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H.R. 511, H.R. 708, H.R. 1038 and H.R. 1651

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON FORESTS AND FOREST HEALTH

OF THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

June 19, 2003

Serial No. 108-30

Printed for the use of the Committee on Resources

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

U.S. GOVERNMENT PRINTING OFFICE

87-805 PS WASHINGTON : 2003

For sale by the Superintendent of Documents, U.S. Government Printing Office
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LEGISLATIVE HEARING ON H.R. 1651, TO PROVIDE FOR THE EXCHANGE OF LAND WITHIN THE SIERRA NATIONAL FOREST, CALIFORNIA, AND FOR OTHER PURPOSES; H.R. 1038, TO INCREASE THE PENALTIES TO BE IMPOSED FOR A VIOLATION OF FIRE REGULATIONS APPLICABLE TO THE PUBLIC LANDS, NATIONAL PARK SYSTEM LANDS, OR NATIONAL FOREST SYSTEM LANDS WHEN THE VIOLATION RESULTS IN DAMAGE TO PUBLIC OR PRIVATE PROPERTY, TO SPECIFY THE PURPOSE FOR WHICH COLLECTED FINES MAY BE USED, AND FOR OTHER PURPOSES; H.R. 511, TO MAKE CERTAIN ADJUSTMENTS TO BE BOUNDARIES OF THE MOUNT NAOMI WILDERNESS AREA, AND FOR OTHER PURPOSES; AND H.R. 708, TO REQUIRE THE CONVEYANCE OF CERTAIN NATIONAL FOREST SYSTEM LANDS IN MENDOCINO NATIONAL FOREST, CALIFORNIA, TO PROVIDE FOR THE USE OF THE PROCEEDS FROM SUCH CONVEYANCE FOR NATIONAL FOREST PURPOSES, AND FOR OTHER PURPOSES.

June 19, 2003
U.S. House of Representatives
Subcommittee on Forests and Forest Health
Committee on Resources
Washington, DC

The Subcommittee met, pursuant to call, at 12:35 p.m., in room 1334, Longworth House Office Building, Hon. Rick Renzi, presiding.

Present: Representatives Renzi, Inslee, Petersen, Duncan, Pearce, Tancredo, Jones, Radanovich, Hayworth, Flake, Rehberg, Bishop, and Thompson.

Mr. RENZI. [presiding] This Subcommittee on Forests and Forest Health will come to order. The Subcommittee will reconvene to hear testimony on H.R. 1038, Public Lands Fire Regulation Enforcement Act of 2003; H.R. 1651, Sierra National Forest Land Exchange Act of 2003; H.R. 511, Boundary Wilderness Boundary Adjustment Act; and H.R. 708, Conveyance of Certain National Forest System Lands in the Mendocino National Forest of California.

I ask for unanimous consent that Representatives Bishop and Thompson have permission to sit on the dais and participate in the hearing. Hearing no objections, so ordered. Under Committee Rule 4G, the Chairman and Ranking Minority Member may make opening statements. If any other members have statements, they can be included in the record under unanimous consent.

STATEMENT OF THE HON. RICK RENZI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. RENZI. To begin, H.R. 1038, Public Lands Fire Restoration Enforcement Act of 2003 would increase penalties imposed for the violation of fire regulations applicable to public lands when the violations result in damage to public or private property. To specify the purpose for which collective fines may be used, and for other purposes.

I want to thank my colleague, Mr. Tancredo, for introducing this important legislation. From 1988 to 1997, human negligence caused a startling seven times the fires caused by lighting. This is a signal that something needs to be done. I believe that it will provide a significant deterrent to those who would act recklessly with fire when a threat of catastrophic fire is at its highest.

The deterrent value of current law is laughable and non-existent, and so I commend Mr. Tancredo for attaching the significant shortfall in the law. I would also like to mention that our Committee staff has been working with Mr. Tancredo and the Forest Service to make some technical changes that would clarify the intent of the bill.

I look forward to working with the Forest Service in the future to ensure that technical corrections are made. The gentleman from Washington, Mr. McInnis, is not with us today, and so I am filling in for him. I would ask Mr. Inslee from Washington, our Ranking Minority Member, if he has any opening statements.

[The prepared statement of Mr. McInnis follows:]

Statement of The Honorable Scott McInnis, Chairman, Subcommittee on Forests and Forest Health, on H.R. 1038

H.R. 1038, "The Public Lands Fire Regulations Enforcement Act of 2003", would increase penalties imposed for the violation of fire regulations applicable to public lands when the violation results in damage to public or private property, to specify the purpose for which collected fines may be used, and for other purposes.

I want to thank my colleague and fellow Coloradan, Mr. Tancredo for introducing this important legislation. From 1988 to 1997 human negligence started a startling 7-times the fires caused by lighting. This is a signal to me that something needs to be done. I'm a cosponsor of Mr. Tancredo's bill and I believe it will provide a significant deterrent to those who would act recklessly with fire when the threat of catastrophic fire is at its highest. The deterrent-value of current law is laughable

and non-existent, and so I commend Mr. Tancredo for attaching this significant short-fall in the law.

I'd also like to mention that my staff has been working with Mr. Tancredo and the Forest Service to make some technical changes that would clarify the intent of the bill. I look forward to working with Forest Service in the future to ensure the technical corrections are made.

Mr. INSLEE. I have no opening. I have some questions.

Mr. RENZI. Thank you, Mr. Inslee.

I would ask the author of the bill, Mr. Tancredo of Colorado, if he has an opening statement.

STATEMENT OF THE HON. THOMAS G. TANCREDO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF COLORADO

Mr. TANCREDO. Yes, Mr. Chairman, I do. Thank you very much. I want to thank you for scheduling a hearing on the bill, and I thank Mr. McInnis for doing so, and I would like to thank Mr. Udall for joining me as an original co-sponsor in introducing the legislation.

As the Chairman said, H.R. 1038 is simple. It is to enhance the penalties for those seeking to jeopardize the safety of our communities by disregarding fire restrictions on public lands.

Over the last 10 years, people have been responsible for the ignition of just over 1 million wildfires on our public lands, around 100,000 wildfires a year caused by human carelessness.

By comparison, lighting has caused about one-tenth as many fires over the same period. The current penalties for violating fire regulations vary from agency to agency. In a practical sense, however, the fines are generally assessed at a far lower level.

In fact, under current laws, fines, or collaterals as they are called, are generally set in the range of about $25 to $100, a little more than the cost of a seat belt ticket in most States.

I believe, as I think most people do, that these weak penalties lack any real deterrent value for would be violators. Mr. Chairman, last year when the Committee unanimously approved this measure, I related a story about a conversation that I had with a small group of Forest Service Rangers and a fireman in my district just prior to the Hayman fire.

One of them told me a story about how a perspective visitor to the Pike National Forest had contacted him inquiring about the potential fines for violating a recently imposed ban on camp fires.

After the District Ranger explained that the fine for constructing a camp fire during the fire ban was around $25, the caller asked if there was any way that he could pay the fine in advance. Exactly.

Late last summer, well after the imposition of the fire ban by both the Governor and the forest supervisor, I was flying over the Hayman fire with that same district manager or district ranger.

In addition to having a birds-eye view of the largest wildfire in the State's history, the two of us also had an excellent view of several campfires dotting the landscape outside its perimeter.

The district ranger told me that even in the midst of a fire season like the one that we had in Colorado last year, where some 800 human-caused wildfires destroyed over a quarter-of-a-million acres,

that enforcing the ban was a continuing problem, in large part because the fines were so small.

Enhancing the penalties for those who choose to disregard the directives of our land managers may be one way that we can reduce both the number of human-caused wildfires and the terrible destruction that they leave in their wake by creating a deterrent.

I am less concerned about how these violations are classified than I am about giving penalties for these violations some teeth. After losing some 7 million acres of forests last year to wildfires, many of them started by thoughtless people disregarding fire restrictions, it is clear that the status quo is not providing an adequate deterrent.

I have asked legislative counsel to prepare an amendment in the nature of a substitute that you have in your folders in order to address some of the technical changes in the original bill and to address a few changes brought to my attention by the staff of the Forest Service.

In a nutshell, Mr. Chairman, the focus of the bill is to enhance the penalties for violation of fire regulations as I said to a minimum fine of $1,000 on all Interior and Forest Service lands when fire bans are in place.

Money collected under these enhanced penalties would be used to cover the costs of rehabilitation work rendered necessary by the violation, and to help facilitate public awareness of rules, regulations, and other requirements regarding the use of fire on public lands.

As I alluded to earlier, I am more interested in enhancing these weak penalties than I am in the technical details of how we do it. The bottom line is that we shelled out almost $2 billion to fight wildfires last year, much of it to fight fires that were started by people when well publicized fire bans were in place.

We need to make sure that people who play with fire on our public lands get burned, and to let would be violators know that if they make a choice to violate a fire ban that they will get hit in the pocketbook. I look forward to working with the Committee and the agency to work out the technical concerns prior to the markup of the bill. Thank you, Mr. Chairman.

[The prepared statement of Mr. Tancredo follows:]

Statement of The Honorable Thomas G. Tancredo, a Representative in Congress from the State of Colorado, on H.R. 1038

Mr. Chairman, I would like to thank you for scheduling a hearing on the bill today, and I would also like to thank you and Mr. Udall for joining me as original cosponsors in introducing this legislation. The purpose H.R. 1038 is simple: To enhance the penalties for those people who jeopardize the safety of our communities by disregarding fire restrictions on public lands.

Over the last ten years, people have been responsible for the ignition of just over one million wildfires on our public lands. That is around 100,000 wildfires per year—on average—that are caused by human carelessness. By comparison, lighting has caused only about one-tenth that many fires over the same time period.

The current penalties for violating fire regulations vary from agency to agency. In a practical sense, however, the fines are generally assessed at a far lower level. In fact, under current law, fines—or "collaterals" as they are called, are generally set in the range of $25 to $100—little more than the cost of a seatbelt ticket in most states. I believe, as I think most people do, that these weak penalties lack any real deterrent value for would-be violators.

Mr. Chairman, last year when the Committee unanimously approved this measure, I related a story about a conversation I had with a small group of Forest Serv-

ice rangers and firemen in my district just prior to the Hayman Fire. One of them told me a story about how a prospective visitor to the Pike National Forest had contacted him inquiring about the potential fines for violating a recently imposed ban on campfires. After the district ranger explained that the fine for constructing a campfire during the fire ban was around $25, the caller asked if there was a way to pay the fine in advance.

Late last summer—well after the imposition of the fire ban by both the Governor and the Forest Supervisor—I was flying over Hayman Fire with that same district ranger. In addition to having a birds-eye view of the largest wildfire in state history, the two of us also had an excellent view of several campfires dotting the landscape outside its perimeter. He told me that even in the midst of a fire season like the one we had in Colorado last year—where some 800 human caused wildfires destroyed over a quarter of a million acres—that enforcing the ban was a continuing problem, in large part because the fine is so small.

Enhancing the penalties for those who choose to disregard the directives of our land managers may be one way we can reduce both the number of human caused wildfires and the terrible destruction they leave in their wake by creating a deterrent. I am less concerned about how these violations are classified than I am about giving penalties for these violations some teeth. After losing some seven million acres of forest last year to wildfires—many of them started by thoughtless people disregarding fire restrictions—it is clear that the status quo is not providing an adequate deterrent.

I have asked Legislative Counsel to prepare an amendment in the nature of a substitute (that you have in your folders) to address some technical changes in the original bill, and to address a few changes brought to the attention of my staff by the Forest Service. In a nutshell, Mr. Chairman, the focus of the bill is to enhance the penalties for violations of fire regulations to, as I said, a minimum fine of $1000 on all Interior and Forest Service lands when fire bans are in place. Money collected under these enhanced penalties would be used to cover the costs of rehabilitation work rendered necessary by the violation and to help facilitate public awareness of rules, regulations, and other requirements regarding the use fire on public lands.

As I alluded to earlier, I am more interested in enhancing these weak penalties than I am in the technical details of exactly how we do it. The bottom line is that we shelled out almost $2 billion to fight wildfires last year, much of it to fight fires that were started by people when well publicized fire bans were in place. We need to make sure that people who play with fire on our public lands get burned, and to let would-be violators know that if they make a choice to violate a fire ban, they will get hit in the pocketbook.

I look forward to working with the Committee and the agency to work out these technical concerns prior to markup of the bill.

Thank you Mr. Chairman.

[The amendment offered by Mr. Tancredo follows:]

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 1038
OFFERED BY MR. TANCREDO

Strike out all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the "Public Lands Fire
3 Regulations Enforcement Act of 2003".

4 **SEC. 2. MINIMUM FINE FOR VIOLATION OF PUBLIC LAND**
5 **FIRE REGULATIONS DURING FIRE BAN.**

6 (a) DEPARTMENT OF THE INTERIOR LANDS.—Not-
7 withstanding section 303(a) of the Federal Land Policy
8 and Management Act of 1976 (43 U.S.C. 1733(a)) or sec-
9 tion 3 of the Act of August 25, 1916 (16 U.S.C. 3), if
10 a violation of the rules regulating the use of fire by visitors
11 and other users of lands administered by the Bureau of
12 Land Management or National Park System lands occurs
13 in an area subject to a complete ban on open fires, the
14 amount of any fine imposed for the violation, whether in
15 conjunction with imprisonment or in lieu of imprisonment
16 authorized by such sections, shall not be less than $1,000.

17 (b) NATIONAL FOREST SYSTEM LANDS.—Notwith-
18 standing the eleventh undesignated paragraph under the
19 heading "SURVEYING THE PUBLIC LANDS" of the

1 Act of June 4, 1897 (16 U.S.C. 551), if a violation of
2 the rules regulating the use of fire by visitors and other
3 users of National Forest System lands occurs in an area
4 subject to a complete ban on open fires, the amount of
5 any fine imposed for the violation, whether in conjunction
6 with imprisonment or in lieu of imprisonment authorized
7 by such paragraph, shall not be less than $1,000.

8 (c) RELATION TO OTHER SENTENCE OF FINE AU-
9 THORITY.—The minimum fine amount specified in sub-
10 sections (a) and (b) applies in lieu of the minimum fine
11 otherwise authorized under section 3571 of title 18,
12 United States Code.

