arizona partnership of local residents formed to promote economic development.

The Town of Payson has entered into an agreement with the Joint Venture folks to purchase a portion of the property to create private sector business development and job opportunities.

Members of the Committee and my colleagues, you need to know that Payson, Arizona is totally surrounded by National Forest lands and that virtually landlocks the entire community. Local officials feel the lack of land for industry and low-cost housing is the major obstacle to economic development in their region.

The legislation also authorizes the Forest Service to acquire a 495-acre parcel known as the Q Ranch which is currently owned by the Conservation Fund. In exchange, the Diamond Point Summer Homes Association will acquire 108 acres of Federal land that has been occupied by the group's 45 residential cabins since the 1950's.

The Tonto National Forest plan specifically recommendation conveyance of the Federal land. The exchange will transfer land of limited public use to the association in exchange for private lands that will increase management efficiency and enhance public access, use and enjoyment of the surround National Forest lands.

I again reference last week's Resources hearings on analysis/paralysis in explaining the need for the exchanges to be accomplished by means of legislation. These two exchanges have been pending for more than 6 years with no conclusion anywhere in sight.

In fact, Mr. Chairman, you will be interested to know that since the Diamond Point Land Exchange began, the administrative process on the Tonto National Forest to complete this, four of the 45 home owners have died. This is common sense legislation that accomplishes goals that even the Forest Service has stated are a priority.

The land exchanges are endorsed by the Gila County Board of Supervisors, the Rim County Regional Chamber of Commerce, the Town of Payson, the Payson Regional Economic Development Corporation and the National Park Service among others.

I thank you, Mr. Chairman, that completes my statement.

[The prepared statement of Mr. Hayworth (H.R. 4919) follows:]

**Statement of The Honorable J.D. Hayworth, a Representative in Congress
from the State of Arizona**

Mr. Chairman, H.R. 4919, the Tonto and Coconino National Forests Land Exchange Act authorizes, directs and expedites two land exchanges in the Tonto and Coconino National Forests in Arizona: the Montezuma Castle/Payson Airport Land Exchange and the Diamond Point Land Exchange.

The legislation authorizes the Forest Service to enter into equal-value land swaps to acquire a 157-acre parcel of private land to enhance and protect the Montezuma Castle National Monument, as well as a 143-acre open meadow wildlife habitat known as Double Cabin Park. Both parcels are in the Coconino National Forest.

In exchange, approximately 221 acres of national forest property adjoining the Town of Payson municipal airport would be acquired. The property is held by the Montezuma Castle Land Exchange Joint Venture (MCLEJV), an Arizona partnership of local residents formed to promote economic development. The Town of Payson has entered into an agreement with MCLJEJV to purchase a portion of the property to create private sector business development and job opportunities.

Payson is totally surrounded by national forest lands, virtually land-locking the community. Local officials feel that the lack of land for industry and low-cost housing is the major obstacle to economic development in the region.

The legislation also authorizes the Forest Service to acquire a 495-acre parcel known as the Q Ranch, which is currently owned by The Conservation Fund. In exchange, the Diamond Point Summer Homes Association will acquire 108 acres of Federal land that has been occupied by the group's 45 residential cabins since the 1950's.

The Tonto National Forest Plan specifically recommends conveyance of the Federal land. The exchange will transfer land of limited public use to the association in exchange for private lands that will increase management efficiency and enhance public access, use and enjoyment of the surrounding national forest lands.

I again reference last week's Resources hearing on "Analysis Paralysis" in explaining the need for these exchanges to be accomplished by means of a legislative fix. These two exchanges have been pending for more than 6 years, with no conclusion anywhere in sight. In fact, Mr. Chairman, you will be interested to know that since the Diamond Point land exchange began the administrative process on the Tonto National Forest, 4 of the 45 homeowners have died.

This is common-sense legislation that accomplishes goals that even the Forest Service has stated are a priority. These land exchanges are endorsed by the Gila County Board of Supervisors, the Rim County Regional Chamber of Commerce, the Town of Payson, the Payson Regional Economic Development Corporation, and the National Park Service, among others.

