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**PARKS AND PUBLIC LANDS BILLS**

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**JOINT HEARING**  
BEFORE THE  
SUBCOMMITTEE ON NATIONAL PARKS  
AND THE  
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS  
OF THE  
COMMITTEE ON  
ENERGY AND NATURAL RESOURCES  
UNITED STATES SENATE  
ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

ON

<b>S. 3261</b>	<b>S. 3283</b>
<b>S. 3291</b>	<b>S. 3524</b>
<b>S. 3565</b>	<b>S. 3612</b>
<b>S. 3616</b>	<b>S. 3744</b>
<b>S. 3778</b>	<b>S. 3820</b>
<b>S. 3822</b>	<b>H.R. 1858</b>
<b>H.R. 4773</b>	

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SEPTEMBER 29, 2010



Printed for the use of the  
Committee on Energy and Natural Resources

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U.S. GOVERNMENT PRINTING OFFICE

62-567 PDF

WASHINGTON : 2010

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## **PARKS AND PUBLIC LANDS BILLS**

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**WEDNESDAY, SEPTEMBER 29, 2010**

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

The subcommittees met, pursuant to notice, at 2:31 p.m. in room SD-366, Dirksen Senate Office Building, Hon. Mark Udall presiding.

### **OPENING STATEMENT OF HON. MARK UDALL, U.S. SENATOR FROM COLORADO**

Senator UDALL. The Subcommittee on National Parks will come to order.

Welcome, everybody.

This afternoon the Subcommittee on National Parks and the Subcommittee on Public Lands and Forests are holding a joint hearing to consider several pending bills. The purpose of the hearing is to get testimony for the record on as many bills as possible before the Senate adjourns this week, maybe even today.

Because we have over a dozen bills on the agenda, I will not read through the list of bills, but at this time I will include the complete list of bills in the hearing record.

The committee has received a statement from Senator Hutchison relating to 2 bills involving areas in Texas: the proposed Buffalo Bayou National Heritage Area and the San Antonio Missions National Historical Park. Without objection, her statement on those bills will be included in the hearing record, along with several other written statements that the committee has received. We will, of course, also include any additional statements submitted for the record.

[The prepared statement of Senator Hutchison follows:]

PREPARED STATEMENT OF HON. KAY BAILEY HUTCHISON, U.S. SENATOR FROM TEXAS

I want to thank Chairman Bingaman and Ranking Member Murkowski of the Senate Energy and Natural Resources Committee for holding today's joint hearing between the Subcommittee on National Parks and Subcommittee on Public Lands and Forests to consider the lands bills important to so many regions of the country. Two bills in particular, S. 3261, the Buffalo Bayou National Heritage Area Act and S. 3524, the San Antonio Missions National Historical Park Boundary Expansion Act of 2010, are of interest to many of my constituents.

The first bill, S. 3261, the Buffalo Bayou National Heritage Area Act, would designate the Buffalo Bayou as a National Heritage Area. The Buffalo Bayou became important in Texas' history when, during the Battle of San Jacinto, the final battle for Texas Independence was fought along its banks. It was during this battle that

General Sam Houston led the Texas Army against General Antonio López de Santa Anna's Mexican forces, to win its independence from Mexico in 1836.

The Buffalo Bayou has become a major economic access point into the Southwest and beyond. Today, the 52-mile stretch of the Buffalo Bayou is the nation's number one port in foreign cargo and one of the largest ports in the world. The Buffalo Bayou's complex of petrochemical plants employs over 35,000 people. Oil and gas refining along the bayou remains the foundation of Houston's economy, providing 13 percent of the nation's refining capacity.

In 2002, Congressman Gene Green and I introduced the Buffalo Bayou National Heritage Study Act which required the National Park Service (NPS) to study the area to determine if the Buffalo Bayou was eligible for designation. The NPS report describes the Buffalo Bayou as an important artery currently supporting oil refining, petrochemical production, and commercial trade. The Buffalo Bayou also sustains the growth of Baytown and the development of Houston's economic powerhouses of energy and petrochemical industries.

While conducting public hearings on the designation of the Buffalo Bayou, the common themes voiced by interested parties were that the historical events and growth of the oil industry along the banks of the Buffalo Bayou are critical to understanding the rise of the United States as a modern industrial giant. The Buffalo Bayou has a great history to preserve and could continue providing economic development opportunities for the Houston area.

The NPS's report concluded that Buffalo Bayou is eligible and would benefit from the designation. I fully agree with the NPS's analysis of the Buffalo Bayou, and that is why I introduced S. 3261, the Buffalo Bayou National Heritage Area Act, to designate the Buffalo Bayou for National Heritage Area designation. My legislation is a companion bill to a bill sponsored by Congressman Gene Green, who has been a champion for this important region of Texas to receive the designation it deserves.

The second bill being considered today, also important to Texas, is S. 3524, the San Antonio Missions National Historical Park Boundary Expansion Act of 2010, which would authorize a boundary study that would identify possible lands for inclusion in the park within Bexar and Wilson Counties. Condemnation language was added during House markup so as to protect the rights of private property owners.

The City of San Antonio is the second-largest city in the State of Texas and the seventh-largest city in the United States; however, it is important to consider how the San Antonio Missions played an important role in San Antonio's history. The San Antonio Missions National Historical Park commemorates an important chapter in the history of the United States and represents the largest concentration of historical Catholic missions in North America. The park also features some of the most effectively maintained Spanish colonial architecture in the United States. Its rich history must be preserved for future generations to enjoy.

During the 1700s, Spain greatly influenced the San Antonio area. As Spanish explorers travelled through what is modern-day Texas, Catholic missionaries and soldiers accompanied the group and established the missions and forts we now benefit from in the San Antonio Missions National Historical Park. The missions and forts were originally established to protect Spanish land claims from the French in Louisiana. The missions and forts were also important to Spain in order to spread their influence and recruit new citizens for Spain's expanding empire. The San Antonio Missions National Historical Park preserves four of the five Spanish frontier missions and offers visitors an opportunity to learn about the historical importance that the area played in vocational and educational training during the 1700s.

My colleague and fellow Texan, Congressman Circo Rodriguez, introduced H.R. 4438, the San Antonio Missions National Historical Park Boundary Expansion Act of 2010, which passed the House of Representatives on July 13, 2010. I was pleased to introduce a Senate companion to Congressman Rodriguez's legislation. Our legislation enjoys the strong support of officials from Bexar County, Wilson County, the City of San Antonio, the City of Floresville, the San Antonio River Authority, the San Antonio Conservation Society, Los Compadres, and others. This bill would help guarantee the preservation, protection, restoration, and interpretation of the missions for current and future generations.

Chairman Bingaman and Ranking Member Murkowski, I believe today's hearing will give the committee a better understanding of why these regions are important to our nation's history, and why legislation is needed to preserve the Buffalo Bayou Heritage Area and the San Antonio Missions. I thank you for your attention to these two pieces of legislation.

Thank you.

Senator UDALL. I would like to briefly comment on H.R. 1858, which is of particular interest to Senator Bennett and myself. Rep-

representative Markey introduced H.R. 1858 to resolve what has been a very difficult issue for a number of homeowners in the Crystal Lakes Subdivision in northern Colorado.

In 2004, the Bureau of Land Management determined that a developer's 1976 private survey erroneously included approximately 7 acres of National Forest land within the boundary of the subdivision. As a result, we have a number of homeowners who, through no fault of their own, are faced with the prospect of losing their property or being forced to pay for it a second time. The homeowners have been living under this cloud on their title for too long, so I hope our hearing today will help us get closer to a resolution for them.

With that, I would like to recognize the ranking member, Senator Burr, from North Carolina for any opening statement he may have.

**STATEMENT OF HON. RICHARD BURR, U.S. SENATOR  
FROM NORTH CAROLINA**

Senator BURR. Good afternoon, Mr. Chairman. I would like to thank you for convening this hearing before the National Parks Subcommittee and the Public Lands and Forests Subcommittee, which is likely to be our final subcommittee hearing of the year.

I would like to take a moment to acknowledge my gratitude of the chairman for the way he has conducted the business of the subcommittee. We have had another productive year, regularly hearing a large number of bills. I know all members of the subcommittee appreciate your leadership in addressing their bills in a timely manner. I have enjoyed working with you this Congress, and I look forward to continuing to work with you in the future on this subcommittee, as well as the full committee.

This is a very unique hearing, given that it is a joint hearing between Public Lands and Forests. We have 12 total bills on the agenda, 7 of which are the National Parks bills. I will keep my comments directed toward the National Parks bill before us and will defer to my colleague, Senator Barrasso, anything he would like to address on the Public Lands and Forests bill before us today.

The National Parks bills today are generally noncontroversial, which I think the chairman has always used as a threshold.

But I would like to express a general concern that I have for the establishment of a new national park unit, and I say this while at a time we are challenged to meet the maintenance backlog of our current park inventory. I question the wisdom of creating new park units when we cannot pay for what the Federal Government already possesses. I am not going to tell you that it is impossible, but I believe at a time of the fiscal austerity that I think we all know we are either in or headed for, our first commitment has to be to make sure that we take care of the treasures that we have been entrusted with up to this point, and though the merits of this and many things in the future, short-term, may reach the threshold that has been achieved in the past, I think that members of this subcommittee and members of the full Senate should make sure that we have taken care of the obligation we have got to maintain those treasures we have been entrusted with.

So, Mr. Chairman, again I thank you for the hearing. I appreciate the Department witnesses for taking the time to be here. I look forward to their testimony.

Senator UDALL. I thank, Senator Burr, for expressing what are legitimate concerns. I take those concerns very seriously and look forward to working, hopefully, with you starting again in January when the Senate reconvenes. We are a continuing body, so we do not permanently adjourn I guess, but we will be back working together starting next year, in what capacity we will see. I too have enjoyed very much working with you. Thank you for your leadership and for your staff's support and my staff's efforts. Next year we will be just as productive, I am sure. Thank you.

We have been joined by our colleague from Alaska, Senator Begich. Senator Begich, thank you for taking time to join the subcommittee—the joint subcommittee hearing I should say.

I know the ranking member mentioned both Chairman Wyden and Ranking Member Barrasso. They both, obviously, have signed off on holding this joint hearing. I do not know if they are going to be able to join us or not. They have got busy schedules.

But, Senator Begich, thank you for joining us. The floor is yours.

**STATEMENT OF HON. MARK BEGICH, U.S. SENATOR  
FROM ALASKA**

Senator BEGICH. Thank you very much. Thank you, Chairman Udall and Senator Burr, for allowing me a few minutes.

First, before I give you just some comments regarding S. 3820, I want to just give some update. As you know, in Alaska, we have very rugged country and 3 Park Service employees went missing in a plane crash or a plane disappearance over 5 weeks ago with no sign of recovery at this point. But I was informed last night that there seems to be a helicopter in King Salmon area that has found some part of the wreckage which is good news, but bad news at the same time. But I wanted to at least share that as we are talking about Park Service issues in Alaska. As someone from a family that never has been able to recover my father's lost plane, this is an incredible positive, but yet sad day for the families. But the good news is there seems to be a possibility of recovery of the wreckage. So I will leave it at that.

But I wanted to thank you for the opportunity to speak on S. 3820, and I appreciate the opportunity to address the committee today on a very small but important bill to Alaska.

I understand you have a dozen or so bills in front of you, so I will try to keep my comments brief. But this is on the Kantishna Hills Renewable Energy Act of 2010. It is a noncontroversial bill that accomplishes several important goals. It allows the National Park Service to acquire an important private inholding inside the preserve or a new park, part of the Denali National Park and Preserve. It enables Kantishna Roadhouse, an historic back country lodge owned by Doyon Ltd. that is not connected to any utility grid to construct a microhydro project and reduce their diesel usage by over 50 percent. It provides direction for the National Park Service to issue the interim special use permit for the project so that Doyon can realize a Department of Energy tribal energy grant award while the land trade is moving forward.



The interim special use permit was suggested by the National Park Service, Alaska region's staff, while discussing draft legislation. I think it is an example of the cooperative spirit you will find that surrounds this legislation.

The Park Service has worked well with Doyon, my office, and that of Senator Murkowski who worked on drafting the legislation. I want to thank them for their assistance.

At the end of the day, the microhydro project will reduce the Kantishna Roadhouse diesel consumption. This means better air quality for the park, fewer truck trips on the single park road, and better experience for all park visitors, and a better bottom line for the Kantishna Roadhouse.

I know when people hear the word "development" inside a national park, particularly one of the jewels of the system like Denali National Park, people pay attention. It is important to note for the record that this project would take place in a nonwilderness part of the park. The affected stream, Eureka Creek, is not a fish-bearing creek. The Kantishna community began as a gold-mining town and the stream has been actively mined in the past 20 years. Because of this history and because of the nature of the project, my office has heard no opposition to the project or this legislation.

With that, let me say thank you for taking the time to take up this legislation on such short notice, and please, if you have any questions, I am happy to answer them. Thank you, Mr. Chairman.

Senator UDALL. The ranking member does not have any questions.

Senator Begich, would you like to introduce a witness who is going to join the next panel from Alaska?

Senator BEGICH. I am not sure who is here because I came in at the last minute.

Senator UDALL. I do not know if Mr. Schutt is here. Is he here?

Senator BEGICH. I walked right past him. I apologize.

We are happy when Alaskans travel this long distance, and Mr. Schutt will be on the next panel and I know will add to the discussion. So we just appreciate that he is here.

Senator UDALL. Thank you for your testimony. I know that the whole world of microhydro power is really beginning to open up. In Colorado, we have a series of permit requests under process. So I am intrigued to learn more about this, and it sounds to me like the benefits are significant and this is well worth supporting. So thank you for taking the time for working with Senator Murkowski.

Senator BEGICH. Thank you. I will tell you, especially diesel energy in Alaska, when you are in the interior, it can range anywhere from \$5 to \$6 a gallon to as much as \$11 a gallon. So when you can convert to hydro, there is an economic benefit and then obviously an environmental air quality benefit. So we like bills that are on land in Alaska that are noncontroversial, and this is one of them. So thank you, Mr. Chairman.

Senator UDALL. Senator Burr and I are both very proud of our mountains. Alaska has significant mountains as well.

Senator BEGICH. I will leave at that comment because we will get into a competition of our size of mountains.

[Laughter.]

Senator BEGICH. Thank you very much.

Senator UDALL. Thank you, Senator Begich.

As Senator Begich leaves, we have two panels planned, but I think we could ask both the administration witnesses and Mr. Schutt to come forward, and we will have all three of you join us and provide us with your statements.

Senator Sanders has joined us. As the panelists get situated, do you have any statement?

Senator SANDERS. I have a short statement.

Senator UDALL. Please. The floor is yours.

**STATEMENT OF HON. BERNIE SANDERS, U.S. SENATOR  
FROM VERMONT**

Senator SANDERS. Thank you very much, Mr. Chairman. I will be brief.

Today I am pleased our hearing is focusing in part on S. 3612, a bill I introduced with Senator Leahy to expand the Marsh-Billings-Rockefeller National Historical Park. The bill would provide authority for the national park to acquire the King Farm property in Woodstock, Vermont, which is currently held by the Vermont Land Trust. The King Farm property is a classic 19th century Vermont Hill Farm with many original buildings intact. It includes 154 acres of farm and forestland and was left to the Vermont Land Trust by Francisca King Thomas in 1986 under the provisions of her will. At the time, the Land Trust was a regional organization but has since grown and now operates statewide.

This change has made it more difficult for the Land Trust to manage the property. The Vermont Land Trust has conducted a thorough outreach effort with local stakeholders to determine the future of the property. It was through this process that the idea of making King Farm part of the national park came about. As Gil Livingston, the president of the Vermont Land Trust, notes in his written testimony for the record, "We believe that this proposal not only furthers the educational and conservation mission of the Marsh-Billings-Rockefeller National Historical Park and the Vermont Land Trust, but will honor and fulfill the goals and legacy of Francisca King Thomas." End of quote. The legislation will ensure that King Farm remains conserved working land, that its historic buildings are well cared for, and that the property provides a valuable opportunity for education for visitors and the community.

I thank the National Park Service for their support of this legislation as indicated in the testimony today by Kate Stevenson.

I also appreciate the great work of Vermont Land Trust, the staff of the Marsh-Billings-Rockefeller National Historical Park and the residents of the local communities. It is the vision of the local communities that surround King Farm and the national park that this legislation carries out, and I look forward to working with my colleagues to ensure this legislation can move forward.

Mr. Chairman, thank you very much for allowing me the minute.

Senator UDALL. Thank you, Senator Sanders, for sharing those perspectives.

We will now turn to the panel. I think we will start with Ms. Stevenson, and Ms. Stevenson we know, because she appears before this committee at various interludes, is the Associate Director of

Business Services, National Park Service, Department of the Interior. Thank you for being here with us today. The floor is yours. If you will keep your remarks within the 5-minute timeframe, I know that would be appropriate. So thank you.

**STATEMENT OF KATHERINE H. STEVENSON, ASSOCIATE DIRECTOR, BUSINESS SERVICES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY TIMOTHY R. SPISAK, ACTING ASSISTANT DIRECTOR, MINERALS AND REALTY MANAGEMENT, BUREAU OF LAND MANAGEMENT**

Ms. STEVENSON. Thank you for the opportunity to appear before you today to offer the views of the department on the bills before you.

If I may, I would like to summarize my comments and ask that the full text be entered into the record.

Senator UDALL. Without objection.

Ms. STEVENSON. Tim Spisak, the Acting Assistant Director for Minerals and Realty Management for the Bureau of Land Management, is accompanying me today and will be happy to answer any questions you might have on the two BLM-related bills.