13 (d) USE OF COLLECTED FINES.—Any moneys re-
14 ceived by the United States as a result of a fine imposed
15 for a violation of fire rules applicable to lands adminis-
16 tered by the Bureau of Land Management, National Park
17 System lands, or National Forest System lands, including
18 fines imposed under subsection (a) or (b), shall be avail-
19 able to the Secretary of the Interior or the Secretary of
20 Agriculture, as the case may be, without further appro-
21 priation and until expended, for the following purposes:

22 (1) To cover the cost to the United States of
23 any improvement, protection, or rehabilitation work
24 rendered necessary by the action that resulted in the
25 fine.

1 (2) To reimburse the affected agency for the
2 cost of the response to the action that resulted in
3 the fine, including investigations, damage assess-
4 ments, and legal actions.
5 (3) To increase public awareness of rules, regu-
6 lations, and other requirements regarding the use of
7 fire on public lands.

Amend the title so as to read: "A bill to impose a minimum fine amount for a violation of fire regulations applicable to the public lands, National Park System lands, or National Forest System lands when the violation occurs in an area subject to a complete ban on open fires, to specify the purpose for which collected fines may be used, and for other purposes.

Mr. RENZI. Thank you, Mr. Tancredo, for your statement. I now want to recognize the witnesses for 5 minutes each.

We will begin with Elizabeth Estill. Thank you.

STATEMENT OF ELIZABETH ESTILL, DEPUTY CHIEF, PROGRAMS, LEGISLATION AND COMMUNICATIONS, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Ms. ESTILL. Thank you, and thank you for the opportunity to present the views of the U.S. Department of Agriculture. We commend Mr. Tancredo and the co-sponsors of H.R. 1038 for their timely efforts through this bill to try to decrease the number of destructive and costly human-caused wildfires.

Our records show that there were 73,457 wildfires in the United States last year, of which over 62,000 were human caused. Terribly destructive. We support the goal of H.R. 1038, but as has already been stated, we would like to continue to work with the Subcommittee on some modifications that we believe would improve the bill.

We understand also that the Department of Justice will be providing the Committee with a letter that will describe a number of technical and substantive issues that will need to be addressed for this bill to accomplish its very worthy goal.

We appreciate the interest of the sponsor and the Subcommittee in addressing the fire penalties issue, and your willingness to work with us to address the many law enforcement challenges that we face.

We welcome your continued assistance and would be happy to work with the Subcommittee to achieve improved fire prevention and certainly more effective Federal law enforcement and prosecution. Thank you.

[The prepared statement of Ms. Estill follows:]

Statement of Elizabeth Estill, Deputy Chief, Programs, Legislation, & Communications, Forest Service, U.S. Department of Agriculture, on H.R. 511, H.R. 708, H.R. 1038, H.R. 1651, and H.R. 2416

Thank you for the opportunity to appear before you today. I am Elizabeth Estill, Deputy Chief for Programs, Legislation, and Communications, USDA Forest Service.

I would like to present the Department's views on H.R. 511" the Mount Naomi Wilderness Boundary Adjustment Act, H.R. 708—Mendocino National Forest Land Exchange, H.R. 1038—the Public Lands Fire Regulations Enforcement Act of 2003, H.R. 1651—the Sierra National Forest Land Exchange Act of 2003, and H.R. 2416—the Paleontological Resources Preservation Act.

H.R. 511—Mount Naomi Wilderness Boundary Adjustment Act

The Department supports H.R. 511, a bill that would adjust the boundary of the Mount Naomi Wilderness in the Wasatch–Cache National Forest in Utah. We believe the boundary adjustment will add to a higher level of wilderness values, including solitude, scenery, and pristine qualities.

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

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

H.R. 708—Mendocino National Forest Land Exchange

H.R. 708 authorizes the direct sale of two parcels comprising 120.9 acres of National Forest System lands on the Mendocino NF in California to the Faraway Ranch. Various improvements and facilities have been constructed on these lands and they have lost much of their National Forest character. This bill provides Faraway Ranch the opportunity to acquire these lands associated with their improvements and activities and allows the Forest Service to utilize the receipts to acquire replacement lands elsewhere in California.

At the time of conveyance, Faraway Ranch will make full payment of the fair market value as determined by an appraisal that conforms to the Federal appraisal standards and is acceptable to the Secretary as well as cover all direct costs associated with completing this transaction. The Department supports this bill because it will improve management efficiency for the forest while recognizing the value of the public's assets.

H.R. 1038—the Public Lands Fire Regulations Enforcement Act of 2003

We commend Mr. Tancredo and the co-sponsors of H.R. 1038 for their timely efforts through this bill to decrease the number of destructive and costly human-caused wildfires. Our records show that there were 73,457 wildfires in the United States last year, of which over 62,000 were human-caused. Out of 7 million acres burned last year, human-caused fires were responsible for slightly more than 3 million acres.

We support the goal of H.R. 1038, but would like to work with the Subcommittee on some modifications that we believe would improve the bill. We would like to

thank the Subcommittee for seeking new and innovative approaches to reduce human-caused fires on Federal lands and raising the public's awareness of the laws and consequences of violating them.

We understand the Department of Justice will be providing the Committee a letter that will describe a number of technical and substantive issues that will need to be addressed for this bill to accomplish its goal.

We support the intent and emphasis that H.R. 1038 embodies concerning fire-related violations. We suggest that the Subcommittee consult with the Department of Justice and Administrative Office of the U.S. Courts to further assess the effects this bill may have on prosecutorial resources within the Department and the courts.

We appreciate the interest of the sponsor and the Subcommittee in addressing the fire penalties issue and your willingness to work with us to address the many law enforcement challenges we face. We welcome your continued assistance and would be happy to work with the Subcommittee to achieve improved fire prevention and Federal law enforcement and prosecution.

H.R. 1651 Sierra National Forest Land Exchange Act of 2003

H.R. 1651 authorizes the exchange of 160 acres of Federal land on the Sierra National Forest in California with 80 acres of non–Federal land within one year. A portion of the Federal parcel is subject to an existing Federal hydropower license. The Department supports H.R. 1651 as introduced. The bill will provide for the exchange of a private in-holding for two isolated parcels of Federal land, thus improving management efficiency for the Sierra National Forest.

The bill specifies the value of the Federal land to be $250,000 and the value of the non–Federal land to be $200,000. H.R. 1651 gives the Secretary the authority to accept a cash equalization payment in excess of 25 percent of the value of the Federal land. These funds shall be available for the acquisition of lands and interests in lands for the National Forest System in the State of California. The conveyance is subject to a condition that the recipient of the Federal land will agree to convey the land, within a time period agreed to by the Secretary and the recipient, to the Sequoia Council of the Boy Scouts of America. The conveyance will also be made subject to valid existing rights and this or a similar provision needed to insure the continued operation of the FERC license held by Southern California Edison.

We understand that one or more amendments to this bill may be under consideration by the sponsor. We would like to work with the Subcommittee to provide our comments on any proposed changes in the bill.

As H.R. 708, the Mendocino National Forest Land Exchange and H.R. 1651 illustrate, the Department has a number of facilities and appurtenant administrative land excess to agency needs. The Fiscal Year 2004 Budget contains a proposal for the establishment of a Facilities Acquisition and Enhancement Fund that would enable the Secretary to sell such units and to utilize proceeds from those sales for the acquisition or development of land and improvements for administrative purposes. Funds collected under this authority would address backlogs and administrative consolidations while improving efficiencies. The Department will submit proposed legislation to establish this Fund in the upcoming weeks.

H.R. 2416—the Paleontological Resources Preservation Act

H.R. 2416, the Paleontological Resources Preservation Act recognizes that paleontological resources, especially vertebrate fossils, are heritage resources which provide opportunities for the public to learn more about ancient ecosystems and the development of life. The Forest Service, as steward of these heritage resources is committed to their protection while providing opportunities for research, education, and recreation. The Department supports the purpose of this bill, but would like to work with the Subcommittee on some aspects.

H.R. 2416 directs the Secretary of the Interior and the Secretary of Agriculture to manage and protect paleontological resources using scientific principles. The bill recognizes the non- renewable nature of fossils and defines paleontological resources as fossilized remains preserved in or on the Earth's crust. This distinguishes these resources from archeological resources, covered under the Archaeological Resources Protection Act (ARPA); cultural items, covered under the National Historic Preservation Act and the Native American Graves Protection and Repatriation Act (NAGPRA); and mineral resources.

An important aspect of this bill is its formal recognition that casual collection of invertebrate and plant fossils for recreational non-commercial use is a valid public activity on National Forest System lands unless there is an overriding land-use designation. If enacted, the bill would establish collection provisions for paleontological resources including permitting requirements for scientific and educational purposes as well as recreational collection of rocks and minerals for personal use. Currently,

there is a complex mix of laws, regulations and guidelines that have created significant jurisprudential challenges. We support penalties that are consistent with recent amendments to the Federal sentencing guidelines of the U.S. Sentencing Commission for increased penalties for cultural heritage resources.

H.R. 2416 also provides that the proceeds arising from civil and criminal penalties established under the bill may be available for payment to those who provided information in investigations that lead to the civil violations or criminal convictions for which the penalties were assessed. However, the current reward language in Section 11 provides a maximum reward amount that we believe will be ineffective in most cases. We believe that the appropriate reward amount to be offered or paid for assistance in investigations is best determined by the agency and prosecutor based on the significance of the case and assistance provided or needed.

In addition to the recommendations just mentioned we would like to work with the Subcommittee to make several minor technical improvements.

This concludes my testimony and I would be happy to answer your questions.

Mr. RENZI. Thank you, Ms. Estill.

I want to recognize now Mr. Parkinson for 5 minutes.

STATEMENT OF LARRY PARKINSON, DEPUTY ASSISTANT SECRETARY, LAW ENFORCEMENT AND SECURITY, U.S. DEPARTMENT OF THE INTERIOR.

Mr. PARKINSON. Thank you, Mr. Chairman. It is a pleasure to be here today. I am Larry Parkinson, Deputy Assistant Secretary for Law Enforcement and Security, and I am here to represent the Department of the Interior's views on this legislation.

I want to start by thanking Congressman Tancredo and the cosponsors of H.R. 1038 for their leadership on this issue, and for their efforts to reduce destructive and costly human caused wildfires. As Ms. Estill noted, we also want to work with the Committee on some technical changes that we think will improve the legislation.

After the devastating effects of the 2000 and 2002 fire seasons, we are all keenly aware of the destructive nature of wildland fire. Those effects are even more tragic when the fires are caused by human beings.

The resulting loss of life and property ultimately change lives forever obviously. For example, the Hayman fire, which started on July 2nd of last year, took 17 days to control. It destroyed more than 137,000 acres at a cost to the taxpayers of over $39 million.

Approximately 600 structures were destroyed, including 133 private residences. Similarly, the Rodeo-Chediski fire, which began a few weeks earlier than that, took 20 days to control, and consumed 455,000 acres, and it cost the taxpayers about $50 million, and that fire destroyed about 450 homes.

Obviously these figures demonstrate that the cause of these human caused fires, the results are devastating. As currently drafted the bill applies to lands managed by the Bureau of Land Management, the National Park Service, and the Forest Service.

The bill states that the violation of the rules regulating the use of fires by visitors and others would be punishable by a fine of not less than $1,000 or imprisonment for no more than a year, or both, if the violation results in damage to public or private property.

Currently the BLM and the National Park Service within the Interior operate under different rules for criminal penalties. For the National Park Service, they are similar to the Forest Service int his respect; those violations are currently classified as Class B mis-

demeanors, which results in a fine up to $5,000 maximum, or up to 6 months in prison.

Those violations are strict liability in nature, which means that you do not have to prove intent in order to prosecute the offense. For BLM, the Bureau of Land Management, it is a little bit different.

Those violations under BLM are currently Class A misdemeanors, which may result in a fine of up to $100,000 maximum, or imprisonment up to 1 year. For Class A violations, one must demonstrate when prosecuting the offender that the party knowingly violated the law. So there is a significant difference in prosecution standards.

And it is important to note that the current penalties do not mandate a minimum fine for either Class A or Class B misdemeanors. One thing the bill attempts to do is to establish a floor.

As Ms. Estill noted in her testimony, we do understand that the Department of Justice will be providing the Committee a letter that will describe a number of technical, as well as substantive, issues that we think need to be addressed in order to accomplish the goals of this legislation.

Additionally, because DOJ and not the Department of the Interior, or the Forest Service, makes the final decisions on prosecutions and penalties with respect to these violations. They obviously are an integral participant in all prosecutorial decisions and judicial proceedings. So we need to have their views as we perfect this bill.

We also think that it would probably be useful to have the administrative office of the U.S. Courts involved in these discussions to assess the effects on the courts. And as a Federal Prosecutor in a former life, I can certainly attest to the fact that we need the Justice Department and the U.S. Attorneys on board as we go forward here.

As noted earlier, we would like to work also with the Subcommittee on some modifications to ensure that we include other entities within this legislation. As I indicated, that currently it refers to Forest Service, BLM, and the National Park Service.

We would like to discuss, and I think the intent of the legislation, is to be more comprehensive, including lands managed by the U.S. Fish and Wildlife Service, which include our national refuge system, and the Bureau of Indian Affairs.

By way of background, in 2002, over 240 human-caused fires occurred within the National Wildlife Refuge System, which is part of the Fish and Wildlife Service. And 53 of those were the result of arson.

And during the last 10 year period between 1992 and 2001, the Bureau of Indian Affairs reported a total of 9,643 arson-caused fires in Indian country that burned over 210,000 acres. I thank you again for your leadership on this issue, particularly Mr. Tancredo, and the co-sponsors, and I look forward to working with the Committee.

[The prepared statement of Mr. Parkinson follows:]

Statement of Larry R. Parkinson, Deputy Assistant Secretary for Law Enforcement and Security, U.S. Department of the Interior, on H.R. 1038

Thank you for the opportunity to appear before you today. My name is Larry Parkinson and I am the Deputy Assistant Secretary for Law Enforcement and Security at the Department of the Interior. I am here to present the Department's views on H.R. 1038—the Public Lands Fire Regulations Enforcement Act of 2003.