**STATEMENT OF TOM L. THOMPSON, DEPUTY CHIEF,
NATIONAL FOREST SYSTEM**

Mr. THOMPSON. Thank you, Mr. Chairman. Comments on H.R. 4919. It directs the Secretary to exchange approximately 108 acres of land within the Tonto National Forest near Payson, currently occupied by 45 resident cabins under a special use permit for 495 acres of non-Federal land called the Q Ranch within the Tonto.

This exchange is identified in the bill as the Diamond Point-Q Ranch land exchange. The bill also directs the Secretary to exchange approximately 222 acres of National Forest System land adjacent to the town of Payson near the airport for approximately 157 acres of private land owned by Montezuma Castle Land Exchange adjacent to the Montezuma Castle National Monument, and also nearly 143 acres of private land at the Double Cabin parklands.

Both the private parcels are within the Coconino National Forest. The bill requires that the values of the non-Federal and Federal land be exchanged or equalized as determined by the Secretary through an appraisal by a qualified appraiser and performed in conformance with the uniform appraisal standards for the Federal land acquisitions and Federal land policy and management act.

The bill requires the Secretary to execute the Montezuma Castle and Diamond Point land exchanges within 6 months after receipt of an offer from the private landowners unless the Secretary and private landowners mutually agree to extend the deadline.

The Department supports the concept of exchanging the National Forest System lands, which were identified in H.R. 4919. However, we can meet this objective by utilizing existing statutory authorities. In fact, the Diamond Point land exchange is currently being evaluated through our administrative exchange process and we anticipate completing the environmental analysis and making a decision on this proposal in March of 2003.

However, passage of legislation certainly could conclude this process more quickly.

We have completed an initial review relative to the conveyance of National Forest System lands to Payson, Arizona Airport. We believe a competitive exchange process utilizing competing market

forces would best meet the public interest in identifying priority private lands for acquisition.

Due to the rapidly market variables in this major growth area and multiple interest anticipated for this Federal parcel, this competitive approach would serve as a more reliable means of estimating value of the Federal lands.

The Forest Service intends to initiate this competitive proposal this calendar year and all interested parties will be encouraged to participate in the process.

That concludes my testimony. I would be happy to answer questions.

Mr. PETERSON. The gentleman, Mr. Ferguson, you are recognized.

**STATEMENT OF JERRELL FERGUSON, DIAMOND POINT
SUMMER HOMES ASSOCIATION**

Mr. FERGUSON. Mr. Chairman and members of the Committee, thank you for the opportunity to testify. My name is Jerrell Ferguson. I am a member of the Diamond Point Summer Homes Association.

In the interest of time, I would like to summarize my remarks. I submitted a written statement to the Subcommittee.

Most of the details you have heard already. What I would like to point out is that we have had numerous meetings with the Forest Service representatives at all levels. While they offer significant vocal support, there really has been almost no progress whatsoever. I mean, we started back in 1999 with this.

This exchange is so clearly in the public interest that it is really difficult to explain why the Forest Service has been really incapable of moving it forward under their administrative process. I, as a person, am pretty significantly unhappy with it.

Although I don't represent the private proponents of the Montezuma Castle land exchange, I would like to speak on their behalf. Like my association, they have been excessively delayed in their efforts to complete a straightforward exchange.

The Payson land exchange was proposed to the Forest Service in May 1994. The Forest Service encouraged the Payson four investors to buy private lands, but the agency never authorized the documents required to initiate an administrative exchange.

After years of frustration, a number of investors sold those lands on the private market. Now, with the January 2000 encouragement of the former Tonto National Forest supervisor, the remaining investors spent more money on restructuring the proposal.

The exchange is supported by the Town of Payson, the Gila County Board of Supervisors, the Payson Regional Economic Development group, the Rim Country Chamber of Commerce and the National Park Service. We have evidence of all of that.

Mr. Chairman, I would be happy to answer any questions. Thank you.

[The prepared statement of Mr. Ferguson (H.R. 4919) follows:]

Statement of Jerrell Ferguson, Diamond Point Summer Homes Association

Mr. Chairman and Members of the Subcommittee:
Thank you for the opportunity to testify today. My name is Jerrell ("Jim") Ferguson, and I am a member of the Diamond Point Summer Homes Association. Our

association has 45 residential cabins currently permitted on Federal land within the Tonto National Forest east of Payson, Arizona.