S. 3261 would establish the Buffalo Bayou National Heritage Area in Harris County, Texas. The Department recognizes the appropriateness of designating the heritage area but recommends deferring action until program legislation for heritage areas can be enacted.

S. 3291 would establish Coltsville National Historic Park in Hartford, Connecticut. The Department does not support enactment due to the uncertainty associated with the ownership and financial sustainability of the Coltsville Development Project and because of the lack of clarity on what resources the National Park Service would manage.

S. 3524 would authorize the Secretary to enter into a cooperative agreement for a park headquarters at San Antonio Missions National Historic Park. S. 3524 and its companion bill, H.R. 4438, would also expand the boundary of the park and authorize a study of the potential land acquisition. The Department supports S. 3524 which includes the authority to operate the headquarters facility and authorizes the use of a cooperative agreement.

S. 3565 would provide for the transfer of 315 acres of BLM-managed lands north of Bullhead City, Arizona to the Arizona Game and Fish Department for use as a public shooting range. The Department supports this legislation and looks forward to working with the subcommittee on a couple of proposed improvements.

S. 3612 would expand the boundary of the Marsh-Billings-Rockefeller National Historic Park in Vermont. It would also authorize the establishment of the Conservation Study Institute in collaboration with the University of Vermont. The Department supports this bill.

S. 3616 would withdraw 2,700 acres of BLM-managed land for the use of Homeland Security. The Department supports the goals of the legislation, but cannot support the bill as presently drafted. If the Congress chooses to legislate this conveyance, the BLM looks forward to working with the committee on amendments to the bill

which would address valid and existing rights, extensions, and so on.

S. 3744 would designate Pinnacles National Monument in California as Pinnacles National Park. The bill would also add 2,905 acres to the already designated wilderness at the monument and would rename the Pinnacles Wilderness as the Hain Wilderness. The Department supports S. 3744 with some technical amendments.

S. 3778 would authorize the Secretary to lease land on Cockspur Island within Fort Pulaski National Monument to the Savannah Bar Pilots Association. The Department supports this legislation but suggests a 5-year term to allow more frequent review as opposed to the 10-year term in the bill.

S. 3820 would authorize the Secretary to issue permits for microhydro projects in a limited area of Kantishna Hills in Denali National Park. It would also authorize a mutually beneficial land exchange between the National Park Service and Doyon Tourism, Inc. near Kantishna. The Department supports enactment if the legislation is amended to make the actions discretionary after NEPA compliance is completed. In addition, we suggest providing the Secretary discretionary authority to use the permitting authority for other potential microhydro projects in the Kantishna area.

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

[The prepared statements of Ms. Stevenson follow:]

PREPARED STATEMENT OF KATHERINE H. STEVENSON, ASSOCIATE DIRECTOR, BUSINESS SERVICES, NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, ON S. 3565

Thank you for the opportunity to testify on S. 3565, the Mohave Valley Land Conveyance Act of 2010, which proposes to transfer 315 acres of public lands managed by the Bureau of Land Management (BLM) to the Arizona Game and Fish Department (AGFD) for use as a public shooting range. The BLM supports the goals of S. 3565 but cannot support the legislation as currently drafted.

For the past ten years, the BLM has been working with the AGFD, the Fort Mojave Indian Tribe, the Hualapai Tribe, and the public to find appropriate lands for a public shooting range within the Mohave Valley in Arizona. On February 10, 2010, the BLM made the decision to authorize the transfer of BLM lands to the AGFD (through the Recreation and Public Purposes Act of 1926, as amended, 43 U.S.C. 869 et seq.; R&PP) for use as a public shooting range. The decision, which is consistent with the goals of S. 3565, provides a safe, designated shooting environment for the public and includes stipulations designed to respect the traditional beliefs of the Fort Mojave and Hualapai Tribes. The BLM will continue working with interested parties as we move forward with implementation of the shooting range.

#### BACKGROUND

In 1999, the AGFD first submitted an application to the BLM for development of a public shooting range on BLM-managed lands in Mohave County, near Bullhead City in northwestern Arizona. As a result, the BLM began working with the AGFD and other interested parties to assess appropriate lands to transfer to the AGFD for the purposes of a shooting range under the R&PP.

The BLM evaluated the AGFD's application through an environmental assessment (EA) and considered numerous alternative locations throughout the Mohave Valley. The evaluation process was conducted with full public and tribal participation. There is an identified need for a designated public shooting range in this region because of the lack of a nearby facility, the amount of dispersed recreational shooting occurring on public and private lands raising public safety concerns, and the associated natural resource impacts from spent ammunition and associated waste.

In 2002, the BLM began consultations with the Fort Mojave Indian Tribe and the Hualapai Tribe. In 2003, the BLM initiated consultation with the Arizona State Historic Preservation Officer (SHPO); and in 2006, the BLM initiated Section 106 consultation with the Advisory Council on Historic Preservation (ACHP). These consultations, as required by Section 106 of the National Historic Preservation Act and other authorities, ensure federal agencies consider the effects of their actions on historic properties, and provide the ACHP and SHPO an opportunity to comment on Federal projects prior to implementation.

In addition to the Section 106 consultation process, the BLM initiated a year-long Alternative Dispute Resolution (ADR) process in 2004 to help identify issues, stakeholder perspectives, and additional alternatives to meet the criteria for a safe and effective public shooting range in the Mohave Valley. However, the ADR process failed to reconcile differences between several consulting parties regarding a proposed location.

In 2006, as part of continued Section 106 consultation with the ACHP, the BLM initiated site visits by the concerned parties and also continued efforts to identify alternative sites. Unfortunately, despite these efforts, the BLM was unable to reach an agreement with the consulted Tribes on any area within the Mohave Valley that the Tribes would find acceptable for a shooting range. The Tribes maintained their position that there is no place suitable within the Mohave Valley, which encompasses approximately 140 square miles between Bullhead City, Arizona, and Needles, California.

Through the EA process, the BLM identified the Boundary Cone Road alternative to be the preferred location. Boundary Cone Butte, a highly visible mountain on the eastern edge of the Mohave Valley, lies approximately 3 miles east of the Boundary Cone Road site, and is of cultural, religious, and traditional importance to both the Fort Mojave Indian Tribe and the Hualapai Tribe. In an effort to address the primary concerns expressed by the Tribes over visual and sound issues, the BLM and AGFD developed a set of potential mitigation measures. Again, there was a failure to agree between the consulting parties on possible mitigation. In the end, the BLM formally terminated the Section 106 process with the ACHP in September 2008. In November 2008, ACHP provided their final comments in a letter from the Chairman of the ACHP to then-Secretary of the Interior Kempthorne.

Although the Section 106 process was terminated, the BLM continued government-to-government consultations with the Tribes. In May of 2009, the BLM met with the Chairman of the Fort Mojave Indian Tribe, the AGFD, and the Tri-State Shooting Club in a renewed effort to find a solution. On February 3, 2010, after continued efforts to reach a mutually agreeable solution, the BLM presented the decision to approve the shooting range to the Fort Mojave Indian Tribe and the AGFD. The final decision included mitigation measures to address the concerns of the Tribes such as reducing the amount of actual ground disturbance; reducing noise levels with berm construction; monitoring noise levels; reporting annually; and fencing to avoid culturally sensitive areas. The Secretary has the authority to take action to revest title to the land covered by the proposed R&PP patent if the AGFD fails to comply with mitigation measures. The final decision to amend the Kingman Resource Management Plan and dispose of the lands through the R&PP was signed on February 10, 2010.

The BLM decision was appealed to the Interior Board of Land Appeals (IBLA) on February 23, 2010, by a private landowner near the proposed shooting range; and on March 15, 2010, a joint appeal by the Fort Mojave Indian Tribe and Hualapai Tribe was filed. The IBLA dismissed the appeal of the private landowner but is currently reviewing the appeal by the Tribes. The IBLA issued a stay of the BLM decision on April 15, 2010, at the request of the Tribes. A final decision by the IBLA on the Tribes' appeal is pending.

#### *S. 3565*

S. 3565 provides for the conveyance to the AGFD of all right, title, and interest to the approximately 315 acres of BLM-managed public lands as identified in the final decision signed by the BLM on February 10, 2010, to be used as a public shooting range. Furthermore, the legislation makes a determination that the February 10, 2010, Record of Decision is "final and determined to be legally sufficient" and "not be subject to judicial review . . ." The bill also provides that the lands must be used for purposes consistent with the R&PP Act and provides for an appropriate reversionary clause.

As a matter of policy, the BLM supports working with local governments and tribes to resolve land tenure issues that advance worthwhile public policy objectives. The BLM acknowledges the lands proposed for development as a shooting range are of cultural, religious, and traditional significance to the Tribes which is why we sup-

port important mitigation measures. In general, the BLM supports the goals of the proposed conveyance, as it is similar to the transfer the BLM has been addressing through its administrative process for the last ten years. As noted, a decision has been made through the BLM administrative process and is under administrative review before the IBLA. Currently, if the IBLA affirms the BLM decision, the Tribes would still be able to pursue a judicial remedy. However, under the provisions of S. 3565, judicial review would be prohibited.

The BLM will continue working with the interested parties, including the Tribes, during implementation of the shooting range to address their concerns. The BLM strongly believes that open communication between the BLM and the Tribes is essential in maintaining effective government-to-government relationships.

If the Congress chooses to legislate this conveyance, the BLM would recommend some improvements to the bill, including changes to section 4(b), the incorporation of mitigation measures to address Tribal concerns, protection of valid existing rights, and an appropriate map reference.

#### *Conclusion*

Thank you for the opportunity to testify. Resolution of this conveyance in a manner that is acceptable to all parties has been an important goal of the BLM as evidenced by more than ten years of negotiations and review. The BLM is confident the recently issued decision addresses the concerns of the interested parties, while providing critical recreational opportunities and benefits to the public.

ON S. 3616

Thank you for the opportunity to testify on S. 3616, the Federal Law Enforcement Training Center Protection Act of 2010. S. 3616 would reserve and withdraw approximately 2,700 acres of public land administered by the Bureau of Land Management (BLM) for use by the Secretary of Homeland Security for the Federal Law Enforcement Training Center (FLETC) in Eddy County, New Mexico. The BLM supports S. 3616, and would like to work with the Chairman on amendments to the bill to address a number of technical issues.

#### *Background*

The FLETC has operated a law enforcement training center northwest of Artesia, New Mexico for the past two decades. The staff in FLETC-Artesia is responsible for designing, developing, coordinating, and administering advanced and specialized training programs for the United States Border Patrol, Bureau of Indian Affairs, Transportation Security Administration, and other partner organizations. Basic and advanced training programs are conducted for the Department of the Interior's Bureau of Indian Affairs under the auspices of the Indian Police Academy. Specialized instructor programs such as the Law Enforcement Driver Instructor Training Program, Firearms Instructor Training Program, the Law Enforcement Fitness Coordinator Training Program, and the Law Enforcement Control Tactics Instructor Training Program, are also conducted at the Artesia facility.

The FLETC use of public land was first authorized by a right-of-way (ROW) issued by the BLM in 1990. Subsequently the FLETC requested additional public land for the training center, and the BLM completed a land exchange in June 2003 with the State of New Mexico to facilitate this expansion. In 2003, the BLM issued a 20-year administrative withdrawal of approximately 1,921 acres, subject to valid existing rights, for FLETC, although the existing mineral leases continued to be managed by the BLM.

The FLETC has indicated to the BLM a need for an additional 779 acres, seeking a total area of approximately 2,700 acres. The BLM can also accomplish the withdrawal administratively, if the FLETC elects to pursue that approach.

#### *S. 3616*

S. 3616 proposes to withdraw and reserve approximately 2,700 acres of BLM-managed lands for FLETC for a period of 20 years, subject to valid existing rights. The lands would be withdrawn from entry, appropriation or disposal; location, entry and patent under mining laws, and operation of mineral leasing, mineral materials, and geothermal leasing laws. The bill withdraws and reserves the land for the purposes of protecting, operating, and maintaining FLETC.

The BLM supports the withdrawal of the lands for FLETC's law enforcement training mission. The BLM frequently works with Congress and the Department of Defense on similar legislative withdrawals only for military purposes. We believe that those acts may serve as good models for this withdrawal. Among the issues that should be addressed in this proposed legislation are protection of valid existing rights (including existing rights-of-way and oil and gas leases), environmental com-

pliance and mitigation, future extensions of the withdrawal, restoration and rehabilitation of the land upon termination of the withdrawal, and the FLETC's responsibilities under the National Environmental Policy Act (NEPA).

#### CONCLUSION

Thank you for the opportunity to testify. We look forward to continuing to work with the Chairman and the Committee on this important legislation.

ON S. 3261

Mr. Chairman, thank you for the opportunity to present the Department of the Interior's views on S. 3261, a bill to establish the Buffalo Bayou National Heritage Area in Texas, and for other purposes.

The Department recognizes the appropriateness of designating the Buffalo Bayou National Heritage Area, but recommends deferring action on S. 3261 until program legislation is enacted that establishes criteria to evaluate potentially qualified national heritage areas and a process for the designation and administration of these areas. We recommend that Congress enact national heritage area program legislation in this Congress.

There are currently 49 designated national heritage areas, yet there is no authority in law that guides the designation and administration of these areas. Program legislation would provide a much-needed framework for evaluating proposed national heritage areas, offering guidelines for successful planning and management, clarifying the roles and responsibilities of all parties, and standardizing timeframes and funding for designated areas. Program legislation was introduced in the 109th and 110th Congresses, and we look forward to continuing to work with Congress on this very important issue.

S. 3261 would establish the Buffalo Bayou National Heritage Area (NHA) in Harris County, Texas, with the Buffalo Bayou National Heritage Area Corporation designated as the National Heritage Area's Management Entity. The National Park Service (NPS) completed a suitability and feasibility study on the proposed Buffalo Bayou NHA in April 2010 that determined that the NHA met the NPS criteria for establishment.

When brothers Augustus Chapman Allen and John Kirby Allen established the city of Houston in 1836, they envisioned a great new city, but could not have imagined Houston's role in fueling the rise of the United States as a world power in the 20th century. The Houston town site was located along the Buffalo Bayou, which was the only semi-navigable waterway running east and west in Texas. The bayou eventually became a major economic access point into the Southwest and a corridor to the Gulf of Mexico and beyond.

Houston's oil industry helped draw and meld cultures that helped define its regional character and the economic growth of the Buffalo Bayou as a center for oil and petrochemical production shaped the community's character.

Adjacent to the Buffalo Bayou ship channel is the San Jacinto Battleground State Historic Site, where Texas gained its independence as a republic. A National Historic Landmark and State Park, the San Jacinto Battleground provides the cultural and natural landscape for the second major theme of the proposed National Heritage Area: Texas independence. The historic site also includes the USS Texas battleship, also designated as a National Historic Landmark, which was built in the "dreadnought" era and launched in 1912. After serving in World War I, the ship was updated for service in World War II, and participated in the amphibious invasions of Normandy, Iwo Jima, and Okinawa.

Historian Lynn M. Alperin has stated that "Buffalo Bayou has been transformed from a meandering stream into a vast industrial complex." That transformation has not been without environmental consequences. However, as with most cities throughout the United States in the second half of the 20th century, Houston has worked to balance economic development with environmental protection. Parts of the story of the proposed Buffalo Bayou National Heritage Area are environmental and recreational initiatives, supported by its industries, including wetlands restoration, trails development, prairie restoration, riverfront park development, and natural preserves. These efforts are part of the story of the community's efforts to improve the quality of life for Houston's two million people.

A potential Buffalo Bayou National Heritage Area, through its historical, natural, cultural, and recreational resources, its network of partner organizations, its diverse population, and consistent with the area's economy, would represent a distinctively American story about the nation's growth. The nationally significant themes of Houston as the Nation's "Energy Capital" and Texas independence are significant chapters of our history. These important American stories are best told through the

framework of a National Heritage Area by the people of the Buffalo Bayou themselves and the partner organizations that represent them.

Mr. Chairman, that concludes my prepared remarks. I would be happy to answer any questions you or any other members of the subcommittees may have.

ON S. 3291

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior regarding S. 3291, a bill to establish the Coltsville National Historical Park in Hartford, Connecticut.

The Department does not support enactment of this legislation due to the uncertainty associated with the ownership and long-term financial sustainability of the Coltsville development project as concluded by the National Park Service (NPS) in a special resource study of the resources associated with the Coltsville Historic District. In concert with this lack of feasibility, the study was also unable to determine the need for NPS management, or specifically which resources the NPS would manage.

The Secretary designated Coltsville Historic District a National Historic Landmark on July 22, 2008. The manufacturing complex and associated resources constitute the site of nationally important contributions to manufacturing technology by Samuel Colt and the industrial enterprise he founded in 1855—Colt's Patent Firearms Manufacturing Company. It includes, among other resources, the armories where firearms and other products were made, the home of Samuel and Elizabeth Colt, Colt Park, and housing used by factory workers.

Samuel Colt is most renowned for developing a revolver design which revolutionized personal firearms. The Colt Peacemaker, a six-shot revolver, became known as "the gun that won the West." Colt was a major innovator in the "American System" of precision manufacturing, replacing the practice of individually crafting each component of a product with the use of interchangeable parts. After his death in 1862, his wife Elizabeth owned and directed the manufacturing complex for 39 years, becoming a major entrepreneur in an age when women rarely occupied positions of importance in manufacturing.