We want to thank Congressman Tancredo and the co-sponsors of H.R. 1038 for their recognition of this issue and their efforts to reduce destructive and costly human-caused wildfires. We support the goal of H.R. 1038. However, we would like to work with the Committee to address changes that we believe would ensure consistent application of penalties among other bureaus and services within the Department that are also impacted by the devastating effects of human-caused fires and to ensure the bill's effectiveness in deterring such behavior.

After the devastating effects of the 2000 and 2002 fire seasons, we are all keenly aware of the destructive nature of wildland fire. The effects are even more tragic when these fires are caused by human beings. The resulting loss of life and property ultimately changes lives forever. For example, the Hayman fire, which was started on July 2, 2002 and took 17 days to control, destroyed more than 137,000 acres at a cost to taxpayers of $39.1 million. Six hundred structures were destroyed, including 133 private residences. Similarly, as a result of the Rodeo–Chediski fire which began on June 18, 2002 and took 20 days to control, 455,000 acres burned at a total cost to taxpayers estimated at $50 million. That fire destroyed 450 homes. As these figures amply demonstrate, the results of these human-caused fires can be devastating.

As currently drafted, H.R. 1038 applies to lands managed by the Bureau of Land Management (BLM), National Park Service (NPS), and the USDA Forest Service. The bill states that violations of the rules regulating the use of fire by visitors and others on these lands would be punishable by a fine of not less than $1,000 or imprisonment for not more than one year, or both, if the violation results in damage to public or private property.

Currently, the BLM and NPS operate under different rules for criminal penalties. For the NPS, similar to the USDA Forest Service, these violations are classified as Class B misdemeanors, which may result in a fine of up to $5000 or up to six months in prison. Class B violations are strict liability in nature, which means that intent need not be proved. For BLM, such violations are currently classified as Class A misdemeanors, which may result in a fine of up to $100,000 or imprisonment of up to one year in prison. For Class A violations one must demonstrate that the party knowingly violated the law. It is important to note that the current penalties do not mandate a minimum fine for either Class A or Class B misdemeanors.

We understand that the Department of Justice will be providing the Committee a letter that will describe a number of technical and substantive issues that will need to be addressed for this bill to accomplish its goal. Additionally, as the Department of Justice (DOJ), not the Department of the Interior, makes the final decision on prosecutions affecting penalties for such criminal violations and is an integral participant in all prosecutorial decisions and subsequent judicial proceedings, we suggest that the Subcommittee consult with the Department of Justice and the Administrative Office of the U.S. Courts to further assess the effects this bill may have on prosecutorial resources within the Department and the courts.

As noted earlier, we would like to work with the Subcommittee on some modifications to the bill to ensure that those who would cause these destructive, tragic fires know that there are serious penalties associated with such behavior. We would like to bring together both the Department of the Interior as well as the USDA Forest Service to discuss the effects of this bill on their programs. We want to do everything possible to ensure positive results in reducing human-caused fires and the loss of life and property destruction that so often result. In addition, we would like to discuss including the U.S. Fish and Wildlife Service and the Bureau of Indian Affairs in the bill. By way of background, in 2002, over 240 human-caused fires occurred within the National Wildlife Refuge System, of which 53 were the result of arson. During the period between 1992 and 2001, the Bureau of Indian Affairs had a total of 9,643 arson-caused fires that burned 210,586 acres.

H.R. 1038 calls for the use of collected fines by the affected agencies for the purposes stated in the bill. The Administration is concerned about and is currently examining the potential PAYGO affect of this provision.

Thank you for your support in helping to address the many law enforcement challenges we face at the Department of the Interior. We look forward to our continued positive working relationship to improve our Federal law enforcement and investigative responsibilities.

Mr. RENZI. Mr. Parkinson, thanks for your testimony. Moving now to questions from our members. I want to recognize the Ranking Minority Member from the great State of Washington, Mr. Inslee.

Mr. INSLEE. Thank you. My understanding of the bill is that it would effectively raise these citations to a Class A Misdemeanor, which I understand is a year in jail. My rusty recollection of criminal law is that would then give defendants the right to a jury trial; is that your understanding?

Mr. PARKINSON. That's correct.

Mr. INSLEE. And if we raise the fine, the automatic fine, to $1,000, can't we look forward to defendants then demanding a jury trial and prosecutors dismissing the case because of their case load requirements?

Mr. PARKINSON. I think that is a good observation, and that is why I emphasis the need to involve the Justice Department in these discussions, because obviously we don't want to cause incentives unnecessarily for people to take these kinds of cases to trial, and particularly we don't want to have U.S. Attorney's Offices backing off because they think the penalties are too strong.

At the same time as the legislation is intended to do, we need to tell everybody, including the Justice Department, I think, that the penalties that are currently being meted out are not serious enough.

Mr. INSLEE. Well, if somebody starts a 1,000 acre fire, and you really believe that sanctions should be a year in jail or more, do we not have other charging authorities that we could use in those kinds of context?

Mr. PARKINSON. It depends on whether you can prove that it was intentionally created. This bill is focused on negligence. If it is an intentionally created fire, you clearly do have felony provisions, both Federally and state provisions, that allow you to seek a higher penalty.

Mr. INSLEE. So if it were mere negligence, and it burns up 10,000 acres, is there some other charging situation where you could get over a year, a year or over?

Mr. PARKINSON. Not that I am aware of if it is mere negligence.

Mr. INSLEE. How about if it was wanton disregard?

Mr. PARKINSON. If it is wanton, yes, certainly you could. That would take you into felonyland and you can get much higher penalties than 1 year in prison.

Mr. INSLEE. I will just tell you one Congressman's reaction, and I have not thought a lot about this, but my reaction is that the cases where prosecutors are going to really want more than 6 months of jail time, or we would, are probably going to involve some element of wantonness and substantial destruction, where I think we probably already have, my sense is, an ability to charge.

And I really do have a concern of weakening our ability to enforce these laws if we get into this situation. I think we should talk to DOJ about this to see whether my concern is a valid one or not.

I guess the other question that I have is as far as a thousand dollars, we have a ticket program that has been really effective in Washington, and I think the fine is $100, I think, or $200. I am not sure. Is there any sort of empirical research on what number

you need to get to have an impact on people's consciousness about simple things like this? Is it $1,000 or is it $200?

Mr. PARKINSON. I am not aware of empirical research. There may be some out there, and we will take a look, and if we identify it, we will certainly present it to the Committee. I would like to just comment on your observations.

Certainly as a prosecutor, a prosecutor would certainly be most interested in those fires that are willfully caused. But I think that this really addresses a need to take seriously those fires that are caused not necessarily because somebody was engaged in arson, but in those situations where there is a willful violation of existing fire regulations.

And I would not want to minimize those kinds of offenses, and certainly this structure would put them in a far different category than arson, and so you have a maximum of a year in prison, but it certainly—I just would not want to minimize the carelessness and the damage that is caused by violations of existing regulations.

Mr. INSLEE. So could we solve that problem by just raising the level of the collateral forfeiture statute to 200 or some number, and not change the incarceration number?

Ms. ESTILL. Well, currently there are about 86 Federal District Courts that establish that collateral level, and the Forest Service, as an example, has the ability to request a level, but it is finally the court's decision.

Mr. INSLEE. Is it possible if my concern turns out to be valid about the incarceration issue, then triggering a jury trial, we can set a higher fine without changing the incarceration schedule, can we not? We could do that?

Mr. PARKINSON. Yes, we certainly could do that. By changing this to a 1-year misdemeanor, you do increase—there is a technical glitch here that I am sure was unintended, which appears according to the Justice Department's preliminary views on this, appears to set both a minimum and a maximum.

Mr. TANCREDO. If the gentleman would yield.

Mr. INSLEE. Yes.

Mr. TANCREDO. Yes, that is accurate, there was a drafting error, and it is addressed by the amendment.

Mr. INSLEE. By the technical amendment.

Mr. PARKINSON. But once that is rectified, which I am sure that it will be, that takes the maximum fine into the $100,000 range.

Mr. INSLEE. One more question, Mr. Chair, and maybe Mr. Tancredo could help. Is DOJ not kind of cooperating in this? I am told that they were invited to this and declined to attend. What is the situation here? Can anyone help us on this?

Mr. RENZI.: I am told the gentleman's statement is accurate. They were invited.

Mr. INSLEE. OK. Thank you.

Mr. RENZI. I thank the gentleman from Washington. Let's do this. Let's adjourn temporarily for votes, and come back so that we don't have to rush, and let the author of the bill have his time for questions. We have three votes, and we are temporarily adjourned. Thank you.

[Whereupon, at 12:55 p.m., the Subcommittee recessed, to reconvene at 2 p.m. the same day.]

Mr. TANCREDO. [presiding] The Subcommittee will come to order. Thank you very much for waiting through this process, and I apologize for the many inconveniences, but both of you have been around here long enough to know that is how it works. I have a question.

Well, I should say first of all that a number of the questions that arose earlier in the discussion of the bill I believe have been addressed by the amendments that we have proposed for the bill.

Others we are certainly willing to discuss with you. One of the questions that I have though, Mr. Parkinson, specifically, is that part of the bill that does direct the use of the fees, and allows for their distribution in various ways to cover the costs of any improvement to reimburse affected agencies, and increase public awareness, what is your impression of the efficacy of having that kind of a provision in the bill. I mean, does that help or does that hinder the efforts.

I will tell you on the front end that my purpose in doing that originally, putting that in there, was to first of all make sure that we get as much publicity of this change in statute, or change in law, as possible, because that is the deterrent effect that we are hoping for.

And second to help the agency, or to give the agency a little bit of incentive I guess to pursue these things aggressively, and that is why I was doing it that way. Now, I know that there is some concern that has been raised about PAGO and that sort of thing, but I just would like your impression.

Mr. PARKINSON. My impression is that providing an agency incentives to do this kind of thing is a good thing, particularly when it comes to public awareness, and that is one of the provisions in the statute, because that is a significant part of deterrence obviously, is educating the public.

I think conceptually that it makes a lot of sense to directly have collected fines go into those kinds of efforts. What it does do, and it is beyond me, it does raise a precedent issue that I think the Administration as a whole is a little bit concerned about, at least concerned about taking it a little bit slowly.

I know that the whole PAGO provisions, and not just in this statute, but those kinds of proposals in other arenas, does cause the Administration some general concern at broader levels. So I feel obligated to say that, and they are certainly beyond my expertise to opine about how of a precedence this might set for other areas.

Mr. TANCREDO. You will note that in the—and, Elizabeth, do you have any comments?

Ms. ESTILL. I would agree with that. There has been precedent for returning fines to agencies, and typically the experience is that does work really very well in education and performance. So from that perspective, we like that.

Mr. TANCREDO. Thank you. I don't know if you had a chance to look at the amendment that I have provided for this bill. Do you have a copy?

Mr. PARKINSON. I have not seen that. I don't believe that either one of us has. I know that there was one floating.

Mr. TANCREDO. Maybe I could ask the staff to get it to you right away, and just have you quickly—I certainly understand that you

don't have time to review it in-depth. But we changed the language specifically dealing with the term of potential imprisonment.

And we use the language, "Whether in conjunction with or in lieu of imprisonment authorized by such sections." Then that should not, at least as we understand it, that should not change the present situation. They could still—the Park Service could still—I mean the Forest and Park Services both still use the Class A.

Excuse me, the Class B for the Forest Service and Park Service, and Class A for BLM, and that would therefore not change anything. I have no other questions, and since no one else is here to ask you questions, I guess that must mean we are finished.

Mr. PARKINSON. Thank you, Mr. Chairman.

Mr. TANCREDO. Thank you very much. I sincerely appreciate your testimony today and again I apologize for having to have you hang over here.

Mr. TANCREDO. OK. I would like for the witnesses who are here for H.R. 1651 to please join us. Mr. Radanovich will be here in just a moment to present his bill.

As I said the sponsor of the bill, Mr. Radanovich, will be here shortly. We have Mr. Bob Glassman, property own; and Mr. Jan Perkins, Chairman of the National Advancement Committee, the National Council of the Boy Scouts of America; and Mr. John R. Fielder, of Southern California Edison. Mr. Radanovich has joined us, and we will go to Mr. Radanovich for an opening statement.

STATEMENT OF HON. GEORGE RADANOVICH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. RADANOVICH. Mr. Tancredo, thank you very much. I apologize for being late. We are in a Medicare Mark-Up across the street in Commerce. But I appreciate the Subcommittee on Forests and Forest Health for holding this hearing on my bill, H.R. 1651, the Sierra National Forest Land Exchange Act of 2003.

And I first want to welcome my constituents who are testifying here today; Mr. Bob Glassman, Mr. Jan Perkins, both of whom are residents of my congressional district in Fresno, California.

The bill that we are here to discuss would complete a land exchange between Mr. Glassman and property now owned by the Forest Service within the Sierra National Forest. The Forest Service has a strong desire to obtain Mr. Glassman's parcel, which is an 80 acre in-holding within the Sierra National Forest.

Upon completion of the land exchange with the Forest Service, my bill states that Mr. Glassman will convey the newly acquired land parcel of 160 acres to the Sequoia Council of Boy Scouts.

The Boy Scouts have operated a recreational camp on a portion of this land for over five decades. Thousands of scouts use the camp each year to experience outdoor activities. Owning the property will allow the Sequoia Council of the Boy Scouts to make improvements to the facilities located on this land, and thus allowing the scouts to provide a continued outdoor learning experience for young men.

Recently, Southern California Edison approached me with some concerns that they have about this bill. Edison owns and operates a hydroelectric facility at Shaver Lake, partially located on the current Forest Service land to be exchanged under H.R. 1651.

Specifically, Edison wants to ensure that it can continue to operate its hydroelectric facility in the same manner that it does now once the land exchange takes place. I understand Edison's concerns, and as a strong supporter of hydroelectric power, I want to make certain that their interests are protected.

My bill as written has a provision under Section 2(b)(1) that states that the conveyance of the Federal land shall be subject to valid existing rights, and under such terms and conditions as the Secretary may prescribe.

This language was written in-part to guarantee that Edison's existing rights to operate the hydro facility are protected after the exchange. Now, I have discussed this matter with most of the witnesses testifying here today on this bill, and though a resolution has not yet been reached, I appreciate and commend the willingness of both parties involved to work toward an acceptable solution.