Diamond Point Land Exchange

Over forty years ago, under a program to encourage public use of the nation's forests, the U.S. Forest Service permitted our members to build cabins on a parcel of National Forest land located near Diamond Point. Like other similar "recreation residences", the 108-acre parcel has no public access and is managed as if in private ownership, with a number of roads, driveways, water systems, and other improvements associated with the residences.

The Federal land was identified for disposal in the 1985 Tonto National Forest Plan. We began discussing a land exchange with the Forest Service in 1999. In November 2000, we proposed an exchange of the 495-acre Q Ranch parcel for the Federal land underlying our members' cabins. Because the Q Ranch acquisition was of such significant public interest, and because the owner of the Ranch had listed it for sale on the private market, The Conservation Fund, a national leader in land protection, agreed to purchase the property and option it to the Association for use in the land exchange. The Forest Service confirmed that the Q Ranch was a very high priority for Federal acquisition and encouraged us to proceed with the exchange proposal.

Since that time, we have paid for a land survey and a cultural resources inventory of the Federal property. The Conservation Fund spent over \$2 million dollars of their limited resources on the Q Ranch, anticipating the exchange would have been completed by now, and thereby releasing their funds for further land protection work. We have had numerous meetings with Forest Service representatives at all levels and while their vocal support for the transaction remains strong, almost no progress has been made in advancing the process. In fact, as alluded to by Congressman Hayworth, in the seventeen months since our first formal proposal to the Forest Service, four of our members have died. Yet the agency has still not executed the non-binding Agreement to Initiate the exchange process.

The Federal land proposed for conveyance to the private sector is already treated like private land and was specifically identified in the Forest Plan for disposal. The Q Ranch acquisition represents the third and final transaction necessary for the United States to acquire a major inholding in the Tonto National Forest. The exchange proposal has enjoyed broad support and literally no opposition. This exchange is so clearly in the public interest, it is difficult to explain why the Forest Service has been incapable of moving it forward under the administrative process.

Montezuma Castle Land Exchange

Although I do not represent the private proponents of the Montezuma Castle Land Exchange, I am prepared to speak on their behalf. Since the mid 1990's, they have been frustrated in their efforts to complete a straight-forward exchange with the Forest Service.

This land exchange was originally proposed to the Forest Service in May 1994 and included a number of parcels of non-Federal land in exchange Federal land within and around the Town of Payson. The Forest Service had encouraged the acquisition of the private lands for the exchange, including the Montezuma Castle and Double Cabin Park parcels. However, the agency never authorized the documents required to initiate an administrative exchange. The local landowners endured years of frustration, and significant investment in cultural resources surveys, valuation work and NEPA studies.

With the January 2000 encouragement of the former Tonto National Forest Supervisor and the Town of Payson, the participants spent additional funds to restructure and reduce the size of the exchange proposal. However, with a change in Forest Supervisors, the agency then abandoned the exchange, and the local investors were left holding millions of dollars worth of land that the Forest Service had encouraged them to purchase. The current Montezuma Castle Land Exchange proposal involves approximately 222 acres of Federal land needed for commercial and residential development within the Town of Payson.

The land at Montezuma Castle is critical to the Monument's views shed, and includes important riparian habitat along Beaver Creek. The land at Double Cabin Park includes a vast high meadow and wetlands that provide important wildlife habitat. Congressman Hayworth's legislation authorizes the Forest Service to transfer all or a portion of the Montezuma Castle parcel to the National Park Service if deemed appropriate by the Secretaries of Interior and Agriculture. The exchange is supported by the Town of Payson, the Gila County Board of Supervisors, the Payson Regional Economic Development Group, the Rim Country Regional Chamber of Commerce, and the National Park Service.

Mr. Chairman, that concludes my testimony, with one exception. I want to once again personally thank Congressman Hayworth and you for holding this hearing and hopefully passing legislation that will ensure that highly desirable lands are secured for the public, while the interests of private individuals and the Town of Payson are served.

Mr. PETERSON. Does the gentleman from Arizona have any further comments?

Mr. HAYWORTH. I have just a quick question. As I pointed out, I think it needs to be amplified, this process on the land exchange has been going on for 6 years?