During both World War I and World War II, the Colt Firearms Company was one of the nation's leading small arms producers and made vital contributions to U.S. war efforts. The company applied its interchangeable-parts techniques to a wide variety of consumer products and the Colt complex became an "incubator" facility for other inventors and entrepreneurs. Coltsville is also noteworthy as a fully integrated industrial community that includes manufacturing facilities, employee housing, community buildings, and landscape features that were built largely under the personal direction of Samuel and Elizabeth Colt. Colt, whose labor practices were advanced for their time, attracted highly skilled laborers to his manufacturing enterprise.

S. 3291 provides that the Secretary shall not establish a unit of the national park system at Coltsville until donations of land or interests in land within the boundary of the park have been accomplished. It also provides for donations of space within the East Armory, the focal point of the manufacturing complex, for administration and visitor services. The legislation authorizes agreements with other organizations for access to Colt-related artifacts to be displayed at the park and cooperative agreements with owners of properties within the historic district for interpretation, restoration, rehabilitation and technical assistance for preservation. Any federal financial assistance would be matched on a one-to-one basis by non-federal funds.

S. 3291 also provides for the establishment of a commission to advise the Secretary on the development and implementation of a general management plan for the unit. The advisory commission would terminate ten years after the date of enactment of the legislation unless extended for another ten years by the Secretary.

Pursuant to Public Law 108-94, the Coltsville Study Act of 2003, the NPS conducted a special resource study of the resources associated with the Coltsville Historic District. Based on Coltsville's National Historic Landmark designation in 2008, the study concluded that Coltsville meets the national significance criterion. An analysis of comparability to other units of the national park system and resources protected by others demonstrated that Coltsville is suitable for designation as a unit of the national park system. The study was unable, however, to conclude that Coltsville is feasible to administer at this time due to the lengthy duration of financial issues surrounding the site. In concert with the lack of feasibility, the study is also unable to determine the need for NPS management, or specifically what the NPS would manage.

The Department is concerned that financial issues and questions involving ownership and financing of the Coltsville properties, especially funding for the adaptive



reuse of significant portions of the manufacturing complex that will remain in private ownership, could impede the successful establishment of the proposed park. Until these private-sector financial issues are resolved, the Department does not believe that the donation of land or interest in land or the donation of space for administration and visitor services can be achieved. We are also concerned about the long-term financial sustainability of the development project, given both its history before and during the entire course of the special resource study and the present economic climate. The Department cannot own or manage the entire manufacturing complex, part of which has already been rehabilitated for residential use, due to what we believe would be prohibitive costs and operational issues associated with potential full federal stewardship should the development project prove unviable.

Mr. Chairman, that concludes my testimony. I would be pleased to answer any questions from members of the committee.

ON S. 3524 AND H.R. 4438

Mr. Chairman and members of the Subcommittees, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 3524 and H.R. 4438, bills concerning a new park headquarters, a boundary expansion, and a study of potential land acquisitions at San Antonio Missions National Historical Park.

The Department supports S. 3524. On February 25, 2010, the Department testified on H.R. 4438 before the House Subcommittee on National Parks, Forests and Public Lands. At that hearing we stated that that we supported the bill, but that we would like to work with the committee to address ambiguities in the portions of H.R. 4438 that directed the Secretary to enter into a lease agreement for the operation of a park headquarters and operational facility. H.R. 4438 as passed by the House does not include the authority to operate the headquarters facility, which we believe is a critically important component of this legislation. S. 3524 addresses our concerns by authorizing the use of a cooperative agreement, instead of a lease, for this facility.

S. 3524 and H.R. 4438 would amend Section 201 of Public Law 95-629 to direct the Secretary of the Interior (Secretary) to conduct a study of lands in Bexar and Wilson Counties to identify lands that would be appropriate to include within the boundaries of San Antonio Missions National Historical Park (Park). The Secretary is directed to report on the findings of the study three years after funds are made available. S. 3524 also authorizes the Secretary to enter into a cooperative agreement with the City of San Antonio, or its designee, for operation of a facility outside the boundary of the park to provide visitor facilities and office space for a headquarters and operational support for the park. Funding for the cooperative agreement would be subject to appropriations. Finally, under both bills, the boundary of the park would be expanded by approximately 151 acres.

San Antonio Missions National Historical Park preserves a significant link to Mexico and Spain that has influenced the culture and history of the United States since before its inception. San Antonio is now the seventh largest and third fastest growing city in the United States. The city grew 68 percent between 1980 and 2007 and now almost entirely surrounds the Park with urban development, threatening areas that contain significant Spanish colonial resources historically associated with the Park.

Park headquarters for San Antonio Missions are currently inadequate; do not meet fire, safety or security standards; and exist in an expired lease space not adjacent to the Park. The Park's maintenance operations are dispersed in three separate locations. The Park's curatorial collection, which contains almost one million Spanish Colonial period objects, is stored in four different locations, including two locations that do not meet National Park Service (NPS) Curatorial Storage Standards.

The City of San Antonio, Texas (City) has acquired lands adjacent to Mission San José and has proposed a partnership with the Park and one of its partners for the construction of a park headquarters. A cooperative agreement, such as the one described in S. 3524, would provide the NPS with the ability to enter into an agreement with the City or an entity of the City's choosing such as Los Compadres de San Antonio Missions National Historical Park (Los Compadres), to assist with operation of visitor facilities and office space for a park headquarters.

S. 3524 and H.R. 4438 would also expand the boundary of San Antonio Missions National Historical Park by approximately 151 acres, of which 118 acres are either currently owned by the NPS, are being donated, or are being transferred through a land exchange to the Park. All costs associated with the land exchange will be paid for by the San Antonio River Authority with the NPS only paying for minimal transaction costs. Thirty-three acres would either be purchased by the NPS from

willing sellers or donated to the Park. It is estimated that the acquisition of these 33 acres could cost as much as \$3,587,110 and operational costs associated with adding the 151 acres of land are not expected to exceed \$100,000 per year. Associated land acquisition funding requests would be subject to the Administration's prioritization process that uses consistent and merit-based criteria to select projects, and the availability of appropriations.

The Park's General Management Plan and Land Protection Plan acknowledge that the current boundary is insufficient to fully achieve the Park's purpose. The Park's most recent feasibility study recommended a much larger area to best protect the cultural resources associated with the Park. Numerous areas that contain significant Spanish colonial resources historically associated with the Park still remain outside the boundary. In addition, the Park has acquired lands that are outside the current boundary and is in the process of accepting additional lands that will be included within the boundary as a part of a land exchange with the San Antonio River Authority and U.S. Army Corps of Engineers to facilitate restoration of the San Antonio River.

S. 3524 and H.R. 4438 would also authorize the Secretary to conduct a study of lands within Bexar and Wilson counties, in the State of Texas, to identify lands that would be suitable for inclusion within the boundaries of the Park. The study should also explore management alternatives that would best ensure public access, preservation, protection, and interpretation of the Missions. We estimate that this study will cost approximately \$350,000.

This legislation enjoys the strong support of officials from Bexar County, Wilson County, the City of San Antonio, the City of Floresville, the San Antonio River Authority, the San Antonio Conservation Society, Los Compadres, and others. It would help guarantee the preservation, protection, restoration, and interpretation of the missions for current and future generations.

Mr. Chairman, that concludes my prepared remarks. I would be happy to answer any questions you or any other members of the Subcommittees may have.

ON S. 3612

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior regarding S. 3612, a bill to amend the Marsh-Billings-Rockefeller National Historical Park Establishment Act, and to expand the boundary of the park to include the King Farm.

The Department supports enactment of S. 3612 if amended to provide that the inclusion of the King Farm within the boundary is subject to a determination of the Secretary that the property meets National Park Service (NPS) boundary adjustment criteria.

Marsh-Billings-Rockefeller National Historical Park encompasses the historic Marsh-Billings Rockefeller mansion and grounds, and the Mount Tom Forest in Woodstock, Vermont. It was a gift to the people of the United States from Mary and Laurance Rockefeller. Mary Rockefeller's grandfather, Frederick Billings, developed the property into a model farm and forest in the late 1880s. Billings' stewardship efforts were influenced by George Perkins Marsh, a conservationist and author of the 1864 landmark book *Man and Nature*. Marsh spent his childhood years on the property.

The park was established by Congress in 1992 to interpret the history and evolution of conservation stewardship in America and to recognize and interpret the lives and contributions of George Perkins Marsh, Frederick Billings, the Billings heirs, and Mary and Laurance Rockefeller. It is a continuing symbol of three generations of conservationist thought and practice. It is also a repository for the histories of three quintessentially American families.

S. 3612 would expand the park's present boundary to include the adjacent 156-acre King Farm, one of Vermont's finest examples of an early, self-sustaining Vermont hill farm. The farm is unique as an intact collection of farm buildings and agricultural lands that document the evolution of farming from the early 1800s to the present. The King Farm plays an important role in park operations, providing key linkages for the park's network of recreational trails and facilities. The addition of these lands would enable the park to better conserve and interpret the history and evolution of conservation stewardship in America.

The King Farm is presently owned by the Vermont Land Trust (VLT). The VLT can no longer afford to maintain and operate the farm and issued a national search for a long-term leasee, but without success. If the King Farm were to be sold to a private owner, it could result in loss of public access and damage to park resources. The farm currently serves as a hub for the park's youth service learning programs and provides the only available dedicated classroom and leave-no-trace camp site to

support these programs. Loss of the farm would sever the only direct trail connection between local schools and park lands. The King Farm also provides important habitat for the Jefferson Salamander, which has been identified as a species of special management concern. In 2010, the park initiated a public process to evaluate a proposal to expand the boundary to include King Farm. Local governments and area citizens have expressed strong support for this addition and preliminary findings of this boundary study indicate that the property meets the National Park Service boundary adjustment criteria. .

Based on a comparable property sales analysis, the estimated value of the King Farm including pre-acquisition costs is \$1,205,000. Improvements to farm assets addressing deferred maintenance needs, providing for greater public access, and life and safety and energy efficiency measures would total approximately \$1,558,000. Annual park operations costs are anticipated to increase by \$124,000. To help offset these costs, the Vermont Land Trust intends to manage a small existing endowment to support projects at the King Farm that would benefit facility maintenance and education programs. S. 3612 would authorize the Secretary to receive and expend such funds.

S. 3612 would also provide authority for the operation of the Conservation Study Institute at the park in collaboration with the University of Vermont. The Institute was established by the National Park Service to advance leadership and innovation through collaborative conservation partnerships for the stewardship of our national system of parks and special places. The Institute provides technical assistance to parks, heritage areas, and regional and national programs by conducting demonstration projects, distilling and sharing lessons learned, and building networks for information exchange. The Institute has been funded through the park's base operating budget since the enactment of FY 2000 appropriations. The park receives \$520,000 a year in its budget specifically for operation of the Institute. Additional funding through cost-share programs with the University of Vermont serves to provide educational outreach to youth and the local communities. This legislation would provide permanent authority for the Institute to continue to operate at Marsh-Billings-Rockefeller National Historical Park. The bill further provides for the development of a revised General Management Plan for the park. We are reviewing the legislation for any technical amendments that might be needed and would like to work with the committee on any necessary change in language we identify.

Mr. Chairman, that concludes my testimony. I would be pleased to answer any questions from members of the committee.

ON S. 3744

Mr. Chairman, thank you for the opportunity to appear before your committee to present the views of the Department of the Interior on S. 3744, a bill to establish Pinnacles National Park in the State of California as a unit of the National Park System, and for other purposes.

The Department supports S. 3744, which would designate and rename additional wilderness areas within Pinnacles National Park with technical amendments.

The bill would add 2,905 acres to the designated wilderness at the monument and rename the Pinnacles Wilderness as "Hain Wilderness." Congress has recognized wilderness characteristics at Pinnacles by previously designating more than one-half of the monument's 24,000 acres as wilderness. The additional acreage is appropriate for wilderness designation.

Naming the wilderness as "Hain Wilderness" would commemorate the establishment of Pinnacles National Monument by immigrant homesteaders from Michigan who first arrived at the Pinnacles in 1886. The Hain families were farmers and community pioneers who established the first post office and county road. In 1893, Schuyler Hain conceived the idea of designating the Pinnacles a public park or even a national park. Mr. Hain successfully championed the establishment of the Pinnacles Forest Reserve in 1906 and Pinnacles National Monument in 1908. The National Park Service considers it a high honor to be permanently commemorated in a unit of the national park system and seeks to reserve this honor for cases where there is a compelling justification for such recognition. We believe that there is a compelling justification in this case.

If the committee decides to act on S. 3744, we suggest the following technical amendments:

- On page 4, line 16, strike "are" and insert "shall consist of those areas".
- On page 6, lines 6 and 7, delete the map reference and substitute a new map reference to a map produced by the National Park Service (to be provided).

Mr. Chairman, this concludes my statement. I would be pleased to respond to any questions that you may have.

ON S. 3778 AND H.R. 4773

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 3778 and H.R. 4773, bills to authorize the Secretary of the Interior to lease certain lands within Fort Pulaski National Monument, and for other purposes.

The Department supports both bills, which are substantially identical, with an amendment described later in this statement. This legislation would allow the Savannah Bar Pilots Association to lease the land on Cockspur Island within Fort Pulaski National Monument in the State of Georgia that the association has used continuously since 1940.

In 1940, the National Park Service authorized by special use permit exclusive use of National Park Service land and improvements to the Savannah Bar Pilots Association to operate a vessel piloting business. The National Park Service has issued a series of permit renewals during the ensuing 70 years. However, in recent years, the National Park Service has been advised by the Department's Solicitor's Office that the association's use of this land should be based on more certain legal authority than the special use permitting process. The National Park Service believes that a non-competitive lease, which would be authorized by S. 3778 and H.R. 4773, would be the best option in this unique circumstance to enable the Savannah Bar Pilots Association to continue traditional operations from its Fort Pulaski location. The Bar Pilots serve a function that is vital to the state's deepwater ports and inland barge terminals, including directing ship traffic and assisting in navigation in the Savannah Harbor.

There are no other known locations from which Savannah Bar Pilots Association can operate more efficiently than its current location. Deep water accessibility and the relatively short distance to embarking and disembarking ships in Savannah Harbor render the current Cockspur Island site the ideal location for continued operations. The Savannah Bar Pilots have been operating at the current location with virtually no adverse impact on park resources, on the visitor experience, or on park operations. Fort Pulaski National Monument derives revenue from the current special use permit and would continue to do so from a lease. The Savannah Bar Pilots enjoy local support from both the City of Savannah and the Georgia Port Authority.

We recommend that the legislation be amended to provide for a lease term of up to five years, rather than ten years, in order to allow for more frequent review of the lease's terms and conditions. A shorter period would help protect the government's interests and assure that use of the leased land remains consistent with the established purposes of Fort Pulaski National Monument. We would be happy to work with the committee to provide appropriate language for this amendment.

Mr. Chairman, this concludes my prepared remarks. I would be pleased to answer any questions you or any members of the subcommittee may have.

ON S. 3820

Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on S. 3820, a bill to authorize the Secretary of the Interior to issue permits for micro-hydro projects in non-wilderness areas within the boundaries of Denali National Park and Preserve, and for other purposes.

The Department supports the intent of this legislation, but would like to work with the sponsor and the committee to address several significant concerns noted below. S. 3820 would authorize the Secretary of the Interior to issue permits for micro-hydro projects in a limited area of the Kantishna Hills in Denali National Park. The legislation would also authorize a land exchange between the National Park Service (NPS) and Doyon Tourism, Inc. (Doyon) involving lands near the historic mining community of Kantishna that would be mutually beneficial to the NPS and Doyon.

This legislation will reduce the use of fossil fuels in the park, and thus lessen the chance of potentially catastrophic fuel spills along the park road and at the Kantishna lodges. It will lower the number of non-visitor vehicle trips over the park road, lessen the noise and emissions from diesel generators in the Moose Creek valley, and support clean energy projects and sustainable practices while ensuring that appropriate review and environmental compliance protects all park resources.

Doyon Tourism, Inc., a subsidiary of Alaska Native corporation Doyon, Ltd., has requested permits from the NPS to install a micro-hydroelectric project on Eureka Creek, near their Kantishna Roadhouse. The NPS supports the intent of this project, however, neither the Secretary nor the Federal Energy Regulatory Commis-

sion (FERC) has the statutory authority to issue permits for portions of hydroelectric projects within national parks or monuments. We believe that the authorization contained in this legislation is necessary to enable the NPS to allow this micro-hydroelectric project within the park.

The Kantishna Roadhouse, at the end of the 92-mile-long Denali park road, has been in business for 28 years, hosts approximately 10,000 guests per summer, and currently uses an on-site 100 kilowatt (KW) diesel generator to provide power for the facility. The proposed hydroelectric installation would reduce but not eliminate all use of the diesel generator at the lodge, because early in the tourism season the creek may still contain ice and a backup system would be needed.

Currently, delivery of diesel fuel to the lodge requires a tanker truck and trailer to be driven the entire length of the Denali park road. Noted for its undeveloped character, the road is unpaved for 77 miles of its 92-mile length, crosses high mountain passes without guardrails, and is just one to 1° lanes wide with pullouts. The road is justly famous for wildlife viewing opportunities and in order to protect wildlife as well as the road's scenic wilderness character, vehicle traffic is limited. A seasonal restriction on private vehicle use was instituted in 1972, and a numerical limit on overall vehicle use was established in special regulations in 2000. Reducing the amount of diesel fuel hauled over this road in tanker trucks protects park resources by reducing the risk of accident or spill, and simultaneously reduces overall vehicle use of the road.