I encourage them to consider to continue along this vain, and offer any services that I or my staff can provide. Mr. Chairman, thank you again for holding this hearing, and I look forward to listening to the testimony of my constituents, the witnesses.

Mr. TANCREDO. Thank you, Mr. Radanovich. We will go right to that testimony.

We will recognize Ms. Estill.

STATEMENT OF ELIZABETH ESTILL, DEPUTY CHIEF, PROGRAMS, LEGISLATION AND COMMUNICATIONS, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Ms. ESTILL. Thank you again for inviting me to appear before the Forest Service to testify on a very important bill. H.R. 1651 authorizes the exchange of 160 acres of Federal land on the Sierra National Forest in California, with 80 acres of non-Federal land, within a year.

A portion of the Federal parcel is subject to an existing Federal hydropower license. The Department supports H.R. 1651 as introduced. The bill will provide for the exchange of a private end-holding for two isolated parcels of Federal land, thus improving management efficiency for the Sierra National Forest.

The bill specifies the value of the Federal land to be $250,000 and the value of the non-Federal land to be $200,000. H.R. 1651 gives the Secretary the authority to accept a cash equalization payment in excess of the 25 percent value of Federal land.

These funds shall be available for the acquisition of lands and interest in lands for the National Forest System in the State of California. The conveyance is subject to a condition that the recipient of the Federal land will agree to convey the land within a time period agreed to by the Secretary and the recipient to the Sequoia Council of the Boy Scouts of America. A conveyance will also be made subject to valid existing rights, including a provision to ensure the continued operation of the FERC license held by Southern California Edison. We understand that one or more amendments to this bill may be under consideration by the sponsor.

We would like to work with the Subcommittee to provide our comments on any proposed changes to the bill. This concludes my statement. I will submit the entire thing for the record.

Mr. TANCREDO. Thank you, Ms. Estill.

Mr. Glassman.

STATEMENT OF ROBERT GLASSMAN, PROPERTY OWNER

Mr. GLASSMAN. Good afternoon. My name is Robert Glassman. My wife, Linda, and I are parties to the proposed land exchange. We purchased the 80 acres inside the Sierra National Forest in 1997 for the sole purpose of exchanging it with the USDA for their small lake front Chawanakee land that is part of our larger Boy Scout camp, located at Shaver Lake, California.

The Boy Scouts have had their summer camp at that location for over 50 years, and it serves Boy Scout organizations throughout the State of California. The Scout Camp utilizes only a small portion of the 160 acres being acquired, but we require the entire 160 acre parcel so that the camp can exist even if Shaver Lake is abandoned in the future.

My wife, Linda, and I have been active volunteers in the Sequoia Council of Boy Scouts of America for 15 years. I have served on the Executive Council of the Board all of that time. Both of our sons are Eagle Scouts and successful young men.

We are convinced that their experience in the Boy Scouts taught them many skills and gave them the leadership traits that have led to their successes. Our 25 year old son, Rodney, is both a Ph.D. student at the University of Arizona, and is currently a legislative aide for Congressman Raul Grijalva.

Our 18-year-old son, Jeremy, is a sophomore in Electrical Engineering at Arizona State University. We both know the experience of being Boy Scout parents. The Forest Service staff approved this Boy Scout Camp land exchange tentatively in 1995. Linda and I then purchased the land outside the National Forest for the Scout Council in 1997, and initiated the transaction in 1998.

We negotiated in good faith through 2001, but the transaction was terminated for a technical easement problem. The Forest Service, who also wanted the exchange to go forward, suggested that we contact our Congressman, and proceed with this bill to complete the exchange.

We then contacted Congressman Radanovich, and worked out the appraised values with the Forest Service to our mutual satisfaction. It was determined that the consolidation of the 80 acre inholding further north in the mountain for the Forest Service Shaver Lake parcel that is not in the National Forest was in the public interest.

We have spent the last 2 years working together with the U.S. Forest Service to create a bill acceptable for both the government and the Sequoia Council of the Boy Scouts of America, who will receive the deed to the camp land as part of the exchange.

All three of our local Congressmen support our exchange. A few weeks ago our Congressmen received calls from Southern Cal Edison, who operate the hydroelectric power plant on Shaver Lake, and own all of the remaining undeveloped land on, in, and around the lake. Many thousands of acres.

Several years ago, I was frightened by a written offer by Southern Cal Edison to acquire our Forest Service Camp land, and by their prior submittal for a Fresno County general plan amendment

which would replace the entire Boy Scout camp with residential housing.

FC has recently told us that their only current concern is if this small, mostly under water, land parcel is exchanged, and their ability to operate their power plant might be somehow negatively impacted.

Based on a June 17th, 1998 letter from the U.S. Forest Service to Congressman Radanovich, we always understood that he Forest Service would have placed appropriate conditions on the exchange, providing for the continued use by FC of the lake so long as there was a lake, and they operated the hydroelectric system.

After the land exchange is completed, our Scout Council can continue to invest significantly locally raised funds in our camp. We are in the process of installing a new water and sewer system to enhance environmental quality, and we continue to do that.

This land trade is very fair to all concerned parties. As required by law, both trade properties have been appropriately valued by the U.S. Forest Service approved third-party appraisers.

The exchange serves the public interest by in-filling the existing forest and trading away a small parcel that will never be part of the forest. We assure you that this proposed exchange has been subjected to the precise rigorous process that all trades should be required of in public interest land.

I want to personally thank the Forest Service staff that helped make this day possible on behalf of my family and the other volunteer members of our Executive Council of the Boy Scouts. Thank you.

[The prepared statement of Mr. Glassman follows:]

Statement of Robert Glassman on H.R. 1651, Sierra National Forest Land Exchange

My name is Robert Glassman. My wife Linda and I are parties to the proposed Land exchange. We purchased the 80 acres inside the Sierra National Forest in 1997 for the sole purpose of exchanging it with the USDA for their small lakefront Chawanakee land that is part of our Boy Scout Camp, located at Shaver Lake, California. The Boy Scouts have had their summer camp at that location for over 50 years and it serves Boy Scout organizations throughout the State of California. The Scout camp utilizes only a small part of the 160 acres being acquired, but we need the entire 160-acre parcel so that the camp can exist even if Shaver Lake is abandoned in the future.

My wife Linda, and I have been active volunteers in the Sequoia Council Boy Scouts of America for 15 years. I have served on the executive council of the Board all of that time. Both of our sons are Eagle Scouts and successful young men. We are convinced that their experience in the Boy Scouts taught them many skills and gave them the leadership traits that have led to their successes. Our 25-year-old son, Rodney, is both a PhD. Student at the University of Arizona and a Legislative Aide for Congressman Raul Grijalva. Our 18-year-old son, Jeremy, is a sophomore in Electrical Engineering at Arizona State University. We know first hand the benefits of being Boy Scout parents.

The Forest Service staff approved the Boy Scout camp land exchange proposal in 1995. Linda and I purchased the land inside the National Forest, for the Scout Council, in 1997 and initiated the transaction in 1998. We negotiated in good faith thru 2001 but the transaction was terminated for a technical easement problem. The Forest Service, who also wanted the exchange to go forward, suggested we contact our Congressman and proceed with this Bill to complete the exchange. We then contacted Congressman Radanovich and worked out the appraised values with the Forest Service to our mutual satisfaction. It was determined that the consolidation of the 80 acre "inholding" (Summit 80) for the Forest Service Shaver Lake parcel, that is not in the National Forest, was in the Public interest.

We have spent the last two years working together with the USFS to create a Bill acceptable to both the Government and the Sequoia Council Boy Scouts of America who will receive the Deed to the Camp land as part of the exchange. All three of our local Congressmen support our exchange. A few weeks ago, our Congressman received calls from Southern California Edison (SCE), who operate the hydroelectric power plant on Shaver Lake and own all of the remaining undeveloped land on, in, and around the lake, many thousands of acres. Several years ago, I was frightened by a written offer by SCE to acquire our Forest Service camp land and by their prior submittal for a Fresno County general plan amendment which would replace the entire Boy Scout camp with residential housing. SCE has recently told us their only current concern is if this small mostly underwater land parcel is exchanged, their ability to operate their power plant might somehow be negatively impacted.

Based on a June 17, 1998 letter from the United States Forest Service to Congressman Radanovich, we always understood that the Forest Service would have placed appropriate conditions on the exchange providing for the continued use by SCE of the lake, so long as there was a lake and they operated their hydroelectric system.

After the land exchange is completed, our Scout Council can continue to invest significant locally raised funds in our camp. We are in the process of installing new water and sewer systems to enhance the environmental quality of both the land and the outdoor scouting experience for over 4,000 boys each year. We hope to build new dining facilities and renovate all of our campsites. Our fund raising efforts will now have a more solid footing based on our ownership of the important lakefront property. I have been assured by SCE that they will continue to lease the balance of our camp land for use by the Boy Scouts unless or until they decide to sell their property. If that occurs, we will raise the funds, as we have now, to purchase that property for our Scout camp.

This land trade is very fair to all concerned parties. As required by law, both trade properties have been appropriately valued by USFS approved third party appraisers. The exchange serves the public interest by infilling the existing National Forest with the single 80 acre parcel not now included in that area of the forest and trades out a smaller parcel that has no current or future value to be included in any National Forest. We assure you that this proposed exchange has been subjected to the precise rigorous process that should be required for all public interest land exchanges.

I want to personally thank the Forest Service staff that helped us make this day possible on behalf of my family and the other volunteer members of our executive council of the Sequoia Boy Scout board.

Mr. TANCREDO. Thank you, Mr. Glassman.

Mr. Perkins.

STATEMENT OF JAN T. PERKINS, ESQ., CHAIRMAN, NATIONAL ADVANCEMENT COMMITTEE, THE NATIONAL COUNCIL OF THE BOY SCOUTS OF AMERICA

Mr. PERKINS. Mr. Chairman and Committee Members, we appreciate you inviting us here to testify in support of H.R. 1651. We would also like to thank Congressman Radanovich, Congressman Dooley, and Congressman Nunez, for their sponsoring of this legislation.

I am Jan Perkins, from Fresno, California. I am an attorney practicing law there. For the past 28 years, I have been a Boy Scout volunteer, currently serving on the Executive Board of the local council, the Sequoia Council of the Boy Scouts of America, and also serve as the Chairman of the National Advancement Committee of the Boy Scouts of America.

I am here today to testify on behalf of both the National Council of the Boy Scouts of America and the Sequoia Council. Currently, the National Council supports more than 300 local councils, which like the Sequoia Council in Fresno, advance the scouting mission and vision.

The Sequoia Council exists to provide an educational program for boys, and to help instill within them the ability to make ethical choices. This program uses the outdoors, adventure, and fun, to build character, train responsible citizenship, and develop personal fitness.

The service area of the Sequoia Council includes the Fresno, Madera, Kings, and Tulare Counties in Central California. The Council currently has 10,000 youth members, and approximately 3,500 adult volunteers.

The Council has been designated as a quality council by the National Council of the Boy Scouts of America. For the past 55 years, as has already been indicated, the Council has operated a long term camp on the shores of Shaver Lake. The camp is known as Camp Chawanakee.

And we prepared a map over there so that you can get a look at it, and the numerous camping sites. As you might guess, this camp is extremely important to the Council's ability to provide programs to the youth.

Over the past few years the camp has provided a camping experience for thousands of the residents of the San Joachim Valley, and in the past 10 years, as circumstances have required other camps to close, Camp Chawanakee is evolving into a regional camping facility.

Indeed, last year 40 percent of our campers came from the Central Valley of California, and 28 percent came from Northern California, and 38 percent from Southern California, and the balance from Arizona and Nevada.

Camp Chawanakee currently sits on two parcels of land. One parcel is leased to the council by the current Federal licensee of the Hydroelectric Project, Southern California Edison. The second parcel, which is the subject of H.R. 1651, is currently licensed to the council by the United States Forest Service.

As has been indicated, Mr. and Mrs. Robert Glassman have for the benefit of the Sequoia Council, been negotiating a land exchange with the Forest Service. Under the terms of that exchange, Mr. and Mrs. Glassman will transfer an 80 acre parcel which they own, and which is located in the Sierra National Forest, to the Forest Service in exchange for the land that the Forest Service owns and currently licenses to the Sequoia council.

Mr. and Mrs. Glassman will then immediately transfer the Shaver Lake property to the Sequoia Council. Ownership of this property and fee by the council will be a great benefit. It will allow the council to continue to maintain existing improvements and giving an impetus, because they know that those improvements will remain there.

And it will also help ensure that the council will be able to continue to provide outdoor camping and learning experiences in some form into the future. We have been contacted by Southern California Edison. They seem concerned that the proposed transfer might in some way interfere, although we don't fully understand how, with their operation of the hydroelectric facility.

Given the Forest Service's conditions to the transfer and what has been testified to today, the council just does not understand how there could be a problem. We believe that the Radanovich-

Dooley-Nunez legislation expressly protects the existing rights of all parties affected by the exchange, including the hydroelectric project of Southern California Edison.

However, let me assure the Committee that Congress and the SCE that it is not the intent of the Sequoia Council, nor will it ever been the intent of the Sequoia Council, to interfere in any way with the current licensee's operation or any further licensee's operation of the hydroelectric facility at Shaver Lake.

Our only intent is to continue to serve youth by helping to develop character, responsible citizenship, and personal fitness through the outdoor programs offered at Camp Chawanakee. Congress has expressed a similar intent in the National Forest Organizational Camp Fee Improvement Act of 2003, which is Public Law 108-7, where they said that organizational camps such as those administered by the Boy Scouts, Girl Scouts, and faith-based and community-based organizations, provide a valuable service to young people, individuals with disabilities, and their families by promoting physical, mental, and spiritual health through activities conducted in a natural environment.

We urge the passage of H.R. 1651 as a means of upholding the expressed intent of Congress, and to allow the Sequoia Council to continue to serve the youth of its service area. Thank you.