Mr. FERGUSON. Well, the Payson Four exchange has been since 1994. The Forest Service had some problems with it. They said, "Well, reduce it and bring it back." So, that is what the folks did. They reduced it and brought it back. And it is hanging out there.

Mr. HAYWORTH. Is there a situation when it seems like things are working out suddenly personnel are shifted and it is kind of like starting all over again?

Mr. FERGUSON. Yeah, well, we have had some changes in the supervisors. One of the problems that we have had is that we get promises, but we don't get any action. Again, like I said, we get good vocal support, but we don't get any action. We get told things will get done in 2 weeks and it is 6 months later.

Mr. HAYWORTH. What we have found in the political realm is that talk is cheap, but action is sometimes rare. I thank the gentleman for his testimony. I think it compels us to move legislatively.

Thank you, Mr. Chairman.

Mr. PETERSON. The gentlelady from Minnesota? No comments?

I want to thank all the members and the witnesses. The members of the Subcommittee may have additional questions for the witnesses. We ask you to respond to those in writing. The hearing record will be open for 10 days for those responses.

Mr. PETERSON. Now, for our last bill, H.R. 4917, a bill introduced by Congressman Elton Gallegly.

Mr. PETERSON. Due to a scheduling conflict, Mr. Gallegly won't be able to attend today's hearing, but has asked that his opening statement be submitted to the record.

Without objection, it is so ordered

[The prepared statement of Mr. Elton Gallegly follows:]

Statement of The Honorable Elton Gallegly, a Representative in Congress from the State of California, on H.R. 4917

Thank you Mr. Chairman. I appreciate this opportunity to testify today on H.R. 4917, the Los Padres National Forest Land Exchange Act, a bill I introduced to facilitate a land exchange between the U.S. Forest Service and the United Water Conservation District, a local government agency. Under this legislation, the U.S. Forest Service will convey 420 acres to United Water. Of that total, 290 acres are mud-flats surrounding Lake Piru, 80 acres are campground, and 50 acres are primarily two separate sections of Blue Point Road. United Water will convey 340 acres to the Forest Service, which includes the western parts of Lisk Ranch. The land is open space within the Los Padres National Forest previously used for grazing leases. The 340 acres also includes the beginning of the Potholes Trail, which runs from the Lisk Ranch to the Sespe Wilderness Area.

This exchange benefits both the Forest Service and United Water. If enacted, the Forest Service will own the entire western part of Lisk Ranch, which is open space. The Forest Service will also own the entire Potholes trail, which begins in Lisk Ranch. United Water has also promised, as stated in this bill, to pay for and build

a gravel parking lot at the Potholes trailhead to facilitate more visitor access to that trail. In addition, the Forest Service will no longer have to maintain the Blue Point Campground, which has been closed since 1995. The campground is two hours away from the nearest ranger station, and the Forest Service does not have the resources necessary to keep it open and patrol the arroyo toad habitat on that campground. In addition, the Forest Service will no longer have to maintain the entire Blue Point Road, which runs the length of the lake up through the Blue Point Campground. Although the Forest Service testified that they were concerned that United Water will be able to regulate vehicular access to this road, vehicular access to this road is already strictly regulated. As the letter from United Water I am submitting for the record states, United Water has already agreed that the public will have unrestricted access via foot, horse or bicycle throughout all United Water lands. However, vehicular access will not change from the current pattern.

United Water will benefit from this legislation as well. The water agency will own all the land that surrounding Lake Piru. This will allow for better management of United Water's operations with less bureaucracy. In addition, United Water will be able to open the Blue Point Campground on a limited basis for a small user fee. United Water already runs recreational programs around its property. United Water will also be able to patrol and better maintain the Arroyo Toad habitat on that campground. The water agency will also own the entire Blue Point Road.

In addition, if these tracts of Federal land around Lake Piru become the property of United Water it would own all the land around the operation of the Santa Felicia Dam, which they already own and operate. It is my understanding that this would remove the Forest Service as a principal in the management of the dam, as currently allowed under Section 4(e) of the Federal Power Act, and therefore remove a bureaucratic layer in the management of the dam.