Eureka Creek is a 4-mile-long stream that drains a 5 square-mile watershed and discharges about 15 cubic feet per second (cfs) during the summer. Most of the floodplain has been disturbed by past placer mining, but no mining claims exist on the creek now and no other landowners besides Doyon and the NPS own any property near this floodplain. The project would include an at-grade water intake, with no impoundment, about one mile upstream of where Eureka Creek crosses the park road. A water conduit, or penstock, would carry the water downhill to a small building on Doyon land that would house a micro-hydro generator, capable of producing approximately 100 KW. An electrical distribution line would carry the electricity to the lodge, about 600 feet from the hydro generator. A battery bank would store surplus electricity to accommodate peak power demands and maintenance shut-downs of the generator. Water diverted from Eureka Creek through the micro-hydro generator would be piped to Moose Creek less than 100 feet downstream from the mouth of Eureka Creek.

Camp Denali, another lodge in the Kantishna Hills, is within the area addressed by this legislation. Camp Denali opened in 1952 and the owners installed a micro-hydro generator system prior to the 1978 Presidential proclamation that included Kantishna as a part of what is now Denali National Park. After 1978, Camp Denali became a private inholding surrounded by the park, and found that parts of its micro-hydro power system were within the park, a situation which the NPS lacks the authority to permit or retain. This legislation, if amended, would allow the NPS and the owners of Camp Denali to work out permit conditions for those parts of the existing hydro project that are now on park land. Besides the Kantishna Roadhouse and Camp Denali, there are two other lodges in Kantishna that may pursue similar projects in the future and thus would benefit from the authority granted in this legislation.

Doyon owns 18 acres on the patented Galena mining claim in the Kantishna Hills and would like to exchange that acreage for park land in Kantishna of equal value near its other properties. The NPS would also like to pursue this exchange to consolidate land holdings in the area. Existing land exchange authority from ANILCA and other legislation is sufficient to effect this exchange. Thus, while we believe that this provision is unnecessary, we support its intent.

Our concerns with the bill are as follows:

- 1) The bill as introduced requires the Secretary to issue permits for the micro-hydro project within 180 days of enactment. While the Department supports the intent of this new authority, permit issuance should be discretionary and based on an evaluation of the environmental impacts of each project proposal. At the same time, the Department commits to a timely review of project proposals given the potential environmental and economic benefits of these projects.
- 2) The permitting authority provided by this bill would apply to several different micro-hydro electric projects in the Kantishna area, yet various elements of the bill as introduced apply solely to a project by Doyon. For example, the definitions found in section 2 of the bill specifically include the water intake and pipeline for the Doyon project but do not mention Camp Denali or other potential future permittees, and Section 3 refers to "the micro-hydro project" in the singular rather than the plural. We suggest that the bill be amended to clearly

provide the Secretary the discretionary authority to permit any of several projects.

3) Both the proposed micro-hydro project and the proposed land exchange sections of the legislation should be amended to explicitly require compliance with NEPA and other environmental and cultural resource protection laws to evaluate the impacts of any proposal authorized by this legislation and afford public comment before the Secretary makes the decision on whether the project(s) should be permitted.

4) As written, a land exchange is mandated. The land exchange should be discretionary, based on a careful analysis of all its proposed elements, which have yet to be determined, and upon public input.

We believe that the permitting authority granted in S. 3820 would provide a tool that the Secretary could use to lower fossil fuel use in Denali National Park, while protecting park resources, and that a land exchange would be hastened through passage of this legislation. We would welcome the opportunity to work with the sponsor and this committee to address our concerns and recommendations.

Mr. Chairman, this concludes my statement. I would be happy to answer any questions that you may have.

Senator UDALL. Thank you for being concise and to the point and informative.

Ms. STEVENSON. You are very welcome.

Senator UDALL. Let me turn to Gregory Smith, Director of Lands, Forest Service, Department of Agriculture. Welcome, Mr. Smith. The floor is yours.

**STATEMENT OF GREGORY C. SMITH, DIRECTOR OF LANDS,  
FOREST SERVICE, DEPARTMENT OF AGRICULTURE**

Mr. SMITH. Thank you, Mr. Chairman. I am Greg Smith, Director of Lands and Realty for the U.S. Forest Service, and we thank you for the opportunity to testify on three bills before you today.

First, H.R. 1858 directs the Secretary of Agriculture to convey without consideration all right, title, and interest of the United States to a parcel of real property in the Roosevelt National Forest in order to resolve private encroachments on the National Forest System lands.

In 2003, during a routine survey by the BLM where the Crystal Lakes Subdivision is located, 20 private encroachments were identified. These encroachments are due to an erroneous survey in 1975 by a private land survey. They are small encroachments, varying in size from 0.02 acres to 1.6 acres.

Only 4 of these encroachments involve houses or significant structures on NFS land and thus qualify for resolution under the Small Tracts Act. In qualifying for the Small Tracts Act, it is authorized to sell encroachments upon NFS lands to homeowners for market value.

The other 16 encroachments do not involve significant structures on NFS lands. Therefore, they do not qualify for resolution under the Small Tracts Act.

The Forest Service has met with qualifying homeowners and the subdivision developer and encouraged them to work with us to remedy the situation through a Small Tracts Act or some type of land exchange.

The Department cannot support the bill in its current form because it does not appear in the public interest. The Small Tracts Act requires private landowners to pay market value for National Forest System lands that have been encroached upon with significant structures. H.R. 1858 would direct the use of the Small Tracts

Act to convey encroached-upon NFS lands to all 20 Crystal Lakes landowners and exempt all of them from paying compensation to the United States. It is a longstanding policy that the taxpayers of the United States receive market value for the sale, use, or exchange of NFS lands.

Section 1(e) of H.R. 1858 requires the cancellation of \$200,000 of an unobligated balance in the Federal Lands Recreation Enhancement Act in order to lessen the loss of revenue to the United States taxpayers from the proposed conveyances without compensation at Crystal Lakes. The Department does not support the use of national recreation fees and is a direct conflict provided Congress for these fees. However, we would be happy to continue to work with the Crystal Lakes homeowners and the subcommittee and the bill's sponsors to resolve the issues in a manner that addresses both the homeowners and protects the interests of the United States taxpayers.

S. 3822 would modify the boundaries of the Carson National Forest in New Mexico to include an area of approximately 5,000 acres that is adjacent to the local forests within the Miranda Canyon near Taos in New Mexico.

The Department supports this bill. This adjustment of the Carson National Forest boundary would allow the Forest Service to acquire property known as Miranda Canyon Preserve. The Miranda Canyon Preserve ranges in elevation from 7,200 feet to 10,800 feet. Its vegetation includes sagebrush, pinon juniper, mixed conifer forest, and large aspen clones. It provides breathtaking views of the Rio Grande Gorge and Wheeler Peak which is the highest point in New Mexico. The property also contains historic features such as the Camino Real Trail and unique geologic features such as a small volcano.

The acquisition of the Miranda Canyon property would make an outstanding addition to the National Forest System.

S. 3283, the Mt. Andrea Lawrence Designation Act of 2010, directs an unnamed 12,240-foot peak located on the boundary between Ansel Adams Wilderness and Yosemite National Park as Mt. Andrea Lawrence. The management of the proposed Mt. Andrea Lawrence would be shared between the Inyo National Forest and Yosemite National Park.

Ms. Lawrence was an Olympic gold medalist and provided committed public service. She was 16 years on the Mono County Board of Supervisors and founded the Andrea Lawrence Institute for Mountains and Rivers. She was a strong supporter of conservation work for the Inyo National Forest and Yosemite National Park. She worked tirelessly to protect the health and vitality of the environment in the Sierras. Ms. Lawrence passed away at the age of 76 on March 31, 2009.

The Department recognizes the contributions of Ms. Lawrence to the United States and to the Sierras as a conservationist and concurs with the principles embodied in the legislation.

Mr. Chairman, this concludes my statement, and I would be happy to answer any questions.

[The prepared statement of Mr. Smith follows:]

PREPARED STATEMENT OF GREGORY C. SMITH, DIRECTOR OF LANDS, FOREST SERVICE,  
DEPARTMENT OF AGRICULTURE

Mr. Chairman and Members of the Subcommittee, I am Gregory C. Smith, Director of Lands for the US Forest Service. Thank you for the opportunity to appear before you to provide the Department of Agriculture (USDA)'s view on three of the bills that you are considering today.

ON H.R. 1858

H. R. 1858 directs the Secretary of Agriculture to use the authority provided by the Small Tracts Act (STA) to convey, without consideration, all right, title, and interest of the United States to a parcel of real property in the Roosevelt National Forest in order to resolve private encroachments on the National Forest System Lands.

In 2003, during the course of a Bureau of Land Management survey of the area where the Crystal Lakes Subdivision is located, 20 private encroachments onto National Forest System (NFS) lands were discovered due to an erroneous private land survey in 1975 for the 9th Filing, Crystal Lakes Subdivision. The encroachments vary in size from approximately 0.02 acres to 1.63 acres. Of the 20 encroachments, only four lots with improvements qualify for resolution under the Small Tracts Act. The other 16 encroachments do not qualify for resolution under the Small Tracts Act. To qualify for the Small Tracts Act the foundation of a building or residence must be encroaching. Moveable improvements such as fences and sheds do not qualify for relief under the STA. The Forest Service has encouraged the four landowners, where appropriate, to work with us to remedy the situation under the Small Tracts Act authority.

The Department cannot support the bill in its current form. It would waive the Small Tracts Act requirement for the four adjoining private landowners to pay market value for the encroached upon National Forest System (NFS) land proposed for conveyance to them. H. R. 1858 would direct the use of the Small Tracts Act to the remaining 16 encroachments that do not qualify for resolution under the Small Tracts Act. It is long-standing policy that the taxpayers of the United States should receive market value for the sale, exchange, or use of their NFS lands. The STA requires market value consideration for lands. H. R. 1858 would convey the disputed property without the United States taxpayers receiving market value.

The Crystal Lakes Subdivision is a private in holding within the Roosevelt National Forest encompassing approximately 240 acres. The developer who owns and subdivided this land contracted for a private land survey in 1975. In surveying the land, the private surveyor erroneously located a section line corner which is the cause of the current problem. Years later, the Bureau of Land Management identified the error when doing a dependent resurvey of the area. The result of this private survey error is that approximately 7.23 acres of National Forest System land was incorrectly included within the subdivision. The error affects the titles and boundaries to 20 subdivided parcels.

H. R. 1858 would have the Federal Government resolve the survey error by conveying the encumbered federal land to the affected lot owners, in effect ratifying the error of the private surveyor. The bill would allow lot owners to pay no consideration for the conveyance, and the United States Government would have to cover the administrative costs (which may in fact be considerably more than the 7.23 acres is worth). H. R. 1858 would require the identification and survey of separate legal descriptions for upwards of 20 separate conveyances.

In addition, Section 1. (e) of H. R. 1858 requires the cancellation of a portion of unobligated balance in the Federal Lands Recreation Enhancement Act (FLREA), reducing and cancelling this account by \$200,000 to address the lost revenue to the United States taxpayers. The Department does not support this use of FLREA funds, because this use is in direct conflict with the direction provided by Congress in FLREA. FLREA states that recreation fees "shall be used only for-(A) repair, maintenance, and facility enhancement related directly to visitor enjoyment, visitor access, and health and safety; (B) interpretation, visitor information, visitor service, visitor needs assessments, and signs; (C) habitat restoration directly related to wild-life-dependent recreation that is limited to hunting, fishing, wildlife observation, or photography; (D) law enforcement related to public use and recreation; (E) direct operating or capital costs associated with the recreation fee program; and (F) a fee management agreement."

We would be happy to continue to work with the landowners, the Subcommittee, and the bill's sponsors to resolve this issue in a manner that addresses the concern of current home owners and protects the interests of US taxpayers.



S. 3822 would modify the boundaries of the Carson National Forest, New Mexico to include a parcel of real property consisting of approximately 5,000 acres that is adjacent to the existing boundary within Miranda Canyon.

The Department supports the adjustment of the Carson National Forest boundary in the State of New Mexico to include approximately 5,000 acres of private land known as "Miranda Canyon," which would create an opportunity for the possible acquisition of Miranda Canyon property as part of the Carson National Forest.

The Miranda Canyon Property is currently owned by Weimer Properties and is located approximately four miles south of Taos, New Mexico. Weimer Properties spent several years proposing to develop a subdivision and to acquire approval from the Taos County Board of Commissioners. Approval of the subdivision was not granted and the Taos County Board of Commissioners requested the New Mexico Congressional delegation consider placing this land under the stewardship of the US Forest Service.

The Miranda Canyon Property is an expansive piece of property that ranges in elevation from approximately 7,200 ft. to approximately 10,800 ft. The property has various vegetation zones from low elevation sagebrush and pinon juniper to high elevation mixed conifer forest including large aspen clones. The landscape has numerous ridges and peaks that provide breathtaking views of the Rio Grande Gorge to the west and of Wheeler Peak (highest peak in New Mexico) to the north. The property contains historical features such as the Camino Real Trail and unique geologic features such as a small volcano and Miranda granite—1.7 billion year old rock outcrops that rival the age of rock found at the bottom of the Grand Canyon. There are also numerous meadows and riparian vegetation that provide excellent habitat for wildlife.

The acquisition would provide additional recreational opportunities for hunting, sightseeing, camping, hiking, interpretation and horseback riding for the public. The proposed boundary adjustment has wide grass roots support from the local residents, Taos County Board of Commissioners, Village of Taos, and local Native American Tribes and Pueblos. To date, there has been no opposition voiced to adjusting the boundary of the Carson National Forest. The adjustment of the Forest boundary would open the door to potential federal acquisition of Miranda Canyon. We estimate the acquisition costs to be \$15 to \$16 million, which would be subject to the availability of appropriations. The landowner of the Miranda Canyon property has agreed to a conservation sale to the United States. At present, there is a fully executed 4 year phased purchase agreement in place between the landowner and a 3rd party non-profit organization. This agreement keeps the property from being developed or sold on the open market while the appraisal is finalized and reviewed by all parties. If the acquisition of the Miranda Canyon property were to occur this would make an outstanding addition to the National Forest System.

This legislation directs the designation of an unnamed 12,240 foot peak, located on the boundary between Ansel Adams Wilderness Area and Yosemite National Park approximately six tenths miles (0.6) northeast of Donahue Peak, as "Mt. Andrea Lawrence." The management of the proposed Mt. Andrea Lawrence is shared between the Inyo National Forest and Yosemite National Park. We have consulted with the U. S. Department of the Interior—National Park Service in the preparation of this statement.

Ms. Lawrence was a successful Olympic athlete and a committed public servant, having served 16-years on the Mono County Board of Supervisors and founded the Andrea Lawrence Institute for Mountains and Rivers. She was a strong supporter of the work of the Inyo National Forest and Yosemite National Park. She worked tirelessly to protect the health and vitality of the environment and economies in the Eastern Sierra and the Sierra Nevada Region as a whole. Ms. Lawrence passed away at the age of 76 on March 31, 2009.

The Department has no objection to the enactment of S. 3283 and notes that it would have no adverse impact to the management of the Inyo National Forest, or the Ansel Adams Wilderness. However, the Board on Geographic Names was created by Congress in 1947 to establish and maintain uniform geographic name usage throughout the Federal Government. It is Board policy not to consider names that commemorate living persons. In addition, a person must be deceased at least 5-years before a commemorative proposal will be considered. In accordance with the Board's interpretation of Wilderness Act of 1964, the Board on Geographic Names discourages naming features in congressionally designated wilderness areas unless an overriding need can be demonstrated. Although the Administration does not have

any objections to the enactment of S. 3283, maintaining consistency with the long-standing policies of the Board on Geographic Names is recommended.

The Department recognizes the contributions of Ms. Lawrence to both the United States and California, and concurs with the principles embodied in the legislation. Should the legislation be enacted, the Forest Service would work to ensure that our visitor information maps reflect the new designation, and understand that the National Park Service would do the same when their maps, signs, and other informational materials are replaced or updated.

Senator UDALL. Thank you, Mr. Smith.

Now we will turn to Mr. Aaron Schutt. I hope I am pronouncing your last name right. You are the Senior Vice President and Chief Operating Officer of Doyon, Limited. You are based in Fairbanks, Alaska. Welcome. Thank you for coming to the Nation's capital. The floor is yours.

**STATEMENT OF AARON SCHUTT, SENIOR VICE PRESIDENT  
AND CHIEF OPERATING OFFICER, DOYON, LIMITED, FAIR-  
BANKS, AK**

Mr. SCHUTT. Thank you, Mr. Chairman. Glad to be here.

Senator Burr, Mr. Chairman, thank you for the opportunity to testify on S. 3820, a bill to authorize the Secretary of the Interior to issue permits for a microhydro project in nonwilderness areas within the boundaries of Denali National Park and Preserve, to acquire land for Denali National Park and Preserve from Doyon Tourism, Inc., and for other purposes.

I would especially like to thank my home State Senators. Senator Lisa Murkowski, who is the ranking Republican member of the committee, invited me here to testify today. Senator Mark Begich, who joined us earlier, authored the legislation.

I am Aaron Schutt, Senior Vice President and Chief Operating Officer of Doyon, Limited.

Doyon is one of 13 Alaska Native Regional Corporations established by the Alaska Native Claims Settlement Act of 1971. Doyon has more than 18,000 Alaska Native shareholders, and we are proud of our record on behalf of those shareholders. Our mission is to promote the economic and social well-being of our shareholders and future shareholders, to strengthen our native way of life, and to protect and enhance our land resources.