[The prepared statement of Mr. Perkins follows:]

Statement of Jan Perkins, Esquire, on behalf of the National Council of the Boy Scouts of America, Chairman of the National Advancement Committee, The Sequoia Council of the Boy Scouts of America, Vice President and Executive Board Member, on H.R. 1651

Introduction

Thank you, Mr. Chairman, for inviting me to testify before your Subcommittee on H.R. 1651, the Sierra National Forest Land Exchange Act of 2003. I also want to express my gratitude and thanks to Congressman Radanovich, Congressman Dooley, and Congressman Nunes for leading this effort for the Boy Scouts of America (BSA).

I am testifying today on behalf of the National Council of the Boy Scouts of America, for which I am the Chairman of the National Advancement Committee. I am also representing The Sequoia Council of the Boy Scouts of America, for which I am the Vice President and an Executive Board Member. I have lived in Fresno, California for 30 years with my family, Peggy, Jennifer, Rebecca, Sarah, Michael, Robert, and Ryan. I was a Boy Scout as a youth, and have been involved in Scouting as an adult for the past 25 years. My three sons are all Eagle Scouts, and all four of us attended Scout camp at Camp Chawanakee. I am truly honored to sit before you today to speak about Scouting, Camp Chawanakee, and the generous land exchange that will help Scouts in my home town, throughout California, and across the Western United States.

The Sequoia Council

The Sequoia Council is a 501(c)(3) not-for-profit organization. We offer the educational, value-driven program of the BSA to different age groups, from 1st Grade to adulthood. The Sequoia Council has a history of more than 80 years of helping to shape and mold the values and character of youth in the Central Valley of California. The organization continues to help strengthen youth, families, and communities through comprehensive programs for its members.

The Sequoia Council is a service area within the BSA that covers Fresno, Madera, Kings and Tulare Counties in California. We serve over 10,000 youth members, their parents, and the 3,500 adult volunteers who volunteer their time to Scouting. A map of our service area is attached to this testimony. The Council is further divided in Districts, which are service areas run by a committee of volunteers and counseled by a full-time District Executive. District volunteers service the units by providing advice and training, maintaining membership growth, promoting camping, raising money for even better service, providing programs such as camporees, rec-

ognition dinners, day camps, "together-we-plan" conferences, and promoting the good Boy Scout name within the community.

Scouting Promotes Healthy Development

As a former Scout yourself, you know that the extensive nature of BSA's Cub Scouting, Boy Scouting, and Venturing programs allows the organization to address six critical elements of healthy youth development.

- Strong personal values and character: Specific character-related values that parents see communicated through Scouting to their children include respecting the environment, staying away from drugs, helping at home, learning moral values, learning self-reliance, becoming involved in community service, meeting important physical and emotional needs, and developing empathy with other people in need.
- Positive sense of self-worth and usefulness: Scouting provides youth with a safe, friendly environment, a sense of belonging, involvement in community service, improved self-esteem through goals setting, and an atmosphere of teamwork.
- Caring and nurturing relationships with parents, other adults and peers: Scouting programs provide positive role models and encourage family togetherness. Scouts receive encouragement to do their best by a leader. Scouting parents and their children do projects together. They read together. Scouts talk to their parents about what they learn
- A desire to learn: Scouting programs provide youth the opportunity to develop new interests, build reading skills that are the foundation for higher learning, and do things they have never done before, often because they didn't have the opportunity.
- Productive/creative use of time: Scouting allows youth to constructively use their time in child-centered learning activities such as art, music, theater, and religion. Boys overwhelmingly cite the Scouting program activities as the key reason for joining scouting. A clear majority of parents of Scouts say that Scouting is a positive alternative to watching TV and playing video games.
- Social adeptness: Scouting helps youth develop social skills and competencies by providing opportunities for them to plan and lead activities, work in groups, and interact with youth of different racial and ethnic backgrounds. In a year's time, a majority of parents report that the program helped their children to respect the feelings of others, learn social skills, learn to be a team player, participate in democratic decision making, and resolve conflicts with peers.

In 2000, BSA celebrated the welcoming of its 100 millionth Scout. Scouting has served and will continue to serve a significant portion of America's youth.

Public Service

Scouting also instills in its participants—youths and adults alike—a strong sense of public service. In May of this year, BSA and the Department of Homeland Security (DHS) announced a partnership to promote preparedness in both youths and adults. Building on DHS's Ready Campaign, Scouting participants will go through age-specific training for individual, family, and unit preparedness.

In February 2003, the BSA and the American Red Cross signed a first-ever agreement between the two organizations that will enable more youth and adults to "be prepared" for lifesaving situations in their local communities. Local BSA councils, in conjunction with local Red Cross chapters, will train and certify BSA volunteers to teach potentially lifesaving courses in first aid, CPR, emergency response, and lifeguard training.

Answering President George W. Bush's call for each child in America to earn or give $1 to be used for providing food and medical help for the children of Afghanistan, the BSA fully endorsed the effort. Previously, during World War II, the Scouts collected almost two billion pounds of metal, rubber and other materials for the war effort and sold more than $1.957 billion in war bonds. Scouts more recently completed more than 200 million hours of community service working with America's Promise. Since the tragedies of September 11, Scouts have supported hundreds of local efforts to assist those in need.

In the next few years, the National Park Service will be the recipient of one million hours of volunteer service through the Presidents' Summit for America's Future and the BSA. The Summit is aimed at bringing America to a new level of commitment to volunteer service. The project is a small part of the 200 million service hours pledged to America from the BSA.

Scouting and Congress

I have provided with this testimony a letter from the Boy Scouts of America endorsing H.R. 1651, which includes a list of Members of the 107th Congress who are now or were involved in Scouting. When the list was compiled, more than 50

percent of the Members serving had participated in Scouting. We believe that this is not just a coincidence. The values that Scouting instills in youths, their families, and our volunteers have a very real impact on our society.

Services Provided by the Sequoia Council

The Sequoia Council provides a wide array of necessary services to the youth and units within our Council. Most families realize that it costs $20 to $50 to keep their child in Scouting for a year. The Sequoia Council spends an additional $125 to $175 per year in support of each youth in our council. The Council provides professional staff and office support staff services, two service centers, liability insurance for adults and accident insurance for youth, training for adults, camping opportunities (which is the focus of H.R. 1651), including a Cub Scout day camp, program equipment for camps, recognition and awards, a Trading Post, advancement and training records, and special activities.

As a not-for-profit organization, we rely heavily on user fees and charitable contributions to provide our services. Camping and activities provide forty-five percent of our revenue. Donations provide another 26 percent. Sales of products account for 12 percent, and the balance comes from endowments, special projects, and the United Way.

Our revenues are returned to the Scouts, their families, and our community. Summer camp and activities use 45 percent of our revenue. Direct service to units uses another 43 percent. Fundraising and administration use the balance.

We serve our 10,000 Scouts with 12 professional staff members, a Board of Directors comprised of adults and youths, and a number of committees that oversee the overall operation of the council in accordance with the national directives.

Camp Chawanakee

This year, the Sequoia Council will have operated Camp Chawanakee on the shore of Shaver Lake, in Fresno County, California, for 56 years. In that time, Camp Chawanakee has provided great adventure and environmental learning opportunities for scouts and the council and has evolved with hundreds of thousands of dollars of improvements.

In recognition of our benefit to the community, the Fresno County Board of Supervisors issued a proclamation in December 2002 calling for the preservation of the camp. A copy of that proclamation is included with my testimony.

Camp History

Camp Chawanakee sits among towering pines on a peninsula that is fondly referred to as "The Point." Conservation efforts that began in the 1950's have preserved Camp Chawanakee and have turned what used to be a muddy little creek into a flower studded meadow, framed by ferns and filled in with several species of grasses. These conservation efforts include an expansion of our recycling program, drastic reduction in the use of disposable eating equipment and a stepped up emphasis on low impact camping.

Opening of the Camp was made possible by the use of World War II surplus, including a jeep that was used until 1980. The original camp was located above today's rifle range, which itself, is the old camp parking lot. Each site had its own waterfront, evidence of which can still be seen today in the form of old docks and boards from towers that occasionally wash up on shore.

The Point was not utilized as a program and camping area until the late 1970's. Originally the Point was known as "Woodbadge Point," because that was the premier area for Woodbadge training in the area. Baden Powell Lodge was built as a dining hall and training facility. The lodge was remodeled in 1994–95 into a scoutmaster's lounge, meeting room, medical facility and volunteer housing. The area that is now used as the medical facility once served as the Camp Trading Post and Handicraft Area. A map of the camp land leased from the Federal licensee is included with my testimony.

The camp has developed many traditions over the last 50 years. The most pronounced is the Tribe of Chawanakee. This is a service organization for boys and adults of all ages. Other traditions include a high quality program in a pristine setting, and weekly campfires that some consider to be the best show in the Western Region of the Boy Scouts of America.

Conservation

Camp Chawanakee is a leader among Boy Scout camps in the area of conservation. The present day meadow was originally a muddy little creek and wash. Due to concerted efforts by scouts in the 1950's and 1960's, the wash was fitted with water holding logs, which in turn encouraged the lush plant growth that we now see as we enter the main camp area. A recycling program was implemented in the

late 1980's. In 1997 the camp adopted the "emergency use only" policy on disposable eating equipment.

Programs

The camp has adopted many programs over the years. Originally the camp focused on the waterfront, high adventure and wrangler programs. Since then, the camp has evolved into a center for all scouting activities including younger boy programs as well as older boy programs. The horse program was dropped in the 1960's but revived in 1991. Project C.O.P.E. (Challenging Outdoor Personal Experience), an outdoor program stressing personal fitness, was added in 1987 to challenge the older boys to new heights. The "Trail to First Class" was added in 1991 to help younger scouts advance through the early ranks of scouting. The Mountain Man program was added in 1991. The purpose of this program was to teach outdoor survival skills to scouts. Kayaks made their appearance at our waterfront area in 1997. The Mountain Bike program came in 1999. In 2000, a high adventure program called Leave No Trace made its debut for older scouts.

Camp Chawanakee changed to the patrol site method of camping in 1995, in order to promote the Scouting way. The patrol method lent itself to a return to family style feeding, patrol competition and a feeling of togetherness. Camp Chawanakee's program now ranks as one of the most comprehensive in the nation.

While many other camps in California have closed in recent years, Camp Chawanakee has grown to become one of the premier scouting camps in the nation. It provides a beautiful setting, an ideal altitude, a central location, a tradition of exceptional programs, and a quality staff that maintains and operates the camp.

Camp Users

Camp Chawanakee is open year round to scouts, church and service organizations, businesses and other community groups. Over the years, well over 250,000 youths and leaders from California, Nevada and Arizona have attended Camp Chawanakee; recently, summer camp attendance has exceeded 3,000.

Our participants come from all over the State of California. While the largest percentage of participants (40 percent) come from the Central Valley, we also draw large numbers from Northern (28 percent) and Southern California (38 percent). Scouts from Nevada and Arizona are frequent participants in our programs. The Council's goal is to make Camp Chawanakee available to Scouts from all over the Western United States.

Continued Improvements

The Sequoia Council is currently making further improvements Camp Chawanakee to enhance public safety and first responder services, to expand sanitation and dining facilities, and to improve the Camp's facilities for younger campers and their families. As one example of our plans, we are currently included in the State of California's Multiyear Project Priority List for a $250,000 Safe Drinking Water State Revolving Fund grant for a 60,000 gallon water storage tank and pipeline.

Camp Lands

Camp Chawanakee sits on two parcels of land. The Sequoia Council has a Special Use Permit from the United States Forest Service (USFS) for use of approximately 2–2/3 acres of an approximately 160-acre plot of Federal land. Since the Camp's inception, the Council has also leased approximately 110 acres from the current Federal licensee of a hydroelectric project located on Shaver Lake, in Fresno County, California. The Federally licensed hydroelectric project on Shaver Lake is partially located on the Federal land proposed for conveyance. Other parts of the project are located of privately held lands.

On this land, the Sequoia Council has built facilities to provide equestrian opportunities, a 52 foot climbing wall, fishing, tomahawk and firearm ranges, sailing, a ropes course, canoeing, kayaking, swimming and snorkeling, and motorboating. The Camp has 22 camp sites as well as a director's cabin, a warehouse, water tanks, and other improvements.

H.R. 1651

Congressman George Radanovich, of Mariposa, has led the effort to authorize the land exchange since July 2002 when he introduced H.R. 5302 in the 107th Congress. Congressman Cal Dooley, of Visalia, joined Mr. Radanovich as a cosponsor in October 2002. In the 108th Congress, Congressman Devin Nunes, of Pixley, joined the effort as an original cosponsor with Messrs. Radanovich and Dooley in January 2003. After extensive and very close collaboration with the USFS, the legislation was revised and reintroduced by all three of our champions in April 2003.

The purpose of the legislation is to provide for the permanent enjoyment by the Boy Scouts of America of the Federal land to be exchanged for privately held lands within the Sierra National Forest.

Background

In the early 1990s, the USFS decided that a land exchange involving an approximately 80-acre inholding within the Sierra National Forest (Summit 80) would help it advance its Land and Resource Management Plan for the forest. The inholding is entirely surrounded by National Forest Service land, is habitat to wildlife, contains cultural resources, and, given its proximity to the Sierra Summit Ski Area, would likely be developed in the future.

In 1993, the Sequoia Council considered a land exchange to acquire the USFS land it uses under a Special Permit. At that time, the Council decided that it would be unable to complete such a transaction.

In 1997, Mr. Robert Glassman, a member of our Board of Directors, purchased Summit 80 for the express purpose of completing the land exchange with the USFS and transferring the Federal land to the Sequoia Council. That exchange is the subject of H.R. 1651.

Summary

H.R. 1651 directs the Secretary of Agriculture to convey approximately 160 acres of land to Mr. Glassman upon receipt of an offer of Summit 80 and a cash equalization payment. The conveyance is conditioned upon three factors:

- The protection and preservation of all existing valid rights, inclusive of the United States, Mr. Glassman, the Boy Scouts, and other affected parties not directly involved in the exchange;
- Mr. Glassman's subsequent conveyance of the Federal land to the Sequoia Council; and
- Any other terms and conditions that the Secretary may prescribe.

In conversations with the USFS, we understand that it would complete this transaction only after these requirements are fully met, as is the intent of Congress. When asked if the USFS believed that any additional requirements should be added to the legislation, we were informed that no additional requirement were necessary or needed.