The cost of the exchange should be minimal. Since the date of the hearing in the Subcommittee on Forests and Forests Health, both United Water and the Forest Service have agreed to share the costs of any appraisals or land surveys to be done after enactment. Should the land to be exchanged by the Forest Service exceed twenty-five percent of the value of the land to be given up by United Water, the bill allows United Water to pay a cash-equalization payment in excess of the twenty-five percent. Any cash equalization payment can be used by the Los Padres National Forest for the improvement of recreational or administrative facilities. Although the Forest Service testified against this language, I hold firm that the maintenance backlog of our national forests is paramount to additional land acquisition. However, if the Forest Service read my legislation, they would have seen that this language provides for an option for funds to go towards maintenance. For the record, I am submitting an article highlighting the maintenance backlog in the Los Padres, which should make clear the need for this language.

This legislation will have a positive impact on recreational access for the public. The majority of the land that the Forest Service is exchanging to United Water are mud-flats which are partially covered by water from Lake Piru during part of the year. No recreational activity occurs on the mud-flats. Blue Point Campground is the only parcel that has any recreational value. However, the campground has been closed since 1995. After enactment of this bill, United Water will open this campground to the public on a limited basis for a small user fee. This will have the effect of providing families access to a campground for this first time in years.

All recreational fishing activity and kayaking on Lake Piru will still be maintained through United Water's existing recreational programs. The land to be exchanged by United Water is currently used for cattle leasing activity. However, the last lease has expired and all grazing activity has recently ceased. The Potholes Trail runs through this property as well. The public already has access to this trail.

This bill will also enhance the protection of the endangered arroyo toad. Currently there is arroyo toad habitat in the Blue Point Campground. The campground is in a remote location and the nearest ranger station is two hours away. For this reason, the Forest Service does not have the resources necessary to adequately patrol and protect this habitat. United Water is willing to manage this habitat and patrol it with much more frequently than the Forest Service. In addition, United Water already has experience managing arroyo toad habitat on the easterly part of Lisk Ranch, which it already owns. In addition, United Water has pledged to work with the U.S. Fish and Wildlife Service to draft a biological opinion to manage the arroyo toad habitat on the Blue Point Campground. The campground would only be opened during periods that will not harm the arroyo toad.

I believe this exchange is a win-win for the public, the Los Padres National Forest and the United Water Conservation District. I appreciate this Committee's help in holding this hearing and urge this Committee to schedule this measure for a mark-up soon.

Mr. PETERSON. Now we will move on to Mr. Thompson's comments. You may proceed.

**STATEMENT BY TOM L. THOMPSON, DEPUTY CHIEF,
NATIONAL FOREST SYSTEM**

Mr. THOMPSON. Mr. Chairman, again, thank you and members of the Subcommittee for this opportunity to testify on H.R. 4917.

H.R. 4917 authorizes the Secretary to exchange 420 acres of National Forest System land for approximately 340 acres of inholdings in the Los Padres National Forest.

The United Water Conservation District of California owns the inholdings. This exchange would consolidate interior land boundaries of the Ojai Ranger District of the Los Padres National Forest and would provide UWCD with continuous ownership around Lake Piru.

The bill requires the UWCD to construct a gravel parking area upon UWCD lands for the Potholes trailhead of the Los Padres National Forest. It also would protect the existing Federal Energy Regulatory Commission license for less than a 5-megawatt generator at the outfall.

The Department supports H.R. 4917, but we are concerned about the control the bill would give to UWCD regarding restricting public vehicle access. Any decisions on regulating vehicle access should be made in consultation with the Los Padres Forest Supervisor.

Additionally, the bill does not specify whether the Forest Service or United Water Conservation District of California will pay for the associated cost of the land exchange. We believe it is in both parties interest to have the UWCD significantly share in the costs of processing this transaction.

Finally, we believe that any receipts from cash equalization that are deposited into the Sisk Act Fund should be used to acquire replacement lands within the Los Padres National Forest instead of being used toward facilities.

We would again like to thank the Committee for this opportunity and we are willing to address any questions.

Mr. PETERSON. Are there any questions?

No questions forthcoming, I want to thank the gentleman for his patience today.

If there is no further business before the Subcommittee, the Chairman again thanks the members of the Subcommittee and our witnesses.

Members do have the right to submit questions for the record.

Mr. PETERSON. This meeting is adjourned.

[Whereupon, at 11:08 a.m., the Subcommittee was adjourned.]