The issue that brings me here today involves Doyon's effort to improve our energy efficiency and environmental footprint on inholdings within Denali National Park. The Kantishna Hills Renewable Energy Act provides an avenue for Doyon to develop a renewable energy system to provide electrical power to the Kantishna Roadhouse. The roadhouse is a full-service wilderness lodge providing overnight accommodations to Denali National Park visitors.

Owned and operated by Doyon Tourism, Inc., a wholly owned Doyon subsidiary, the Kantishna Roadhouse is located on an inholding within Denali National Park. Kantishna Roadhouse serves thousands of park visitors each year. As it is located 100 miles inside the park, the roadhouse is not connected to any utility grid and produces 100 percent of its electrical energy onsite. Currently our power comes from a diesel generator. The system requires trucking several thousand gallons of diesel fuel through the park each year. We run the generator on a 24-hour basis throughout the entire operating season. While Doyon Tourism strives to

provide our services in the park and on our lands in the most environmentally respectful way, we have been unable to economically install a renewable energy power supply until now.

In 2010, Doyon received a Tribal Renewable Energy Grant from the Department of Energy. We are using a part of that grant to install the microhydro generation system at Kantishna Roadhouse. The project is modeled after the system installed at the Park Service's recently renovated Eielson Visitors Center, also located deep within Denali National Park. The system would potentially provide up to half of our current electrical needs, offsetting an equivalent amount of diesel usage and its incumbent environmental footprint.

We are facing 2 problems with the construction of this project and thus the need for your help with this legislation. Of primary concern is the land ownership. While we currently own the proposed location of the power plant, we do not own some of the land needed for the project. The other issue is the deadline for the use of the grant funds which expire 2 years after the date of award. Importantly, as those of us from Alaska know, we have very short construction seasons, and we really only have one available construction season, which is next season.

We have worked with the National Park Service for the past year to develop this legislation, and S. 3820 has 2 parts. First, it allows the Park Service to issue a permit to Doyon to build the proposed project. Second, it calls on the Park Service to exchange lands with Doyon so that all of the lands needed for the construction and operation of the project are owned by Doyon Tourism. In exchange, Doyon would provide an equal amount of acreage on a value-for-value basis from our other landholdings in the Kantishna area. Under the current agreement, about 6 to 7 acres would change hands between the 2 parties.

In conclusion, I would like to reinforce my comments that this legislation is good for all of the parties involved. S. 3820 will allow Doyon to move forward with a small renewable energy project. The project will substantially reduce all aspects of the environmental footprint related to our current electrical generation system.

I would like to thank the committee for the opportunity to testify here today, and I am happy to answer any questions that you may have.

[The prepared statement of Mr. Schutt follows:]

PREPARED STATEMENT OF AARON SCHUTT, SENIOR VICE PRESIDENT AND CHIEF  
OPERATING OFFICER, DOYON, LIMITED, FAIRBANKS, AK

Mr. Chairman and Members of the subcommittees, thank you for the opportunity to testify on S.3820, a bill to authorize the Secretary of the Interior to issue permits for a micro hydro project in non-wilderness areas within the boundaries of Denali National Park and Preserve, to acquire land for Denali National Park and Preserve from Doyon Tourism, Inc., and for other purposes. I would especially like to thank my home state Senators. Senator Lisa Murkowski, who is the Ranking Republican Member of the Committee, invited me here to testify today. Senator Mark Begich authored this legislation. My name is Aaron Schutt, I am the Senior Vice President and Chief Operating Officer of Doyon, Limited.

Doyon is one of thirteen Alaska Native Regional Corporations, formed under the Alaska Native Claims Settlement Act of 1971 (ANCSA). Doyon has more than 18,000 Alaska Native shareholders, and we are proud of our record on behalf of those shareholders. Our mission is to promote the economic and social well-being of our shareholders and future shareholders, to strengthen our Native way of life and to protect and enhance our land and resources.

The issue that brings me here today involves Doyon's effort to improve our energy efficiency and environmental footprint on our in-holdings within the Denali National Park. The Kantishna Hills Renewable Energy Act provides an avenue for Doyon to develop a renewable energy system to provide electrical power to the Kantishna Roadhouse. The Kantishna Roadhouse is a full service wilderness lodge providing overnight accommodations to Denali National Park visitors.

Owned and operated by Doyon Tourism, a wholly-owned Doyon subsidiary, the Kantishna Roadhouse is located on an in-holding within Denali National Park. Kantishna Roadhouse serves thousands of Park visitors each year. As it is located 100 miles inside the Park, the Roadhouse is not connected to any utility grid and must produce 100% of its electrical energy onsite. Currently, our power comes from a diesel generator. This system requires trucking several thousand gallons of diesel fuel through the Park each year. We run the generator on a twenty four hour basis through the entire operating season. While Doyon Tourism strives to provide our services in the Park and on our lands in the most environmentally respectful way, we have been unable to economically install a renewable energy power supply until now.

In 2010, Doyon received a Tribal Renewable Energy Grant from the Department of Energy. We are using part of that grant to install a micro-hydro power generation system at the Kantishna Roadhouse. This micro-hydro project is modeled after the system installed at the Park Service's recently renovated Eielson Visitors Center, also located deep within Denali National Park and Preserve. This renewable energy system would potentially provide up to half of our current electrical energy needs, offsetting an equivalent amount of diesel usage and its incumbent environmental footprint.

Doyon is facing two problems with the construction of this renewable energy project, thus the need for this legislation. Of primary concern is the land ownership. While Doyon currently owns the proposed location of the micro-hydro power plant, it does not own some of the land needed for the project. The other issue is the deadline for use of the grant funds which expire two years after the date of award. This legislation addresses both of these problems.

Doyon has worked with the National Park Service for the past year to develop this legislation. S.3820 has two parts. First, it allows the Park Service to issue a permit to Doyon Tourism to build the proposed renewable energy project. Second, it calls on the Park Service to exchange lands with Doyon so that all of the lands needed for the construction and operation of the micro-hydro project are owned by Doyon Tourism. In exchange, Doyon would provide an equivalent amount of acreage on a value-for-value basis from its other land holdings in the vicinity of the Kantishna Roadhouse. Under the current agreement, six to seven acres would be exchanged between each of the two parties.

In conclusion, I would like to reinforce my comments that this legislation is good for all the parties involved. S.3820 will allow Doyon to move forward with a small renewable energy project. The project will substantially reduce all aspects of environmental footprint related to our current power generation system: fewer truckloads of diesel trucked in over the remote Park roads which in turn results in cleaner local air quality and less sound pollution in this remote area. Doyon believes this project mirrors the recent efforts of the National Park Service to achieve greater use of renewable energy at its facilities.

Thank you for the opportunity to testify before the joint hearing today. I would be pleased to answer any questions the Members of the Subcommittees may have.

Senator UDALL. Thank you, Mr. Schutt.

I am going to turn to Senator McCain, who has joined us, if he has a statement, and then we will open up to Ranking Member Burr the opportunity to ask some questions of the panel.

Senator McCain.

**STATEMENT OF HON. JOHN McCAIN, U.S. SENATOR  
FROM ARIZONA**

Senator McCAIN. Thank you, Mr. Chairman. I appreciate your holding this markup. My brief statement I would like included in the record.

But I would just like to say that the Mohave Valley Land Conveyance Act would transfer approximately 315 acres of BLM to the

Arizona Game and Fish Commission for purposes of building a shooting range near Bullhead City, Arizona.

I must say that we have been in this 12-year planning effort. These organizations all are supportive of Arizona Game and Fish: NRA, Sportsmen's Foundation, and 34 other organizations. After 12 years of jumping through hoops, the gun owners and law enforcement officers of Mohave County, Arizona and the tri-state area deserve to break ground.

I understand there are still some concerns. I would appreciate it if we could report the bill out and we will try and work out some of these additional concerns that people seem to have.

But 12 years is a long time, Mr. Chairman, and everybody, with the exception of the Native American tribes, are in support and we will try to continue to work with them. But I would appreciate your moving the bill through the subcommittee. I thank you, Mr. Chairman.

Senator UDALL. Thank you, Senator McCain.

With that, let me turn to Ranking Member Burr for questions he might have of the panel.

Senator BURR. I thank the chair. I thank our witnesses today, and I thank Senator McCain. As you were talking, Mr. Schutt, he gave Senator Udall and I rights to come down and use the shooting range. So there is no opposition left on this.

[Laughter.]

Senator BURR. Ms. Stevenson, the National Park Service reports a maintenance backlog currently of over \$9 billion. Yet, 6 of the bills in front of the subcommittee today seek to establish new park units or to increase the land of current units.

Let me ask you. Do you believe the National Park Service should pay down its maintenance backlog before Congress instructs the addition of new park units or increased land?

Ms. STEVENSON. The answer is yes. We are working very hard on our maintenance backlog. The recently passed ARRA has allowed us to spend \$700 million in reducing that backlog. We have been very successful in obligating that money.

Of the bills before you, I believe that only one would create a new national park, and that is Coltsville and we oppose that bill. The other areas are modest additions to park units, and we have provided costs for each of those.

Senator BURR. I appreciate that. Let me just reiterate. You said that we had made a down payment of \$700 million toward the maintenance backlog in legislation we have done. Correct?

Ms. STEVENSON. Yes, sir.

Senator BURR. You do not dispute the fact that the National Park Service lists \$9 billion worth of current maintenance backlog.

Ms. STEVENSON. I am not sure of the exact number, Senator. I am sorry.

Senator BURR. Let me just suggest we have made an effort to pay down less than 10 percent of the current maintenance backlog and the consideration that we would increase any new units. I appreciate the fact that the Park Service is not supportive of doing that right now. My hope would be that we would also use the same threshold as it relates to expansion of parks.

Now, specifically with the Coltsville National Park, even though the administration is not supportive of it, do we understand what the costs associated with creation of that new park would be?

Ms. STEVENSON. No, we do not, Senator. The reason we do not is because we are not sure of what the management responsibilities of the Park Service would be at Coltsville. We think the Colt factory is an integral part of whatever interpretation we might do. The large park land there apparently could be transferred to the Park Service. But that leaves a lot of other structures that are within the boundaries of the proposed park without a decision being made on the management responsibility.

Senator BURR. Is it safe to say that if you do not know the management responsibilities, it is impossible to then calculate how many National Park Service employees it would require to man a facility like this?

Ms. STEVENSON. I think that is a fair statement.

Senator BURR. Great.

Let me go to S. 3261, the Marsh-Billings-Rockefeller National Historical Park boundary expansion. Can you give the National Park Service's estimates for the funds needed to acquire that additional 154 acres?

Ms. STEVENSON. I believe it is \$10 million, and it would cost—sorry. That is the wrong information.

I am sorry. It is way below that. It is \$1.2 million, with improvements of \$1.6 million, and operating costs of \$124,000 a year increase. So it is not very much operating cost increase.

Senator BURR. Let me move, if I could, to the Pinnacle National Monument. Can you please explain why a redesignation is needed on that property?

Ms. STEVENSON. A couple of reasons. We have been seeking to clarify the various designations of units of the National Park System for some time now. It is a very confusing system for the general public. I cannot remember now exactly how many designations there are, but there are national historic parks, national monuments, national rivers, so on. It is very confusing for the public. They do not know are they really national parks, or are they really not national parks. We treat them all the same.

To some people, the designation of "national park" is the highest kind of designation you can get in spite of the fact that, as I said, we treat them all the same, depending on the legislation, of course. So many people seek to have parks renamed as national parks because they believe this is a higher designation. So that is why people ask for it. I am not sure of the motivation of this particular park, but that is in general.

Senator BURR. Let me ask you how, if at all, would the cost associated with the monument's redesignation be affected?

Ms. STEVENSON. I do not think there is going to be much cost. Anything that is online, of course, is very small cost. We would not replace signs until they are worn out, which we do on a regular basis anyway. Any interpretative materials would be done only when they are reprinted and so on. So really, there is not a lot of cost associated with it.

Senator BURR. From a personnel standpoint, from a property maintenance standpoint, there is no change with the redesignation from monument to park.

Ms. STEVENSON. No, sir. Negligible cost.

Senator BURR. The last one and it is on Mr. Schutt's microhydro project. I am only curious to know whether there is any similar microhydro system currently in place in other locations than the Denali National Park. I will ask both of you.

Ms. STEVENSON. You may go first.

Mr. SCHUTT. Sure. Thank you, Senator. There are two other small microhydro projects within Denali National Park. One is owned by the Park Service at the Eielson Visitors Center. I believe that system was installed about 2 years ago. Then there is a system at another back country lodge, also an inholding in the Kantishna area, called Camp Denali that is very similar to the system we are attempting to build, and that has been in place for several decades.

Senator BURR. A question as it relates to the Park Service's microhydro system. Are we asking for a different permitting timeline for this one than what the Park Service exercised on theirs? I understand the constraints you are under on the grant. I would like to know how much we are bending, if at all, from the normal permitting period.

Ms. STEVENSON. We would not have to grant ourselves a permit to do the microhydro. Our concern about this is making sure that we comply with NEPA before we do this. We are committed to working as fast as we can. But we do not want to do anything without complying with NEPA.

Senator BURR. I thank the chair.

Senator UDALL. Thank you, Senator Burr.

Ms. Stevenson, let me pick up on a couple of the questions that Senator Burr directed your way, and I will start with Pinnacle National Park. I do not want you necessarily to repeat yourself, but I think it is important to have this discussion which has been ongoing throughout almost the life of the Park Service.

Does the Park Service have any criteria for whether an area should be designated as a national park as opposed to the many other designations used in the National Park System? If so, is the Pinnacle site consistent with that criteria?

Ms. STEVENSON. The Pinnacle site is consistent with the designation as a national park because of its significance in geology and in species, the number of species and kinds of species that are there.

Senator UDALL. Is it fair in a simplistic way to say that generally national parks are expected to have more than one unique or special feature, say, as opposed to some areas that are designated as national monuments? I am getting into the criteria discussion that is important to have.

Ms. STEVENSON. Yes, I understand. You know, we are not really talking about the distinction in the language that establishes a national park or a national monument. What we are talking about the appellation that is used by the public. We would not seek to change the underlying legislation. It would be only the national park part of the title.

Senator UDALL. Back to the proposed Coltsville National Historical Park, I understand there was a companion bill in the House. It was modified following your agency's testimony. Do those modifications address concerns you have raised today?

Ms. STEVENSON. They go a long way toward allowing us to analyze both the financial feasibility, as well as the suitability, of management of any or all of the park. Yes.

Senator UDALL. Next, the Marsh-Billings-Rockefeller National Historic Site.

Ms. STEVENSON. Yes, sir.

Senator UDALL. Your testimony notes that the King Farm—and I want to quote your testimony—“would enable the park to better conserve and interpret the history and evolution of conservation stewardship in America.” End of quote. You have also noted that the Park Service's preliminary findings indicate that the proposed acquisition is consistent with the Park Service's criteria.

What additional information does the Park Service need to decide whether the proposed addition is appropriate, and how long do you anticipate it would take you to reach that decision?

Ms. STEVENSON. I understand that we are in the final stages of making a determination, that it is looking very positive, and that we anticipate a final determination will be made by the end of this calendar year.

Senator UDALL. Thank you for that clarification.

My last question to you is tied to your testimony on S. 3565, which Senator McCain earlier made some comments about. In your written testimony, it says the BLM supports the goals of S. 3565, but cannot support the legislation as currently drafted. I think I heard you say in your testimony you support the legislation. Would you clarify for the record?

Ms. STEVENSON. The Department supports the legislation with the understanding that there will be a couple of proposed improvements.

Senator UDALL. OK.

Do the BLM representatives here find that explanation adequate? Would you like to just join us—

Ms. STEVENSON. Excuse me. Yes, apparently I have—

Senator UDALL. Ms. Stevenson, I do not want to—

Ms. STEVENSON. No, no, no. I appreciate that.

Senator UDALL [continuing]. Override your testimony.

Ms. STEVENSON. Apparently I have made some error here.

Mr. SPISAK. Yes.

Senator UDALL. Would you identify yourself for the record? Then please feel free to comment.

Mr. SPISAK. Tim Spisak, Acting Assistant Director for Minerals and Realty Management, Bureau of Land Management.

It just sounded like the two portions were flip-flopped. We support the goals of S. 3565 and we support S. 3616 outright. I think you just flip-flopped the testimony on it. No problem.

Ms. STEVENSON. My mistake. I am sorry.

Senator UDALL. No. This is why we hold hearings. I have never made any mistakes in my life, Ms. Stevenson.

[Laughter.]

Senator UDALL. I have never flip-flopped either.



[Laughter.]

Ms. STEVENSON. Thank you, Mr. Chairman.

Senator UDALL. Let me turn to Mr. Schutt, and then, Mr. Smith, I will turn to you for my final set of questions.

I think I am going to restate what you had a chance to say and Ms. Stevenson as well. But you heard that the Park Service believes the permitting process should be discretionary and subject to compliance with NEPA and other environmental and cultural protection laws. Are you comfortable addressing the issues that the Park Service has recommended?

Mr. SCHUTT. We certainly have a challenging schedule, Mr. Chairman, and that is our primary concern in the use of the grant funds. We are 1 year from needing to have a complete project, and things obviously take time. So that is our primary concern. We certainly support compliance with NEPA and addressing other concerns of all stakeholders in the project. Assuming we can do all of those things in the timeframe, I hear a commitment and we have certainly had a commitment from the local Park Service staff at Denali National Park, but we do have a very grave concern on the timeframe.

Senator UDALL. On the timeframe, and that is really the intent and the purpose of what you are proposing is to provide additional flexibility in the timeline so that you can take advantage of the grant, also do the work that needs to be done.