H.R. 1651 assigns value to both pieces of property. According to the USFS, without the legislation the Federal land would be appraised at a significantly lower value. The legislation would require Mr. Glassman to pay to the Secretary the difference in value of the lands, or approximately $50,000. Those funds would then be available to the Secretary without further appropriation to acquire additional public land in California under the Sisk Act. Mr. Glassman would also be responsible for all direct costs associated with processing the land exchange

Benefit to the Scouts

We view the acquisition of this property as our version of the American Dream: we would become homeowners after half a century of renting. Shaver Lake currently inundates the majority of the land. However, if in the future Lake Shaver is drained, the Sequoia Council will be able to reclaim the land and expand our facilities further.

Access to Shaver Lake is critical for many of the programs at Camp Chawanakee. In many respects, Chawanakee is a water-focused camp. We offer fishing, sailing, canoeing, kayaking, swimming and snorkeling, and motorboating. We train Scouts and adults in water safety, conservation, and land-water border reclamation. As I mentioned earlier, a major camp project in the 1950s and 1960s reclaimed a wash area, stopping the erosion of the soil, and today we have a healthy meadow that benefits the camp and the community.

Federally–Licensed Hydroelectric Facility

Approximately 110 acres of Camp Chawanakee is leased from the licensee of a Federally licensed hydroelectric project. Chawanakee and the hydroelectric project have co-existed and complemented each other for over 50 years.

The Sequoia Council supports the continued operation of the project. The project enhances the camping experience of those who attend the Camp, and we hope the project continues to provide both camping benefits and low cost power to the State of California for years to come.

We understand that the licensee of the facility is concerned that H.R. 1651 may not adequately protect and preserve its rights to operate and maintain the project. We also understand that its license requires the licensee to acquire the "right of use in perpetuity" of all lands necessary or appropriate for the maintenance and operation of the project. The Sequoia Council has no intention to nor will it interfere

with the project's operation or maintenance. If H.R. 1651 is enacted into law, we would commit to working in good faith with the licensee to allow its use of the land in perpetuity on terms similar to those required by the USFS. Chawanakee would not be the same without Shaver Lake.

Summary

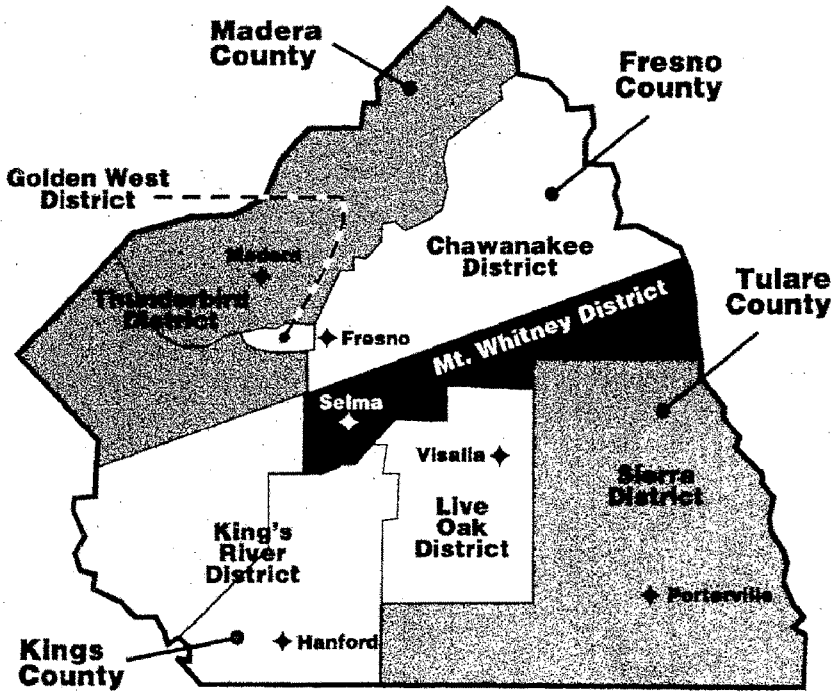
Camp Chawanakee has been the summer camp of hundreds of thousands of young Scouts, some of the Committee's members' staff among them. The enactment of H.R. 1651 will allow the Sequoia Council to continue to offer the same experiences and opportunities to Members of the 208th Congress and their staff. We recognize the concerns of affected parties not directly involved in the exchange, and we commit to you, Mr. Chairman, this Subcommittee, and Congress to ensure that the intent of the legislation, to protect and preserve all existing rights, is upheld.

Attachments

- Map of Sequoia Council Service Area
- Letter from the Boy Scouts of America endorsing H.R. 1651
- Fresno County Board of Supervisors Proclamation endorsing preservation of Camp Chawanakee
- Map of Camp Chawanakee

Sequoia Council Service Area

Serving over 10,000 Scouts, their Parents, and our Volunteers



BOY SCOUTS OF AMERICA

National Office
1325 West Walnut Hill Lane
P.O. Box 152079, Irving, Texas 75015-2079
972-580-2000

Roy L. Williams
Chief Scout Executive

June 17, 2003

The Honorable George P. Radanovich
U.S. House of Representatives
438 Cannon House Office Building
Washington, D.C. 20515

Re: **Support for H.R. 1651, Sierra National Forest Land Exchange Act of 2003**

Dear Congressman Radanovich:

The National Council of the Boy Scouts of America supports more than 300 local councils that provide quality youth programs, including Cub Scouting, Boy Scouting, and Venturing. The purpose of the Boy Scouts of America—incorporated on February 8, 1910 and chartered by Congress in 1916—is to provide an educational program for boys and young adults to build character, to train in the responsibilities of participating citizenship, and to develop personal fitness.

As a former Scout yourself, you know that the mission of the Boy Scouts of America is to prepare young people to make ethical and moral choices over their lifetimes by instilling in them the values of the Scout Oath and Law. To accomplish this mission, volunteer adult leaders serve at all levels of Scouting in more than 300 local councils, 28 areas, and four regions, and nationally with volunteer executive boards and committees providing guidance. Membership since 1910 totals more than 110 million. As of December 31, 2002, our membership was:

Tiger Cubs: 274,623	Cub Scout leaders: 562,927	Cub Scout packs: 54,256
Cub Scouts: 937,280	Boy Scout leaders: 522,398	Boy Scout troops: 44,789
Webelos Scouts: 788,575	Varsity Scout leaders: 24,071	Varsity Scout teams: 7,994
Boy Scouts: 943,096	Venturing leaders: 67,662	Venturing crews: 21,016
Varsity Scouts: 67,695	Council Scouters: 53,195	
Venturers: 315,296		
Total Youth: 3,326,565	Total Adults: 1,230,253	Total units: 128,055

I am proud to say that more than 50 percent of your colleagues in Congress participated in Scouting. A list of Members of Congress who participated in Scouting is attached to this letter.

The Oath of the Scouts expresses our core values: to do one's best; to do one's duty to God and country and to obey the Scout Law; to help other people at all times; and to keep one's self physically strong, mentally awake, and morally straight. We do our best to provide each individual Scout with the resources needed to reach these objectives.

Among our greatest resources are our campsites. Camping experiences provide more than just the fun of outdoor adventure. We have been serving the youth of America for more than 90 years. While our organization recognizes the importance of providing enjoyable experiences for youth, our program is designed to accomplish much more. Specifically, the Boy Scouts of America is committed to providing a program that comprehensively addresses the important elements of healthy youth development. The long-term goal is to prepare young people to achieve their full potential for happy and productive lives.

Scouts indicate that summer camp offers them the opportunity to participate in physically and intellectually challenging activities, introduces them to new and rewarding experiences, and provides them with supportive and caring relationships. In May 2001, Harris Interactive released a study that measured the extent to which camps deliver the elements of healthy youth development. The study inferred that positive outcomes of Scout summer camp occur because the environment and activities at camp incorporate all of the elements of healthy youth development.

Camp Chawanakee, in Fresno, California, is an excellent example of the healthy environment and activities that Scouting offers America's youth, their families, and their communities. Over the years, well over 250,000 youth and leaders from California, Nevada, and Arizona have attended Camp Chawanakee. Recently, summer camp attendance has exceeded 3,000 Scouts annually. While other camps in California have closed in recent years, Camp Chawanakee has grown to become one of the premier Scouting camps in the nation.

I applaud you, Mr. Nunes, and Mr. Dooley for sponsoring legislation that would assist the Sequoia Council in taking ownership of part of the land on which the camp sits. By authorizing the transfer of ownership of part of the camp land to the Boy Scouts, Congress will help to make Chawanakee an asset that youth for generations to come can enjoy and benefit from.

Thank you very much, Congressman, for your support for the Boy Scouts of America.

Sincerely,

Roy L. Williams

Roy L. Williams
Chief Scout Executive

RLW/zp
Attachments

PROCLAMATION

WHEREAS, Camp Chawanakee is a summertime recreational youth camping facility on Shaver Lake operated by the Boy Scouts of America for the benefit and enjoyment of the youth of Fresno County and surrounding areas; and

WHEREAS, Camp Chawanakee has been in continuous operation at Shaver Lake since 1949, annually hosting thousands of young men and women with their leaders at camps that provide training in citizenship, first aid, environmental science, leadership, self-reliance and community service; and

WHEREAS, for the past five decades, Camp Chawanakee has trained many of Fresno County's civic, business and academic leaders and continues to carry on this legacy to future generations; and

WHEREAS, the Boy Scouts of America have continued their commitment to this tradition by investing hundreds of thousands of dollars to improve infrastructure needs at Camp Chawanakee; and

WHEREAS, Camp Chawanakee is one of the finest Boy Scout camps in the Nation, and there is great concern that similar facilities are diminishing in number, quality and scope of programming; and

WHEREAS, the Camp Chawanakee experience is invaluable for the thousands who attend each year, providing instruction in community values, encouraging service and teaching respect for country, the flag, and the principles upon which free government is based; and

WHEREAS, Camp Chawanakee, our community's unique and treasured asset, is worthy of preservation and deserves our full encouragement in continuing its tradition of being a true resource to the youth of Fresno County.

NOW, THEREFORE, BE IT RESOLVED, that the FRESNO COUNTY BOARD OF SUPERVISORS, supports the efforts of the Boy Scouts of America, Sequoia Council, to preserve Camp Chawanakee as a full-time outdoor recreational area and encourages the continuation of their more than fifty years of historic citizenship, leadership, camping, aquatic and character building programs at Shaver Lake.

Bob Waste

CHAIRMAN, BOARD OF SUPERVISORS

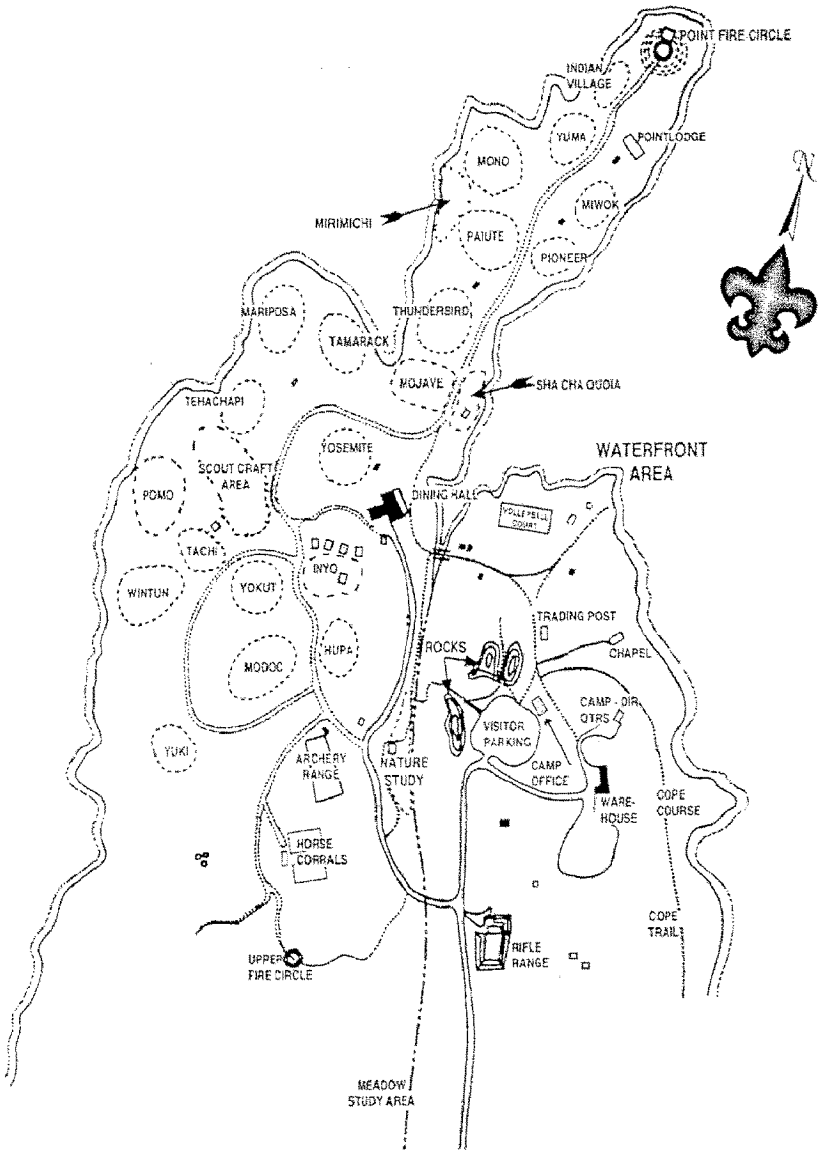
Susan Crombie

Susan B. Anderson

Judith G. Case

12/17/02

Camp Chawanakee
56 Years of Improvements to Service



Mr. TANCREDO. Thank you very much, Mr. Perkins.
Now, finally, Mr. Fielder.

STATEMENT OF JOHN R. FIELDER, SENIOR VICE PRESIDENT, SOUTHERN CALIFORNIA EDISON COMPANY

Mr. FIELDER. Thank you and good afternoon, Mr. Chairman, and Committee members. My name is John Fielder, and I am a senior vice president with Southern California Edison. We appreciate the opportunity to speak to H.R. 1651.

Let me begin by making our position perfectly clear, I hope. We support the transfer of this land to the Boy Scouts through Mr. Glassman, assuming that we can preserve the right that we currently have to operate the hydro facility located on Shaver Lake.

And from what I hear this afternoon, that should not be a problem. The amendments that we have proposed we believe do exactly that, and that is give us the rights in the legislation to continue to operate our hydroelectric facilities just as we have in the past.

Why is this important to Edison? We have operated our Big Creek Hydro Facilities since 1928. It produces about a thousand megawatts of electricity serving approximately a million homes in Central and Southern California.

All of the land associated with our hydroelectric facilities is either owned outright by Edison, or is licensed from the Forest Service under the authority of the Federal Power Act, and our FERC hydroelectric license.

The land transfer that is at issue in this legislation to the Sequoia Council will be the first time that a private owner will own property within our hydroelectric project boundaries, and so we are kind of plowing new ground in that regard.

We are concerned that a private party could change SCE's rights. The ownership by a private party could change SCE's rights with respect to the way that water is managed in the Shaver Lake area, particularly Shaver Lake, and thereby impair hydroelectricity.

But I think it is important to understand that of the 160 acres that are being transferred under this exchange, approximately 148 are basically in Shaver Lake. That is, that they are under water most of the time. So when you operate a hydrofacility, what we do through the operation of our dams, and our penstocks, and the tunnels in the area, is that we manage the water levels in the lakes to run through the power houses to produce the power.

And so any potential interference with the water usage through docks, or marinas, or any other kinds of usage that would impair our ability to use this water, could present a serious threat to our hydroelectric operation.

I am not sure—and what I have heard today is that there should not be any problem in resolving this issue because I understand everybody wants us to be able to operate our hydroelectric facilities, and nobody wants to encumber our rights.

We have had a long history with the Boy Scouts. This Camp Chawanakee that was mentioned, most of it is provided under a lease by Edison to the Boy Scouts, about 100 acres, and we have leased that to them for over 40 years.

The Boy Scouts are obviously responsible tenants, and it is a very camp ground, and there are thousands of Boy Scouts that have used it in the past, and we expect will use it in the future.

We have been talking to the Sequoia Council about a 10 year extension, and are even looking forward to talking about a 30 year

extension of this lease, which would guarantee the use of the camp ground at least for that period.

And I can tell you that in spite of a problem that we had with one of our map drawers that drew a map erroneously that showed this land being potentially developed, which is hard to imagine, we have no plans for that property in the foreseeable future.

So we think that using it as a camp ground for the Boy Scouts is a fine use of that property, and we are prepared to enter into a lease of up to 30 years. But specifically what do the amendments that we have proposed do? There are basically two.

One is that it imposes an easement. It asks that the Forest Service put an easement to preserve the rights that we currently have to operate the hydroelectric facilities and a deed restriction that mirrors that easement.

And we believe that this will accomplish what we have talked about doing; that is, to enable us to use the water in the lake without nay encroachment so that we can operate the hydrofacilities.

Second, since there is no provision in the bill as it exists today to prevent a private owner from subsequently reselling the land to another private owner, and I am not suggesting that the Boy Scouts would do that.

But with land, you have got to make these provisions explicit, and we have a provision that says if the Boy Scouts, Sequoia Council, in the future determine that they want to sell this land to another private party that Edison would have the right of first offer, so that we would be able to purchase the land back instead of having it go someplace else. That concludes my comments.

Mr. TANCREDO. Right on the money.

Mr. FIELDER. We urge the Committee to consider our amendments, and we look forward to answering questions.

[The prepared statement of Mr. Fielder follows:]

Statement of John R. Fielder, Senior Vice President, Southern California Edison Company, on H.R. 1651

Good morning, Mr. Chairman and Members of the Committee. I am John R. Fielder, Senior Vice President of Regulatory Policy and Affairs of Southern California Edison (SCE). SCE appreciates the opportunity to present testimony concerning H.R. 1651, the proposed conveyance of Federal land in the Sierra National Forest to the Sequoia Council of the Boy Scouts of America (Council).

SCE's purpose today is to express our support for H.R. 1651, provided that the bill is amended to ensure that SCE maintains the same ability it now possesses regarding the SCE-owned hydroelectric project located in part on the U.S. Forest Service (Forest Service)-owned land that is the subject of the proposed land exchange (the "Federal land"). Specifically, we request that the Congress amend H.R. 1651 to ensure that SCE continues to have the right to enter upon, occupy, and use the Federal land for hydroelectric project purposes as we do today. The Committee needs to specify in the law that the Council or any other non-Federal owner cannot interfere or prohibit SCE's existing rights to own, operate, and maintain the Shaver Lake reservoir for those power production purposes. Such amendments will ensure the continued operation of a reliable, renewable, and low-cost source of electricity for Central and Southern California residents, while allowing the Council to receive the Federal lands.

To provide context to my testimony, let me briefly explain SCE's role in operating the Big Creek Hydroelectric System.

Southern California Edison

SCE is the nation's second-largest investor-owned electric utility company, serving more than 11 million people within a 50,000-square mile area in Central and Southern California. Headquartered in Rosemead, California, SCE is a regulated public

utility that serves more than 4.5 million business and residential customers and has provided high quality, reliable electric service for more than a century.

Big Creek Hydroelectric System

SCE owns, operates, and maintains the Big Creek Hydroelectric System. This System consists of a series of dams, tunnels, powerhouses, and reservoirs tucked within the 1.3 million acre Sierra National Forest. A network of tunnels and penstocks connects six man-made lakes and many water diversions with the System's nine powerhouses. After producing enough power to serve one million homes, the water returns to the San Joaquin River, a major source of both municipal and agricultural water throughout the San Joaquin Valley.

The Big Creek System was originally envisioned in October of 1902 and has been producing power since 1923 to address the energy needs of Central and Southern California. While construction began in 1921, the Big Creek System expanded over the years to meet an increasing demand for electricity. Each new facility tapped the same water at different elevations, earning the System the reputation as "the hardest working water in the world." As engineered, the Big Creek System maximizes electricity production efficiency, producing up to 1,056 MW of clean, renewable energy. The System is located on National Forest land and SCE-owned land. SCE holds seven licenses from the Federal Energy Regulatory Commission (FERC) for Big Creek System operation. These FERC licenses give SCE the right to use the National Forest land (including the Forest Service-owned Federal land that is the subject of H.R. 1651) for hydropower project purposes.

H.R. 1651 provides for the exchange of land between the Forest Service and the Council. The land exchange will result in Council ownership of about 160 acres of property at SCE's Shaver Lake reservoir, with approximately 147.5 acres underwater in the lake and almost 13 acres of land along the Shaver Lake reservoir shore. The Federal land that is to be exchanged is part of Section 30, as shown on the map included as Attachment 1.

The Shaver Lake reservoir is an integral component of SCE's Big Creek System. Built by SCE in 1928, the reservoir covers 2,186 surface acres, and holds over 135,000 acre feet of water when full. Water released from the reservoir travels through a series of tunnels and penstocks generating power at four different powerhouses. Importantly, when Shaver Lake Reservoir is near capacity, SCE may operate the "pumped storage" aspect of the project. The Eastwood powerhouse is capable of pumping water back through the reservoir to another small reservoir at night, taking advantage of inexpensive power. Then, during the peak energy use hours the next day, the water returns to Shaver Lake reservoir through the Eastwood powerhouse generating 200 MW of low-cost, renewable hydropower. After leaving the SCE Big Creek System, the water continues its natural course down the San Joaquin River into the U.S. Bureau of Reclamation's Millerton Reservoir for distribution to central valley farmers, businesses, and residences.

Before initial operation of Shaver Lake reservoir in 1928, SCE purchased approximately 15,000 acres of privately held lands in the area, virtually all the land surrounding the Shaver Lake reservoir, including the vast majority of the land inundated by reservoir operations. The 147.5 acres of Federal land included within the proposed land exchange is owned by the Forest Service and constitutes less than seven percent of the total reservoir surface area. The Forest Service owned this property well before SCE commenced operations at the Shaver Lake reservoir. The Federal Power Act and the FERC license for Project No. 67 grant SCE the right to use the Federal land.

If H.R. 1651 is signed into law, the Forest Service will no longer own the Federal land, and the Council will become the first private owner of the lands underneath the Shaver Lake Reservoir. The FERC license does not give SCE the right to use privately-owned lands. SCE is required under its FERC project license to obtain those rights. Thus, without sufficient protection, the land exchange proposed in H.R. 1651 to a private party could significantly change SCE's rights to operate and maintain the reservoir for power production purposes. Accordingly, to assure the availability of this renewable and clean generating resource, H.R. 1651 must be amended to protect these rights. Our concerns with the proposed legislation are explained in detail below.

Land Exchange Concerns

With appropriate amendments, SCE supports the conveyance of the Federal land identified in H.R. 1651 to the Council. Our goal is to ensure that such a conveyance not result in any interference with SCE's right to operate and maintain Shaver Lake reservoir, or any other part of the Big Creek System.

Shaver Reservoir is a part of the Project No. 67 license issued by FERC to SCE. As with all FERC-licensed hydroelectric projects located on government lands, the Federal land within the Project No. 67 boundary has been designated as a "power site reservation" pursuant to Section 24 of the Federal Power Act in recognition of the Federal property's beneficial public use for the renewable generation of electricity. Section 24 provides that land necessary for the generation of hydroelectric power shall be "reserved from entry, location, or other disposal[1]" unless otherwise directed by FERC or Congress.

This means that the Forest Service is unable to transfer the Federal land without FERC or Congressional approval. Any FERC decision to approve the conveyance of the Federal land within a power site reservation may only occur if FERC determines that such conveyance would not injure or destroy the hydroelectric power development purposes associated with the land. To make that determination, Federal Power Section 24 provides for FERC to impose restrictions on the land transfer as necessary to protect the power purposes of the land. Further, FERC will ensure that such a conveyance is subject to a "reservation of the right to enter upon, occupy, and use" the Federal land for power development purposes. In 1920, when Congress enacted the Federal Power Act, these Section 24 protections were designed to protect hydroelectric project owners from the adverse affects of potential uses or conveyances of government lands. The H.R. 1651 land exchange, as currently proposed, does not offer the protections afforded by Section 24. Thus, Congress should accept the SCE-proposed amendments to H.R. 1651 to ensure the Shaver Lake reservoir receives the same protections envisioned in Federal Power Act Section 24.

For example, the bill does not clearly provide SCE with a continuing right to use the 147.5 acres of Federal land within project boundaries for project purposes nor does it prohibit the new land owner from interfering with such project purposes. As with any hydroelectric project reservoir, water levels in Shaver Lake are raised and lowered depending on energy generation needs, water runoff, and state water rights. Without any legislative protection in the current bill, the new owner of the Federal land may attempt to prohibit SCE from inundating the Federal land or may impose conditions on the level, use and flow of water on the Federal land to be conveyed. As described earlier, no private person or organization currently owns inundated or shoreline property that would adversely affect SCE's water rights or the Shaver Reservoir operations. Without the appropriate amendments, this bill could allow a private entity to control water-levels and continued operations of this hydroelectric facility, in turn offsetting long-term power availability for California consumers.

Moreover, the transfer of ownership of this land to the Council does not preclude the organization from subsequently selling or subleasing the Federal land to either a for-profit user more interested in maximizing returns than maintaining the property in its current natural state, or to a person who may use the land in a manner incompatible with hydroelectric resources.

The Existing Council Camp

For the past 40 years, SCE has leased to the Council approximately 100 acres of land known as Camp Chawanakee. This land, which SCE has owned for about 80 years, is immediately adjacent to the 160 acres of Federal land subject to the proposed land exchange. The Camp Chawanakee land is not a part of the land exchange, nor will the land exchange create any rights in this land for the Council. The Federal land proposed for conveyance by H.R. 1651 contains only about three acres of land actually used by the Council as part of Camp Chawanakee. The Forest Service issues a permit to the Council for those three acres. The other Federal land is not permitted for use by the Council and is not currently a part of Camp Chawanakee. Thus, H.R. 1651 by itself would not significantly further the Council's stated goal of securing Camp Chawanakee.

SCE is in the process of negotiating a new 10-year license or lease with the Council for the 100 acres. A longer term lease is also feasible. The Council has also expressed an interest in purchasing our land. However, Southern California Edison does not want to sell the land we lease to the Council and we are presently precluded from selling the land by California State Law. Furthermore, the land is currently included within the Project No. 67 licensed boundaries and is subject to California Public Utilities Commission regulation. The Camp Chawanakee lands are an integral part of the recreation component of Project No. 67, designed to meet FERC recreation objectives for hydroelectric projects. Thus, SCE is unwilling and unable to sell Camp Chawanakee, and since the Big Creek System is an essential part of our long-term resource base, we would oppose any efforts to force or require such a sale.

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[1] Section 24 of the Federal Power Act; 16 U.S.C. § 818 {emphasis added}

SCE has offered to sell the Council other unencumbered SCE-owned lands at alternative sites in the immediate area. However, the Council has refused this offer and has expressed an intent, in writing and orally, to use the land acquired through H.R. 1651 as a way to "protect the status quo" of its lease of Camp Chawanakee and to "provide the Council with the assurance that the Camp will not be closed." SCE is concerned that these statements suggest that the purpose of the proposed land exchange is to unduly influence future SCE decisions regarding the continued lease, sale, or other disposition of the Camp Chawanakee property. To ensure that SCE is not placed into this position with the Council in the future, H.R. 1651 must be amended to ensure that the Council, or any subsequent owner, cannot interfere with SCE's operations at the Shaver Lake reservoir.

SCE Proposed Amendments

To eliminate our concerns with the current legislation, SCE is proposing amendments to the bill that would ensure the continued use of the 147.5 acres of inundated Federal land for Big Creek Hydroelectric System purposes and would grant SCE the first opportunity to purchase the Federal land if the Council ever sought to sell the forest service land for a profit. These amendments are shown in Attachment 2.

First, the SCE-proposed amendments include the requirement for an easement and a deed restriction that would protect our right to maintain and operate Shaver Reservoir without interference by the new owner of the Federal land. These amendments also fulfill the objectives of Federal Power Act Section 24.