Mr. SCHUTT. It is a very short construction season on top of the compressed timeframe that we have.

Senator UDALL. Exactly. I have spent time in Denali National Park both in the north and south sides and had the great privilege actually to stand atop Denali at one point in my climbing career. It is a quite crown jewel really of the American National Park System, and I have to regrettably acknowledge that Senator Begich probably has the highest mountain in the United States.

[Laughter.]

Senator UDALL. Of course, the people who live on those landscapes and who have lived there for many centuries also have a lot to teach us and an important role to play in those landscapes. But this is exciting to hear about what you are doing.

Mr. SCHUTT. I look forward to working with you further.

Mr. Smith, let me turn to you and talk about a Colorado-centric piece of legislation. I thank you for your detailed testimony on the Crystal Lakes situation. I want to also thank you for your offer to work with this subcommittee, Congressman Markey, and the Crystal Lakes landowners to find a solution.

As you know, it is terribly important to those landowners who, through no fault of their own or frankly the Forest Service's, find themselves in a really tight spot. I worry that it may be already too late to help those landowners who are now in foreclosure and unable to sell their property due to the land dispute. So it is really important that we find a solution. I want to take you up on your offer to find a solution. Let us get this fixed.

Can you describe for me, in that spirit, the Forest Service's actions to resolve the boundary dispute since the BLM discovered the erroneous survey in 2003?

Mr. SMITH. Yes. Thank you, Mr. Chairman. We have been working with the developer. We have been working with the subdivision owners, and we have been working with a lot of individuals trying to resolve the situation. There are certainly opportunities if we can't resolve it on the Small Tracts Act, other opportunities. There are opportunities for land exchange. There are opportunities even for a short sale with the developer or something.

I think the biggest problem for us that we are trying to help the landowners—at the same time, the cost, if we have to deal with each one of those surveys individually—it becomes almost cost-prohibitive for the Forest Service. It is estimated each one of those will be about \$17,000 to resolve, which if you add 20 of them, that is about \$320,000 just to do the survey work. So what we are looking for is a way out that we can help the landowners, at the same time save some money for the taxpayers.

Senator UDALL. That is real money, obviously. I was trying to think of a way to make those surveys less expensive. No idea comes to mind immediately, but I do underline my call to finding a solution. Let us get this fixed. I think this hearing draws needed attention to the dilemma we face and particularly the plight of these landowners.

Mr. SMITH. Yes. It is our intention to try to resolve it as quickly as possible.

Senator UDALL. I take you at your word. I look forward to moving ahead and making this situation one that we can look back on and say, hey, we figured out how to stand on the side of the taxpayers and protect the interests of the landowners in the Crystal Lakes Subdivision as well.

Mr. SMITH. Thank you, Mr. Chairman.

Senator UDALL. Thank you again. I want to thank the panel, and Mr. Schutt, thanks for coming to the Nation's capital. I look forward to visiting your wonderful State again in the future at some point.

With that, let me just make note that some members of the committee may submit additional questions in writing, and if so, we may ask you to submit answers for the record. We will keep the hearing record open for 2 more weeks to receive any additional comments.

This hearing is adjourned.

[Whereupon, at 3:17 p.m., the hearing was adjourned.]

## APPENDIXES

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### APPENDIX I

#### Responses to Additional Questions

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RESPONSES OF GREGORY C. SMITH TO QUESTIONS FROM SENATOR BARRASSO

ON H.R. 1858

*Question 1.* It is my understanding that the landowners have not pursued redress from the developer nor the surveyor in the courts, is that your understanding?

Answer. The FS is not aware of any attempt by the affected Crystal Lakes private landowners to resolve the encroachment issue with the subdivision developer or their respective title insurance companies, or filed a complaint with the Colorado Department of Regulatory Agencies, State Board of Licensure for Architects, Professional Engineers and Professional Land Surveyors seeking to have the private land surveyor correct his survey. The surveyor who subdivided Crystal Lakes held a Professional Land Surveyor license (PE-PLS-5028) issued by the Colorado Board of Licensure for Professional Engineers and Land Surveyors for the State of Colorado. No complaint is on file with the Colorado Board of Licensure in the matter of the erroneous private land survey subdividing Crystal Lakes. We do not believe that one of the responsibilities of the Forest Service is to rectify this trespass and to date those who have profited from the errors have not been held accountable.

One of the affected landowners did file a protest of the 2005 Bureau of Land Management (BLM) land survey with the Colorado State Office of the BLM. That protest was denied by the BLM on the grounds that there was no evidence the BLM 2005 survey was incorrectly made, while there was substantial evidence the private land surveyor did not follow correct surveying procedures. The landowners have not administratively appealed BLM's denial of their survey protest to the Interior Board of Land Appeals (IBLA).

The Forest Service is not aware that the affected landowners have entered into any discussion with either the surveying company, James H. Stewart and Associates, or the developer, or that they have sought redress through the Colorado State Court System. In 2006, the Forest Service and BLM staff met with the Crystal Lakes developer Don Weixelman and the affected landowners to discuss land exchange options. The Forest Service continued the dialogue into 2007 with the affected landowners and the developer through letters and phone calls. However, the developer and the affected landowners did not agree to the standard appraisal process, and the developer and the affected Crystal Lakes landowners could not reach agreement and ultimately they did not submit a proposal for a land exchange to the Forest Service.

*Question 2.* The Forest Service has hundreds of faulty surveys. If we just give the land to the trespassing landowners every time a trespass is identified and then paid for it using recreation fee receipts; does the agency have sufficient recreation fee receipts to cover the potential costs?

Answer. The Federal Land Recreation Enhancement Act (FLREA) provides that fees collected under the Act are to be used primarily at the unit where the fees were collected to help in the improvement, maintenance, and management of specific recreation sites. A small percentage of the fees are available for expenditure on an agency-wide basis. In either case, the FLREA specifies that fees may only be expended for repairs, interpretation, habitat restoration, law enforcement, operations or capital costs, fee management agreements or a reservation service, and administration costs. The use of recreation fee revenue is intended to benefit recreation users who pay the fee. Diverting recreation fees for other purposes would increase the antipathy toward recreation fees, a purpose and need Congress has recognized.

The cost to resolve hundreds of faulty and incorrectly made private land surveys within or adjoining National Forest System lands is unknown because it takes a correctly made land survey to find these kinds of problems. While the Forest Service does not have an inventory of faulty private land surveys, the number is expected to be significant. The Forest Service would have to survey and resurvey nearly 276 thousand miles of NFS boundaries to inventory and quantify the number of erroneous private land surveys. At the current funding level the Forest Service annually surveys and maintains approximately 2,500 miles of NFS boundaries.

*Question 3.* If this legislation were modified to require a “finding of public interest” would the agency support the inclusion of such a provision in H.R. 1858?

Answer. This bill, as currently written, would require without consideration the conveyance of National Forest System (NFS) land to resolve a private encroachment caused by an erroneous private land survey. In doing so, the Forest Service is concerned about the precedent this might set as an approach for resolving numerous trespass and encroachment cases throughout the National Forest System. For these reasons, the Forest Service could not support a finding that the conveyance of the public’s land without any consideration for its market value would be in the public interest. The Forest Service currently has the authority to resolve such cases through the Small Tracts Act of 1983, which provides for a market-based return to the public for any NFS land being conveyed to resolve a private encroachment on NFS lands.

*Question 4.* Would the agency recommend a positive finding of public interest in this case, if it were required in the legislation?

Answer. The Forest Service could not make a finding of public interest because the bill as written requires conveyance of National Forest System lands to private landowners without consideration. The encroachments occurred because of an erroneous private land survey subdividing the Crystal Lakes property. It was incumbent upon the private professional land surveyor and the private developer who subdivided Crystal Lakes to ensure a correct land survey and survey plat was prepared recording the dimensions and boundaries for the subdivided parcels. Therefore, the Forest Service could not make a determination of public interest for a very narrow and limited community.

RESPONSE OF GREGORY C. SMITH TO QUESTION FROM SENATOR MCCAIN

ON H.R. 1858

In regards to H.R. 1858, I am aware of other incorrect surveys that have been completed in other national forests, specifically the Coconino National Forest. Almost twenty property owners in the Mountainair Subdivision in Coconino County, Arizona, were informed that they were encroaching on forest service land due to an incorrect survey performed in the 1960’s. This unfortunate situation includes approximately 2.5 acres of land. The individuals encroaching on federal land have paid for the property and paid property taxes on the property. Due to other situations, the Forest Service may consider including other boundary corrections in one piece of legislation.

*Question 1.* Would such legislative language, perhaps added to H.R. 1858, save the Forest Service time and money by avoiding individual acquisitions with these property owners?

Answer. There is existing authority to resolve the Coconino situation under the Small Tracts Act (16 U.S.C. 521c-521i) and legislation is not required. The Small Tracts Act requires payment of consideration to the United States for resolution of encroachments, and the affected landowners on the Coconino National Forest are willing to abide by the requirements of that Act by paying appropriate consideration. The Crystal Lakes situation is different. There the affected landowners are unwilling to pay any consideration for the National Forest land that has been encroached upon, and they have declined to pursue resolution through the Small Tracts Act. We do not believe that legislation like H.R. 1858 is the appropriate remedy for resolution of these kinds of encroachments, particularly when the Small Tracts Act is an available authority.

RESPONSES OF KATHERINE H. STEVENSON TO QUESTIONS FROM SENATOR MCCAIN

ON S. 3565

*Question 1.* The BLM’s 2009 Record of Decision that approved the shooting range has been appealed to the Interior Board of Land Appeals. How long does it typically take for the Board to take action on an appeal like Mohave?

Answer. The Department cannot predict the time frame for any decision made by the Interior Board of Land Appeals (IBLA).

*Question 2.* I understand that the Fort Mojave Indian Tribe (FMIT) didn't engage in formal consultation with the BLM until 2003- 5 years after the public planning process began. When they finally decided to participate in formal consultation, both tribes repeatedly indicated they would oppose any shooting range in the Lower Colorado River Valley and would only consider lands which had already been rejected by the Arizona Game & Fish Commission because of encroachment concerns.

Your testimony indicates the Administration wants to continue discussions with the FMIT. What could BLM possibly hope to achieve with additional tribal consultation now?

Answer. Continued consultation with concerned Tribes is stipulated in the amended Environmental Assessment for the proposed shooting range. Consultation will provide the Tribes with an opportunity to comment on the selection and installation of measures designed to mitigate possible adverse effects to the Boundary Cone Butte historic property, as stipulated in the Environmental Assessment. In addition, the BLM wishes to continue consultation with concerned Tribes to determine if there are specific times, dates, or seasons of tribal use of Boundary Cone Butte. This determination will provide the Tribes with an opportunity to negotiate altered hours of operation or temporary closure of the shooting range facility during important periods of tribal use of the Boundary Cone Butte historic property for traditional cultural or ceremonial purposes.

*Question 3.* The sacred Boundary Cone Butte is nearly 3 miles from the proposed shooting range on Boundary Cone Road. Even if the Butte were to be added to the Historical Register (as the Tribe has requested) does the BLM believe sacred sites also require over 3 miles of buffer space in order to be protected from public use?

Answer. The BLM determined that Boundary Cone Butte is eligible for inclusion on the National Register of Historic Places (NRHP). The Agency also determined that noise and other activity associated with the operation of the proposed shooting range at the Boundary Cone Road location may have adverse effects on some of the characteristics that make Boundary Cone Butte eligible for the NRHP. Adverse effect is determined on a case-by-case basis, and the BLM cannot generalize about what "buffer space" would be appropriate for a different property in a different setting that may be affected by a different undertaking.



## APPENDIX II

### Additional Material Submitted for the Record

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STATEMENT OF ROBERT R. WOODHOUSE, VICE-CHAIRMAN, ARIZONA GAME AND FISH COMMISSION, ON S. 3565

Mr. Chairman and distinguished members of the subcommittees, I am Robbie Woodhouse, Vice-Chairman of the Arizona Game and Fish Commission (Commission). Thank you for the opportunity to provide you with this written statement for the official hearing record regarding Senators John McCain and Jon Kyl's S.3565, which would provide the needed land conveyance for the establishment of a public shooting facility in Mohave County, Arizona. The Commission supports S.3565 and its ultimate goal for safe recreational shooting in Arizona, and a responsible method for attaining that end.

Recreational shooting and sport hunting have always been a family-oriented outdoor activity in Arizona. As the population of the state continues to grow, the number of citizens engaging in recreational shooting at formal and informal shooting ranges or dispersed shooting areas has increased significantly. The population of Arizona has more than doubled from 2.5 million in 1997 to over six million today. Studies show that 20% of Arizona residents participate in recreational shooting activities. Outdoor recreationists with multiple interests are competing to use public lands adjacent to large metropolitan areas, as well as expanding rural communities. As a result of this increased use, unresolved conflicts have arisen between public agencies, landowners, recreational shooters and other recreationists. There are population centers in Arizona that currently do not have reasonable access to a public shooting range. As a result, the impact of dispersed shooting and associated issues such as littering, shared use of increasingly scarce public lands and resource damage continue to represent challenges.

The Commission promotes and supports the development of safe, accessible target and sport-shooting facilities by taking a leadership role in partnering with ranges, industry, and communities. Additionally, the Commission provides statewide range development assistance through a variety of technical, educational and financial resources consistent with its goal to preserve shooting opportunities for present and future generations.

The Commission currently owns and operates seven shooting ranges in Arizona and has supported countless others through development grants, and technical and engineering support. The Commission is committed to its continued support for shooting range development in Arizona.

With the major population increase in the tri-state area (Arizona, Nevada and California), members of the sport shooting community have expressed a strong interest in developing a new multi-purpose shooting facility to replace the one that was closed in 1998 due in large part to urban encroachment. At present, due to the lack of a formal shooting facility, shooters have been forced to utilize makeshift shooting locations which, has become a significant source of concern for public and private landowners, as well as, other outdoor recreationists. S. 3565 provides a responsible alternative for the shooting community and other stakeholders interested in the range development process.

To accommodate the needs of the shooting community including various shooting disciplines, hunter education and law enforcement training needs, the Commission proposed the development of a formal shooting complex in the Tri-State area. The complex would include various rifle, pistol and shotgun ranges, a hunter education range and a law enforcement training area.

Since the closure of the only public shooting range in the area, the Commission has worked with the Bureau of Land Management (BLM) and the local shooting community for the past 12 years to identify a new site for a range. BLM has recently approved an administrative land conveyance for range development under the Recreation and Public Purpose Act (RPP); however this method has created a logjam

of administrative appeals. If this bill were approved by Congress, it would expedite the land conveyance, thereby allowing the Commission to commence range development immediately.

S. 3565 is also environmentally and culturally responsible. Provisions under this measure provide for compliance with the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHP). The Environmental Assessment/Plan Amendment Record of Decision dated February 8, 2010 has been determined to be legally sufficient to meet these purposes.

The Commission has participated in the National Historic Preservation Act—(Section 106) process, when appropriate, since 2002. The Commission has fully supported BLM's efforts to elicit participant input and cooperation. These efforts have included numerous meetings and field trips with BLM, the Fort Mohave Tribe, SHPO and The Advisory Council on National Historic Preservation. Since the inception of this process, the Fort Mohave Tribe has continually expressed their opposition of the proposed project to BLM and the Commission.

In 2004, the Commission participated in a formal Alternative Dispute Resolution (ADR) process, which was sponsored by the BLM to seek resolution to the Tribes' concerns. During this process, the Commission eliminated its requirement that shooting range development be in close proximity (within thirty minutes) to Bullhead City. The Commission requested that the Tribes identify alternatives to the currently proposed Boundary Cone site. Ultimately, they selected seven alternative sites for evaluation. After evaluation by the BLM and Tribes, all were eventually eliminated because of Tribal concerns and some access issues.

The result of these requisite and good-faith efforts failed to produce any alternative sites for development, and the Boundary Cone site remains the only viable option. The Commission believes that all due process requirements under Section 106 and NEPA have been met.

Also, if S. 3565 is approved by Congress, it is the intent of the Commission to continue working with all interested parties to develop the range in the most professional manner possible incorporating environmental management, noise abatement and cultural considerations.

Again, on behalf of the Arizona Game and Fish Commission, I would like to thank you for the opportunity to submit this written statement in support of S. 3565. I would also like to thank Senators McCain and Kyl for sponsoring this legislation and for their continued commitment to responsible recreational shooting in Arizona.

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FORT MOJAVE INDIAN TRIBE,  
Needles, CA, October 13, 2010.

Hon. RON WYDEN,  
*Chair, Subcommittee on Public Lands and Forests, Energy and Natural Resources Committee, U.S. Senate, 304 Dirksen Senate Office Building, Washington DC.*

Hon. JOHN BARRASSO,  
*Ranking Member, Subcommittee on Public Lands and Forests, Energy and Natural Resources Committee, U.S. Senate, 304 Dirksen Senate Office Building, Washington DC.*

RE: S. 3565, the Mohave Valley Land Conveyance Act of 2010

DEAR CHAIRMAN WYDEN: The Fort Mojave Indian Tribe, a federally recognized tribe that has lived since time immemorial along the Lower Colorado River, objects strenuously to S.3565 and urgently requests that it not be approved. S.3565 is an attempt to destroy a deeply significant part of our ancestral homeland for the convenience of a few special interests in the local community. It proposes that the Senate of the United States adopt a position that is oppressive of our race, offensive to our religion, and dismissive of our history. It also proposes that the Senate ignore the wisdom of its own ancestors, in effect declaring the environmental and historic preservation laws enacted by Congress in the 1960s and thereafter null and void in order to accommodate the supporters of the unnecessary project it will allow to go forward.

The Mojave people have lived along both sides of the Colorado River on lands that are now within the States of Arizona, California and Nevada. We are the Aha Makav, the people of the river. The lands along the river are our ancestral home; they are integral to our culture and central to our religious practices. S.3565, if enacted, will substantially burden the religious practices of our federally recognized Indian tribe for the convenience of a small group of recreational rifle shooters.

S.3565 would direct the Secretary of the Interior, notwithstanding his trust responsibilities to the Mojave people and his Congressionally mandated responsibilities under federal environmental and historic preservation laws, to convey to the



Arizona State Game and Fish Commission a parcel of land now within the State of Arizona, for use as a recreational shooting range. Towering directly over the land that would thus be conveyed out of federal ownership is a rocky peak known to you as Boundary Cone Butte. In our language this peak is Avi Vasqui, meaning “The Sharp Mountain,” and it is a place of deep meaning to us and our elders.

Much of what we know and believe about Avi Vasqui is held exclusively by our elders. To share much of this information with the public would dilute the mountain’s spiritual power and be dangerous both to the elders and to those receiving the information. What we can say is that Avi Vasqui is our time piece, measuring our Tribe’s life span. When Avi Vasqui is gone, the Mojave people will be gone as well. While it exists, it plays critical roles in our cultural lives. In our traditional stories and songs Avi Vasqui is an important landmark, and the home of one of our ancient chiefs. Our ancestors left signs of their ritual use of Avi Vasqui in the form of rock art and ceremonial circles. We are taught that such circles were and still are points of entry into other dimensions of reality, into the spirit world. Our feelings of reverence at Avi Vasqui are precious to us, and connect us to the higher power. To construct and operate a shooting range near the foot of Avi Vasqui will fundamentally disrupt our spiritual relationships with this landmark, and hasten the decline of our traditional religion. In an effort to protect Avi Vasqui and our relationships with it, we have cooperated with the Bureau of Land Management (BLM), the Arizona Game and Fish Department (AGFD) and others, seeking alternative places for those who desire the shooting range to carry out their recreational activities. Such places exist. For example, one location identified during our consultations with BLM is a state-owned parcel that meets all the criteria for the shooting range, presents fewer environmental concerns, and is convenient to the shooting community. Why was this location not analyzed? Because the AGFD would have to pay the Arizona State Land Office for it, whereas it believes it can get federal land free by act of a compliant Congress.

In the course of our consultation under Section 106 of the National Historic Preservation Act, the cultural significance of Avi Vasqui has been recognized with the finding that it is eligible for the National Register of Historic Places. The Secretary of the Interior has received comments from the Advisory Council on Historic Preservation (attached) strongly recommending that BLM explore alternatives to the project as designed, because of the project’s impacts on Avi Vasqui and our cultural values. The Advisory Council found that “there is a basic incompatibility between the land uses of a shooting range and an area where traditional cultural use would be disrupted by the audible intrusions of repeated gunfire.” “The construction of a shooting range in this location,” the Council went on, “would clearly result in disruptions to traditional cultural use of the area and diminish elements of the butte’s integrity as a historic resource, such as the visual setting and feeling of the area.”

We participated in BLM’s consideration of the project under the National Environmental Policy Act, too, though we objected—as did the Advisory Council—to the narrow range of alternatives BLM considered, and their rejection of alternatives on economic grounds. We were appalled when BLM determined that the project would not have a significant effect on the quality of the human environment. We have appealed BLM’s decision, and our appeal is now being considered by the Interior Board of Land Appeals (IBLA). S.3565 would pre-empt the IBLA’s consideration of our appeal, short-circuiting the normal process maintained by the Department of the Interior for addressing concerns about Interior agency decisions—all to accommodate a few local recreational shooters who want a gun club close to their homes, provided for free by the federal government.

The Mojave people have lived in our homeland from the beginning of time, and today we continue to believe in the ways that relate and connect us to the land, water, mountains and creatures of the earth. Our religion honors such things; we are instructed to live in harmony with them and seek balance when harm is upon us. The valley is our home and we will do everything we can to protect the places that our ancestors taught us have special meaning. No one has the right to take the use of such places away from us. Today, we share and teach our people of these places, that they can grow strong in their spiritual connection with all things. We mature into these responsibilities and work toward the day when we may be fortunate enough to arrive at full understanding of it all as we continue our life here on earth. Avi Vasqui is one of those places that tie into the greater teachings that we struggle to understand. The United States government inherited these special places when it took our lands away; we expect the government to preserve and protect them, and to respect the value that we place on them. The government has a long-established trust responsibility to the tribes, but when we have spoken to the federal agency of our concerns regarding this project, the result is what is now before you—S.3565.

We do not oppose letting the residents of the area have a shooting range, but Arizona's Mohave County already has two such ranges, one in Golden Valley and the other in Lake Havasu City. There is also a shooting range in Needles, California. Constructing the range that would desecrate Avi Vasqui is "justified" by only two things; it would relieve some local shooters of the need to travel on the newly constructed, federally funded roads to Golden Valley and the land can be obtained for free.

Besides proposing to desecrate our sacred site and ignore the U.S. government's trust responsibility toward our tribe, S.3565 proposes to casually substitute the unsubstantiated judgments of its authors for the deliberations, analyses, and consultations required by two long-established statutes—the National Environmental Policy Act (NEPA) and the National Historic Preservation Act (NHPA). Both these laws are designed to cause federal agencies to "look before they leap" to consider the effects of their actions on the human environment in the case of NEPA and on historic places in the case of NHPA. Both laws, and the regulations implementing them, require thoughtful analysis, consultation, and consideration of alternatives. S.3565 peemptorily and arbitrarily declares both NEPA and NHPA (and all other laws) to be satisfied and then insulates this unsubstantiated finding of "fact" from judicial review. S.3565 essentially tells the Secretary of the Interior: "Do NOT look before you leap; do NOT fully consider the environmental impacts of your decision, do NOT even let your IBLA review BLM's NEPA decision as it does other decisions appealed by citizens, because we, the sponsors of this bill, have decided that we cannot let mere environmental impacts, mere historic places, or mere tribal spiritual values burden a small group of recreational shooters in Arizona with the requirement to drive a few miles or pay a few dollars in order to shoot their rifles."

We ask you please, in recognition of your responsibility to Native American people and in the name of common sense and common decency, to oppose S.3565.

Sincerely yours,

SHANE LEWIS,  
*Vice Chairman.*

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HUALAPAI TRIBAL COUNCIL,  
*Peach Springs, AZ, September 28, 2010.*

Hon. RON WYDEN,  
*Chair, Subcommittee on Public Lands and Forests, Energy and Natural Resources Committee, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC.*

Hon. JOHN BARRASSO,  
*Ranking Member, Subcommittee on Public Lands and Forests, Energy and Natural Resources Committee, U.S. Senate, 304 Dirksen Senate Office Building, Washington, DC.*

RE:S. 3565, the Mohave Valley Land Conveyance Act of 2010; Opposition of the Hualapai Tribe Due to Impacts on Boundary Cone Butte

DEAR CHAIRMAN WYDEN: On behalf of the Hualapai Indian Tribe, we are opposed to S. 3565, captioned the "Mohave Valley Land Conveyance Act of 2010." This bill is listed on the agenda for a hearing to be conducted by your Subcommittee on September 29, a hearing in which several other bills are also on the agenda. We ask that this letter be included in the record of that hearing.

The Hualapai Tribe objects to S. 3565 out of concern for Wi 'vis'—Kwi—va, known in English as Boundary Cone Butte, which is located on land currently under the jurisdiction of the Bureau of Land Management (BLM) in Mohave County, Arizona. Boundary Cone Butte holds religious and cultural importance for the Hualapai Tribe as well as for the Fort Mojave Indian Tribe. Because of its importance for both Tribes, Boundary Cone Butte has been determined to be eligible for the National Register as a traditional cultural property.

The sanctity of Boundary Cone Butte is crucial to the ability of tribal religious practitioners to carry on traditional practices and to pass these traditions along to younger generations. The two Tribes are closely related to each other culturally, and Boundary Cone Butte is located in an area that each Tribe regards as being within its aboriginal homeland.

For many years, the sanctity of Boundary Cone Butte has been threatened by a proposal to construct and operate a shooting range on nearby federal land. Earlier this year, on February 10, 2010, BLM issued a decision to convey 315 acres of federal public land to the Arizona Game and Fish Department (AGFD) for use as a shooting range. The proposed site for the shooting range is about two miles from Boundary Cone Butte. On the same date that the BLM decision was announced,

BLM also issued a finding of no significant impact (FONSI) based on an environmental assessment (EA) for the proposed action. As documented in the EA, the operation of a shooting range so close to Boundary Cone Butte will cause adverse effects on Boundary Cone Butte, especially the noise from the shooting range, which will interfere with traditional religious and cultural practices by members of the two Tribes.

The Hualapai Tribe and the Fort Mojave Indian Tribe have jointly appealed this decision by BLM. Our appeal is currently pending in the Interior Board of Land Appeals.

S. 3565 would endorse the decision that BLM made on February 10, 2010. But it would go further than that. It would take away our rights to file an administrative appeal of the decision and to seek judicial review after the appeal has been decided.

We urge the Subcommittee to stop this bill.

We ask that the Subcommittee take into consideration the fact that BLM made this decision despite a formal letter from the Advisory Council on Historic Preservation recommending that BLM not approve the Boundary Cone location. The Advisory Council recognized that the noise caused by a shooting range would severely disrupt the sanctity of Boundary Cone. In a letter to Secretary of the Interior Dirk Kempthorne, dated November 3, 2008, John Nau, III, Chairman of the Advisory Council, said, in part, "There is a basic incompatibility between the land uses of a shooting range and an area where traditional cultural use would be disrupted by the audible intrusions of repeated gunfire." (Emphasis added.) In addition to the adverse effect on the integrity of Boundary Cone Butte and the characteristics that give this place historic significance, the audible intrusions of repeated gunfire will impose a burden on the exercise of religious practices by traditional tribal members.

This proposed shooting range has been sought for more than a decade by Tri-State Shooting Recreation Center, Inc., which has been pushing BLM to approve this project. The Hualapai Tribe found out about this project after the first EA and FONSI were released in December 2003, and the Tribe has voiced its opposition since the Spring of 2004. The Fort Mojave Tribe had become engaged in the environmental review process in the fall of 2003. After the failure of BLM to engage in consultation with the Tribes early in the planning process, an alternative dispute resolution process was convened by the U.S. Institute on Environmental Conflict Resolution. The Tribes believed that process would yield a genuine, if belated, effort to consider alternative locations. Unfortunately, those efforts collapsed. The Hualapai Tribe believes that the failure of the alternative dispute resolution should have led BLM to a decision to prepare an environmental impact statement with a genuine search for alternative locations.

We note that the EA and FONSI for this project were prepared for compliance with the National Environmental Policy Act (NEPA). This BLM decision is also subject to compliance with other federal environmental laws, including but not limited to the consultation process under section 106 of the National Historic Preservation Act (NHPA), as implemented through the regulations of the Advisory Council on Historic Preservation. 36 C.F.R. part 800. S. 3565 would decree, by act of Congress, that BLM's efforts to comply with NEPA and NHPA were adequate. We do not believe that BLM's efforts were adequate. These issues are currently on appeal before the IBLA.

The EA attempts to convey the idea that BLM has made a genuine effort to fulfill its responsibilities under NHPA section 106. In fact, when the Section 106 process did not lead to the result that BLM wanted, BLM simply stopped trying to consult. After the failure of the alternative dispute resolution, BLM announced that it was "terminating" the NHPA Section 106 process. Under the Advisory Council's regulations, when the federal agency terminates consultation, the head of the agency must formally request the Advisory Council to file comments on the proposed undertaking. After the Advisory Council comments, the head of the agency must "take into account the Council's comments in reaching a final decision on the undertaking." 36 C.F.R. § 800.7(c)(4). The requirements set out in the regulations are based on section 110(l) of the statute, 16 U.S.C. § 470h-2(l), which provides that, for any proposed federal undertaking that adversely affects any property on or eligible for the National Register of Historic Places, if the federal agency has not entered into an agreement pursuant to the Advisory Council's regulations, then any decision to proceed with the undertaking despite the failure to resolve adverse effects must be made by the heads of the agency. The statute says, "The head of the agency may not delegate his or her responsibilities pursuant to such section."

The letter purporting to document that the head of BLM actually considered the Advisory Council's comments was signed on January 16, 2009, by the person who was acting as Director of BLM. Regardless of whether that action complies with the

letter of the law, it subverted the spirit of the law. The rationale for elevating this decision to the head of the agency is to provide some degree of accountability—there is no accountability when an administration makes such a decision on its last working day in office.

The fact that this proposal has even been given serious consideration by BLM and project proponents conveys the message to us that the decision-makers in BLM do not understand the importance of the Mojave Valley landscape for the cultural identity of each of the Tribes. The Tribes continue to believe that an acceptable alternative location could be found, if the proponents of the project really wanted to.

We do not believe that the sanctity of a historic property that is important for our freedom of religion and cultural identity should be sacrificed to make way for a shooting range. We ask that this Subcommittee put a stop to S. 3565.

Thank you for your consideration of our views on this matter.

Sincerely,

WILFRED WHATONAME, SR.  
*Chairman.*

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STATEMENT OF THE ARCHERY TRADE ASSOCIATION, ASSOCIATION OF FISH AND WILDLIFE AGENCIES AND BEAR TRUST INTERNATIONAL\*

DEAR SENATORS BINGAMAN AND MURKOWSKI: The undersigned organizations, representing millions of hunters and recreational shooters, are requesting that a hearing be held on S. 3565, the Mohave Valley Land Conveyance Act of 2010. The legislation will transfer land managed by the Bureau of Land Management (BLM) to the Arizona Game and Fish Commission for use as a public shooting range.

The land transfer will bring to closure an exhaustive search and planning effort to relocate a shooting range in Bullhead City, Arizona that lost its site due to competition from other public land recreational uses. It has taken more than a decade to complete the process, which is now being threatened by administrative appeals that could delay the transfer for another several years.

Our organizations have a long association with the BLM and the other federal land management agencies through memoranda of understanding (MOU) focused on protection and enhancement of sportsmen's access to federal public lands. One of the MOU initiatives is to find places for people to target shoot, to sight in their rifles for hunting season, and to receive instruction on the safe and responsible handling of firearms.

Often, federal lands are the only places for people to participate in these traditional recreational activities. One of the first issues presented to the MOU partners in 1999 was the closure of the Bullhead shooting range. We have been strong supporters of, and have been monitoring closely, the BLM and state efforts to locate a new shooting range.

A similar bill, H.R. 2100, has received a hearing and we are hoping your Committee will add S. 3565 to the hearing schedule as soon as possible so that Bullhead City can finally have a shooting range restored for the community's use and enjoyment.

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STATEMENT OF PATRICK D. OTTO, PRESIDENT, TRI-STATE SHOOTING RECREATION CENTER INC., FORT MOHAVE, AZ, ON S. 3565

Dear Honorable Chairman, I would like this to read into the record for the subcommittee hearing on S-3565. For the past 12 years we, the Tri-State Recreation Shooting Range organization have been trying to obtain land from the BLM for the purpose of building a shooting range to serve the needs of Bullhead City and Mohave Valley in Arizona, Needles, California and Laughlin, Nevada.

We had a shooting range on BLM land in Bullhead City. In 1998 BLM asked us because of development encroachment to give up the existing range with the assurance that BLM would provide another location away from the rapidly developing area.

BLM has made a creditable effort to identify land for this much needed facility. BLM efforts have been opposed from day one by the Fort Mohave and Hualapai Tribes. Two representatives of the respective tribes addressed the House Natural Resources subcommittee on National Parks, Forests & Public Lands on February 25, 2010 and stated directly to that body that they oppose any shooting range and refuse to make any compromise to a shooting range in Mohave Valley. BLM has

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\*A listing of other undersigned groups have been retained in subcommittee files.

been 12 years trying to find a location or mitigate any concerns the tribes have, to no avail.

BLM finally after 12 years selected a site for the range and of course this BLM decision was immediately appealed to the Interior Bureau of Land appeals where it currently awaits action. We are confident because of the extensive documentation and countless good faith negotiations with the Tribes that IBLA will uphold the BLM decision. We are aware that when that occurs the Tribes will then turn to the judicial process to drag this proposal out for who knows how many additional years.

In the meantime our public lands are being trashed by wild cat shooting. The safety of other public land recreational users compromised and our local law enforcement officers do not have a place to train or maintain their necessary fire arms skills.

If the tribes oppose for specific reasons the site selected it would be one thing but they oppose all sites for a shooting range, this despite the fact that they have a range of their own on Tribal land in Mohave Valley.

The Tri-State area, Arizona, Nevada and California have at present time a population of about 70,000 people and growing every day. It is essential for a whole host of reasons that a facility for the safe use of fire arms be provided.

Senator John McCain with Senator Kyle as co-sponsor has introduced Senate Bill 3565, "The Mohave Valley Land Conveyance Act of 2010". Since our membership consists of Laughlin, Nevada residents and it is conceivable that Nevada residences as far north as Searchlight will use this facility, that you would consider co-sponsoring S3565 and help it move forward. It is evident without Congressional action this issue which has now drag on 12 years may not have a resolution in sight, not to mention the needless expense caused by both Tribes' unreasonable refusal to consider any resolution and to further inaccurately assume that we are insensitive to their tribal culture.

We would really appreciate your help in resolving this urgent matter and thank you again for your consideration.

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VERMONT LAND TRUST,  
*King Farm, Woodstock, VT.*

Hon. JEFF BINGAMAN,  
*Chairman, Senate Energy and Natural Resources Committee, U.S. Senate, Washington, DC.*

Hon. LISA MURKOWSKI,  
*Ranking Member, Senate Energy and Natural Resources Committee, U.S. Senate, Washington, DC.*

RE: S. 3612—Proposal to Add the King Farm to the Marsh-Billings-Rockefeller National Historical Park in Woodstock, Vermont.

DEAR SENATORS BINGAMAN AND MURKOWSKI, Thank you for this opportunity to submit written testimony in support of S. 3612. My name is Gil Livingston. I am the President of the Vermont Land Trust, a statewide land conservation organization that in its 33-year history has helped conserve more than 500,000 acres of productive farm and forestland, wildlife habitat, recreational properties, and land important to communities throughout the state of Vermont. In 1987, as a result of a bequest from Francisca King Thomas, VLT made one of its earliest and most significant acquisitions, the historic property known as the King Farm in Woodstock, Vermont. The King Farm is an outstanding example of an early 19th century Vermont hill farm, and is now listed on the National Register of Historic Sites.

When Francisca King Thomas signed her will in the early 1980s, the Vermont Land Trust was a regional organization known as the Ottauquechee Regional Land Trust with its headquarters located in Woodstock. The establishment of the Marsh-Billings-Rockefeller National Historical Park was more than a decade in the future. Because Francisca's objective was to assure that the property would forever remain in agricultural, forestry, educational, and conservation use, VLT was the logical recipient of her bequest at the time.

Since 1987, however, VLT has evolved into a statewide conservation organization and in 1990 moved its headquarters to Montpelier, an hour's distance from Woodstock. The National Historical Park came into existence soon after, and in the intervening years has built an outstanding relationship with the local community. When Woodstock conducted a community visioning process several years ago, there was a growing public interest in seeing the King Farm make a more active contribution to the community and to conservation in general, through historic preservation, trails, community gardens, control of invasive species, as well as through edu-

cational and conservation programs with the Vermont Youth Conservation Corps, Student Conservation Association, Woodstock Union High School, and others.

To achieve the full potential of the King Farm as an historic, environmental, educational, and community resource, the presence of an on-site manager is required. With the Vermont Land Trust now headquartered in Montpelier and the National Park staff located immediately adjacent to the King Farm, a change in ownership seemed almost self-evident. After our initial conversations with the Park Service staff and an internal review within NPS, we took our proposal to the community of Woodstock. As Exhibit D indicates, we made extensive efforts to reach all corners of the community, including direct contact with all neighboring landowners, conversations with public officials and community leaders, articles in the local newspapers, and an open house and a public hearing where all were welcome. The response was universally positive.

We believe that this proposal not only furthers the educational and conservation mission of the Marsh-Billings-Rockefeller National Historic Park and the Vermont Land Trust, but will honor and fulfill the goals and legacy of Francisca King Thomas. This proposal will:

- Improve the ability of the National Park Service to serve its host community;
- Achieve Francesca King Thomas' objectives more effectively by creating the opportunity for additional robust conservation, education, and working lands uses of the King Farm;
- Provide for more rigorous stewardship of historic farmstead buildings of National significance; and
- With the continued aid of the Vermont Land Trust, support innovative partnerships between the Park Service and community organizations.

Thank you again for this opportunity to submit written testimony to the Committee about this proposal. I have attached several documents\* that describe in great detail the historic, cultural, environmental, and community attributes of this extraordinary property.

Sincerely,

GIL LIVINGSTON,  
*President.*

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STATEMENT OF JIM STRATTON, ALASKA REGIONAL DIRECTOR, NATIONAL PARKS  
CONSERVATION ASSOCIATION, ON S. 3820

The National Parks Conservation Association (NPCA) works to protect, preserve, and enhance America's national parks for present and future generations. On behalf of NPCA's 325,000 members, and especially the national parks in Alaska, we appreciate the opportunity to submit these comments for the record.

The National Parks Conservation Association generally supports the purpose and basic concept behind S. 3820, a bill to authorize the Secretary of the Interior to issue permits for a micro-hydro project in the non-wilderness areas within the boundaries of Denali National Park and Preserve and to acquire land for Denali National Park and Preserve from Doyon Tourism, Inc.

This bill would help businesses in the Kantishna region of Denali National Park & Preserve reduce their dependency on diesel powered electrical generation in favor of power produced by micro-hydro sites. As such, this switch to renewable hydro energy would also reduce the number of trips that fuel trucks would have to make over the park road to deliver diesel to power the existing generators. The micro-hydro site proposed by Doyon for its Kantishna Roadhouse property would occur on a stream that was mined as recently as 1995. This is definitely not wilderness.

This bill would also direct the Park Service and Doyon to enter into a land exchange agreement that would bring the land necessary to support the micro-hydro site, and other lands adjacent to the existing Doyon properties in Kantishna, into Doyon's ownership in exchange for a Doyon-owned parcel identified by the Park Service as a priority for acquisition and inclusion in the park.

We do have several changes we would recommend the committee to consider:

1. While there is strong support for this bill, and Congressional authorization is necessary for the Park Service to ultimately issue a permit, the bill as currently written says that a permit will be issued within 180 days. The ultimate decision for this project must be left to the National Park Service after it completes its NEPA review of the potential environmental impacts. The bill should

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\*All documents and exhibits have been retained in subcommittee files.

be clear that a NEPA review is necessary. As such, the time limit should be removed, and;

2. The word “shall” on page 3, line 15 should be replaced with the word “may.”

This gives the Park Service the necessary discretion to complete its environmental review and make an independent determination based on that analysis.

With these changes, not only is Doyon able to reduce its dependency on diesel powered electrical generators, but the public is ensured that it is done in the most environmentally friendly way possible.

Thank you for the opportunity to comment.

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STATEMENT OF DANIEL R. BARRONE, CHAIRMAN, TAOS COUNTY BOARD OF COMMISSIONERS, TAOS, NM, ON S. 3822

Mr. Chairman and members of the Committee: I appreciate the opportunity to express my support and the support of the Taos County Board of Commissioners for S 3822, the Carson National Forest Boundary Adjustment Act of 2010. This legislation, introduced by our New Mexico senators, Chairman Jeff Bingaman and Tom Udall, would expand the boundaries of the Carson National Forest in Taos County to include the nearly 5,000-acre Miranda Canyon property. I am pleased that the Obama Administration and the Forest Service have testified in support of this legislation during the committee's hearing on the bill on September 29, 2010.

If Congress were to pass the bill, the Forest Service would be authorized to acquire the Miranda Canyon tract via appropriations from the Land and Water Conservation Fund. The landowners and the public in Taos County are strongly in favor of such an acquisition for conservation purposes. The property has been proposed for development, which would significantly impact the recreation, water, scenic and wildlife resources that are found on this spectacular tract.

The Miranda Canyon property is located several miles south of Taos, immediately adjacent to the Carson National Forest, and ranges in elevation from 7,200 ft. to 10,801 feet—the summit of Picuris Peak. The property has various vegetative types from low elevation sagebrush and pifion juniper to high elevation mixed conifer forest containing large aspen stands. There are also numerous meadows and riparian vegetation that provide excellent habitat for wildlife. The protection of this land would provide additional recreational opportunities for hunting, sightseeing, camping, hiking, interpretation, and horseback riding for the public.

The Miranda Canyon parcel encompasses nearly 5,000 acre within the Arroyo Miranda watershed. This private parcel controls roughly half of the area within the upper watershed while the other half is already owned by the USFS. This watershed is an important recharge zone for the underlying aquifer which provides domestic water for Llano Quemado and Ranchos de Taos. The 1999 Bauer-Johnson paper from the New Mexico Bureau of Geology and Natural Resources clearly defines the complex hydrogeology of Miranda Canyon. Below the Canyon is the convergence of the four major earthquake faults in New Mexico. These faults, according to Bauer-Johnson, could lead to diversion or loss of the aquifers if the area was developed and multiple domestic wells were drilled. This project eliminates the chance of conversion to other uses and protects the watershed's integrity.

The landscape has numerous ridges and peaks that provide breathtaking views of the Rio Grande Gorge to the west and of Wheeler Peak, the highest peak in New Mexico, to the north. The property also contains historical features such as the Old Spanish Trail, a pack mule trail that served as a link between land-locked New Mexico and coastal California between 1829 and 1848, when other routes became more popular. Recognizing the national significance of this historic trade route, Congress designated it the Old Spanish National Historic Trail in 2002. Other geological features on the property include a unique small volcano and 1.7 billion year old rock outcrops that rival the age of rock found at the bottom of the Grand Canyon.

I want to thank Senators Bingaman and Udall for their work on behalf of this important conservation project in Taos County. We have an immediate opportunity, working with a willing seller landowner, to protect Miranda Canyon for current residents and future generations. This legislation is a very important step forward in the protection process and I urge its enactment this year.

Thank you for the opportunity to present this statement in support of the expansion of the Carson National Forest.

## STATEMENT OF JOHN L. NAU, III, CHAIRMAN, ADVISORY COUNCIL ON HISTORIC PRESERVATION, ON S. 3565

In accordance with Section 106 of the National Historic Preservation Act (NI IPA) and its implementing regulations, "Protection of Historic Properties" (36 CFR Part 800), I am writing to convey to you the final comments of the Advisory Council on Historic Preservation (ACHP) on the proposed authorization of the Mohave Valley (Tri-State) Shooting Range and land transfer near Boundary Cone Butte, Mohave County, Arizona.

*Background*

The Bureau of Land Management (BLM) has been consulting with the Arizona Game and Fish Department (AGFD), Fort Mojave Indian Tribe, Hualapai Indian Tribe, Arizona State Historic Preservation Officer (SHPO), ACHP, and interested organizations and individuals on the proposed authorization to construct a firearm shooting range on BLM land in Mohave County, Arizona. The shooting range would be constructed after BLM transfers ownership of the proposed property to AGM. At issue are adverse visual and auditory effects the shooting range would have to Boundary Cone Butte, a property determined eligible for listing in the National Register of Historic Places, and the related larger valley landscape of religious and cultural significance to the Fort Mojave and Hualapai tribes. This undertaking has been under consideration for a number of years, with the BLM publishing a Notice of Intent to amend the Kingman Field Office Resource Management Plan (RMP) in 1999 and inviting the ACHP and Arizona SHPO to participate in the Section 106 consultation regarding this undertaking in 2006.

The AGFD's original proposal was to utilize the Boundary Cone Road location for construction of the shooting range, a site to which the Fort Mojave and Hualapai tribes objected. BLM considered 10 parcels on its lands as potential alternative locations for the shooting range, but did not analyze them because they did not meet AGFD's criteria. As a result of a BLM-sponsored Alternative Dispute Resolution (ADR) process in 2004-2005, seven additional alternative locations were identified, but only one, the Willow Road location, was subject to further analysis by BLM. The tribes also objected to this location. The Willow Road location required an easement across tribal land, and contained numerous unevaluated archaeological sites, and BLM eliminated that alternative as well. Among the alternatives discussed, but not analyzed, was a state-owned parcel that met all the criteria, including lesser adverse effects, fewer environmental concerns, and proximity to the shooting community, because AGFD would be required to pay the Arizona State Land Office for the property.

BLM subsequently determined that further consultation would not be productive, and in accordance with 36 CFR Section 800.7(a) terminated consultation and requested that the ACHP provide formal comment. In developing our comments, on October 21, 2008, I conducted a series of meetings with each of the stakeholders in this process, which were very helpful in enabling me to better understand the issues and why agreement could not be achieved. As part of the ACHP's deliberative process, the ACHP also solicited public input through Federal Register notice and invitations to known interested parties.

*Findings*

Boundary Cone Butte and its environmental setting is of premier religious and cultural significance to Indian tribes.—Boundary Cone Butte, recognized as eligible for inclusion in the National Register of Historic Places, is a property of traditional religious and cultural significance to the Fort Mojave Indian Tribe and the Hualapai Indian Tribe. There is a basic incompatibility between the land uses of a shooting range and an area where traditional cultural use would be disrupted by the audible intrusions of repeated gunfire. The construction of a shooting range in this location would clearly result in disruptions to traditional cultural use of the area and diminish elements of the butte's integrity as a historic resource, such as the visual setting and feeling of the area. According to the tribes, "maintaining the sanctity of this property is crucial to the ability of tribal religious practitioners to carry on traditional practices and to pass these traditions along to younger generations."<sup>1</sup> The tribes have further argued that "[t]he noise caused by a shooting range would severely disrupt the sanctity of Boundary Cone as well as visually alter the landscape and burden the exercise of religious practices."<sup>2</sup> This linkage between the recognized significance of the butte under the National Register criteria and its premier role

<sup>1</sup> Letters from Fort Mojave Indian Tribe and Hualapai Indian Tribe to ACHP, October 23, 2008.

<sup>2</sup> Ibid.



in the traditional practices and values of the tribes is of critical importance in meeting the “take into account” standard established for federal agencies in Section 106 of the NHPA. We question whether BLM in its review of this matter has met this standard.

Opportunities were missed for alternative dispute resolution to benefit Section 106 consultation.—BLM should be commended for its use of ADR as a way of brokering differences on this problematic issue. It is regrettable that it was not more successful. We further acknowledge BLM’s long consultation record under Section 106. It is troubling, however, that BLM did not recognize the obvious need to connect consultation under Section 106 with its ADR effort, especially since the two could have been mutually beneficial. It was not until a year following the ADR effort that BLM initiated consultation with the Arizona SHPO and the ACHP under Section 106. The nationwide Programmatic Agreement that BLM operates under to meet its Section 106 responsibilities requires that BLM shall request the ACHP’s review of “highly controversial undertakings.” Surely having to invoke ADR would constitute a clear indication that an undertaking had met this test, and ACHP involvement should have been sought.

Shortcomings in BLM’s study of Boundary Cone Butte compromised informed decision-making.—Because of religious, cultural, and confidentiality considerations, the tribes were reticent about providing sensitive information regarding the identification of historic properties within the area of potential effects for the Boundary Cone Road alternative. While this posed challenges for BLM in its identification effort, this could have been overcome had BLM undertaken an ethnographic study as the Fort Mojave tribe requested in 2003 and the ACHP additionally recommended in late 2006. Such a study, undertaken by a trained ethnographer and carried out in a sensitive manner that provides for any confidentiality concerns that the tribes may have, would have allowed BLM to move forward in the Section 106 process in consultation with the tribes to apply the criteria of adverse effect to historic properties with greater authority and confidence. This presented another flaw in how BLM chose to meet the Section 106 requirements.

Consideration of alternatives is inadequate.—We do not believe that BLM has adequately explored other locations and uses, despite the time spent on consultation. Viable alternatives that could have avoided impacts to lands of religious and cultural importance to tribes were dismissed based primarily on cost considerations, such as the need to purchase state or private land, current lack of electricity or road access, and need for additional archaeological inventory. While we understand the need for cost-effective development, this should not come unreasonably at the expense of historic properties.

#### *Recommendations*

In view of the above findings and in consideration of the facts in this matter as we understand them, the ACHP offers the following recommendations:

I. BLM should not transfer to the AGFD land for purpose of construction and operation of the Tri-State Shooting Range and associated buffer areas as long as the proposed site for this development is the Boundary Cone Road site. It should assess other possible alternatives outside of the Mohave Valley that have potential to meet the goals of the shooting community and AGFD without impacting the historic property. Only after these alternatives have been exhausted should BLM reassess other possible alternatives that were identified through the ADR process that have potential to meet the AGFD goals, while not doing so at the expense of historic properties. One such alternative might be a partnership that would enable the BLM to transfer land to the state land agency in exchange for making available to the AGFD, without cost, the state lands that have been identified as the most promising site for the shooting range. Another alternative might be the consideration of Site number 1 previously considered under ADR and presently identified by the Fort Mojave and Hualapai tribes as an alternative that might warrant further consideration.

II. To address the on-going concerns regarding the tribal significance attached to this area, the ACHP recommends that BLM explore with the tribes and other concerned parties its options to begin managing BLM lands within the entire valley in a manner that recognizes the significance of this important historic resource and affords it the kind of consideration it is due as such. These options include considering designation of the area as an Area of Critical Environmental Concern (ACEC) or a National Landscape Conservation Area (NLCS), which may afford additional protection. BLM has indicated its willingness to provide funds for landscape level studies to generate information that will allow future Resource Management Plans (RMP) to “avoid impacts to significant cultural resources, including areas of traditional cultural importance to Indian

tribes.”<sup>3</sup> BLM should prioritize funding to institute this level of planning for the Mohave Valley to begin to address the landscape that is of clear significance to the tribes. Now that BLM has recognized Boundary Cone Butte as a historic property, it should move forward to restrict uncontrolled shooting on adjacent BLM lands to protect the integrity of this site of traditional religious and cultural importance to the tribes and further diminish audible intrusions into its use by practitioners.

In accordance with 36 CFR Section 800.7(c)(4), you must take into account these comments of the ACHP, and respond to them, prior to reaching a decision on the proposed shooting range. In accordance with Section 1 10(1) of the NHPA and the Section 106 implementing regulations, this responsibility cannot be delegated. We request a response to these comments by December 12, 2008, so that sufficient time is available to identify alternative locations that would allow for better preservation outcomes for historic properties.

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<sup>3</sup> BLM's Progress Report on Section 3 of E.O. 13287, September 2008, p. 11.