Second, the amendments would grant SCE a Right of First Offer if the Council seeks to transfer an interest in the Federal land. The Right of First Offer ensures that the Council will be able to transfer the land on terms acceptable to the Council, but gives SCE the first opportunity to buy the land. The amendments still allow for the conveyance of Federal land to the Council from the initial recipient of the Federal land. Yet, these amendments also ensure that Council ownership will not interfere with our operation and maintenance of the Big Creek Hydroelectric System.

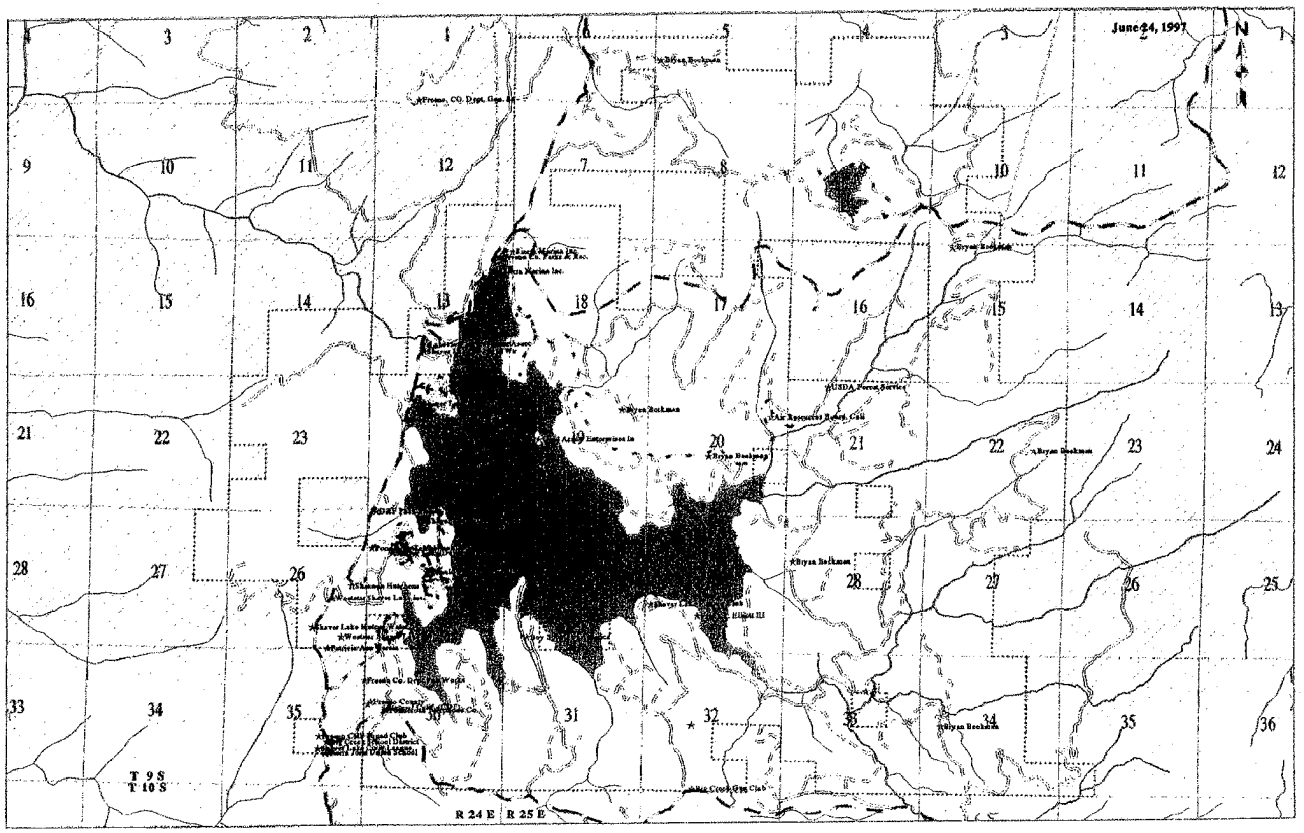
Council Proposed Amendments

The Council has also proposed certain amendments to H.R. 1651. Unfortunately, these amendments are unsatisfactory to SCE. First, the amendments would not give SCE the right to operate the property on the Federal land to be conveyed. Article 5 of the Project No. 67 license requires that SCE obtain fee title or the permanent right to use the land for project purposes. Second, the amendments too narrowly define the prohibition on interference with project purposes. Over 100 years of experience dealing with private property owners who have electric utility assets on their property has shown SCE that without explicit definition of the terms "operation and maintenance" in the quit claim deed, disagreements over the nature of SCE's rights to operate its utility assets will occur. Thus, SCE desires that this legislation be absolutely clear so that 20 years from now, no argument will arise over the meaning of the grant and prohibitions in the Federal land deed to the Council. Third, the Council's proposed amendments do not include these restrictions in the quit claim deed to the Federal land. Recording such covenants in a quit claim deed and an easement is standard real estate practice and discloses the requirements to the public and any future owner of the Federal land. Such provisions ensure that future property owners will follow these same requirements. Finally, the Council's proposed amendments do not offer the owner of the hydroelectric project the right to purchase the Federal land under terms and conditions acceptable to the Council or any subsequent owner.

Conclusion

For the continued successful operation of the Big Creek Hydroelectric System, current Federal law and regulation of Federal lands, if conveyed to the Council, must be articulated in H.R. 1651. H.R. 1651 must not result in the degradation of SCE's rights to operate and maintain its hydroelectric system in the future. Accordingly, our proposed amendments to H.R. 1651 will permit the Council to obtain the lands it desires, while at the same time preventing any interference with the operations of our hydroelectric facilities in contravention of Federal Power Act Section 24. We ask you to let the "hardest working water in the world" continue to meet the energy needs of Central and Southern California. H.R. 1651 should be amended as SCE proposes.

SCE appreciates the opportunity to participate in this hearing. Thank you for your consideration of our comments.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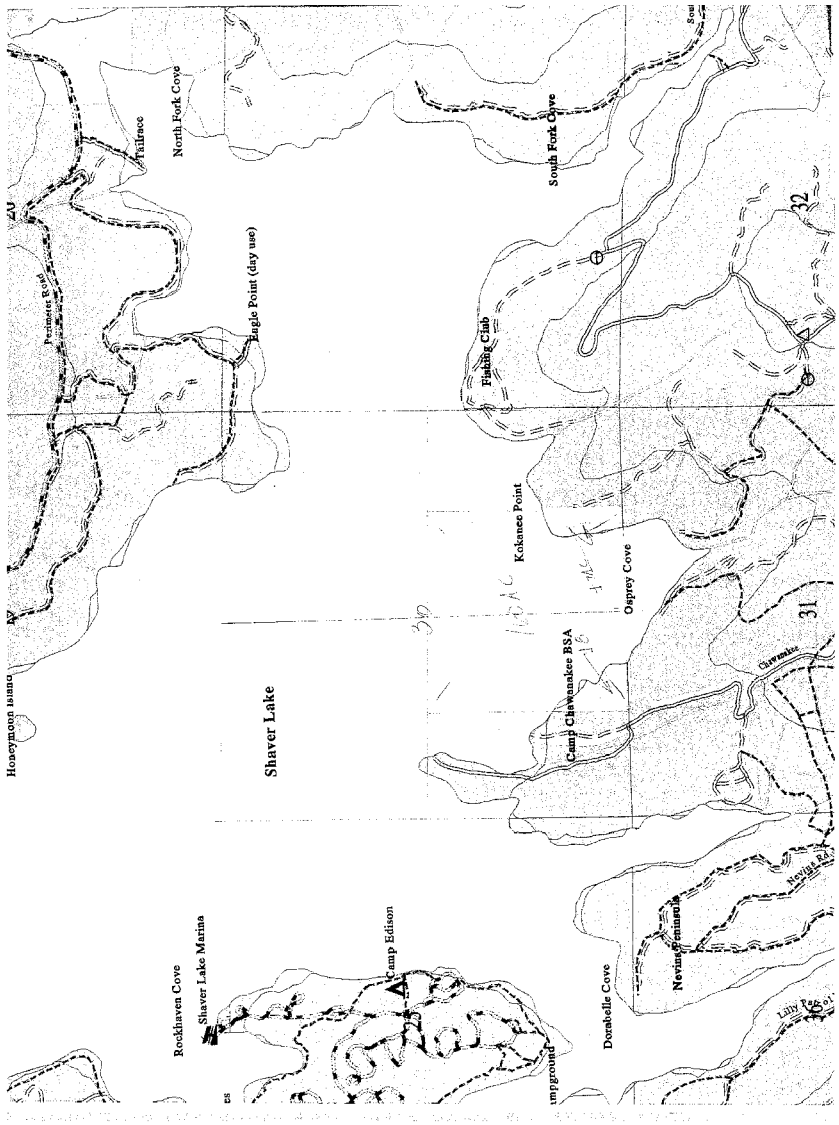
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Tailrace
North Fork Cove
Eagle Point (day use)
Shaver Lake
Rockhaven Cove
Shaver Lake Marina
Camp Edison
Camp Chawanakee BSA
Fishing Club
Kokanee Point
Osprey Cove
South Fork Cove
Dorabelle Cove
Nevins Peninsula
Lily Pad
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31

PROPOSED AMENDMENTS TO HR 1651
AS INTRODUCED

OFFERED BY _____

Purpose: To ensure the continued operation of the power site reservation at the Shaver Lake area and to prohibit future uses of the land that may be incompatible with the operations of hydroelectric facilities in the area.

On Page 4, at line 4, insert the following new sections as (f) and (g), and re-designate the remaining existing sections accordingly.

1 (f) FEDERAL POWER ACT LICENSED HYDROELECTRIC
2 PROJECT. Southern California Edison Company owns, operates, and
3 maintains a hydroelectric project licensed pursuant to the Federal Power
4 Act that is located on a majority of the Federal land proposed for
5 conveyance. The Federal land within the hydroelectric project's licensed
6 boundary is currently a Power Site Reservation created by Federal Power
7 Act Section 24. The Federal land conveyance under this Act shall not
8 interfere with the ability of the hydroelectric project owner to continue to
9 operate and maintain that hydroelectric project under the current and all
10 future licenses or authorizations issued pursuant to the Federal Power Act
11 or any other applicable law. Therefore, prior to conveying the Federal
12 land to the recipient, the Secretary shall grant an easement, at not cost, to
13 Southern California Edison Company for the right to enter, occupy and
14 use the Federal land for hydroelectric power purposes. Also, the
15 Secretary shall include in the quit claim deed for the Federal land a deed
16 restriction to prohibit interference with the rights granted under the

1 easement. At a minimum, the Secretary's grant of easement shall provide
2 the following rights to Southern California Edison:
3 "The grantor hereby grants to the Southern California Edison
4 Company, and its successors, transferees, and assigns, the
5 continuing right to take all necessary and convenient actions to
6 enter, occupy, and use the property for hydropower purposes,
7 which rights include, but are not limited to, the right to undertake
8 operation, maintenance, construction, repair, replacement, water
9 inundation, reconstruction, enlargement, alteration, addition to,
10 improvement, relocation, and removal activities, and to regulate
11 other activities on the property that may impact such hydropower
12 purposes."
13 The Secretary's quit claim deed shall contain the following deed
14 restriction:
15 "The grantee covenants and agrees that the property shall not be
16 used in any manner that interferes in any way with the
17 hydroelectric project located within the current Federal Power Act
18 licensed boundary for the hydroelectric project plus a 100 foot
19 management zone contiguous to that boundary, as shown on the
20 map attached as Exhibit B to this deed, or as that boundary and
21 management zone may be enlarged by any future licenses or
22 authorizations issued pursuant to the Federal Power Act or any
23 other applicable law. "Interfere" includes, but is not limited to,
24 any action that Southern California Edison Company, or its
25 successors and assigns, in its sole discretion, determines creates an
26 encumbrance, restriction, constraint, limitation, or other hindrance
27 to its unfettered ability to perform necessary or convenient

activities to operate, maintain, construct, repair, replace, reconstruct, enlarge, alter, add to, improve, relocate, and remove, at any time and from time to time, any hydroelectric project or the facilities, project works, equipment, appurtenances, and appliances connected or related thereto in any way. Further, the grantee shall not oppose the hydroelectric project owner's ability to obtain future licenses or authorizations for the hydroelectric project issued pursuant to the Federal Power Act or any other applicable law. This permanent deed restriction shall run with the land, be binding on all successors, assigns and transferees, and shall be recorded free of any prior liens and encumbrances that Southern California Edison Company determines may affect the enforceability of the deed restriction. The deed restriction shall not be removed or changed without Southern California Edison Company written approval."

(g) RIGHT OF FIRST OFFER. The Federal land quit claim deed to the recipient shall include a permanent covenant, which runs with the land, that grants Southern California Edison Company the right of first offer to obtain the Federal land if any interest in the Federal land to be conveyed to the recipient is proposed to be further sold, transferred, conveyed or otherwise disposed. Therefore, the Secretary's Federal land quit claim deed shall include the following Right of First Offer:

"If, at any time after the date the recipient of this property from the United States Department of the Agriculture, Forest Service, conveys the property to the Boy Scouts of America, Sequoia Council ("BSA"), the BSA or any subsequent owner desires to sell, transfer, or otherwise convey (hereinafter referred to as

"convey") the property, or any interest therein, then Southern California Edison Company (SCE), or its successors, assigns, or future owners of the hydroelectric project facilities at Shaver Lake, shall have a right of first offer to the property. BSA shall give SCE written notice specifying the terms and conditions on which BSA desires to convey the property, or any interest therein, and offering to convey the property to SCE on the same terms and conditions. Within ninety (90) days after SCE receipt of the notice, and receipt of all available documents necessary to perform reasonable due diligence on the proposed conveyance, SCE shall either accept or reject the offer. If SCE rejects the offer, then, for a period of ninety (90) days after the expiration of the ninety (90) day notice period, BSA shall be free to convey the property to any other person on the same exact terms and conditions specified in the notice. If the conveyance is to be made on terms and conditions other than those so specified in the notice, then the right to receive the Federal land shall again be offered to SCE as set forth above. SCE's rejection of any one or more such offers shall not affect its right of first offer as to any other proposed conveyance by BSA or its successors or assigns. If SCE accepts the offer, the closing of the sale will be governed by the terms of the offer in the notice. If the notice to SCE proposes a conveyance of all or part of the property located within the authorized boundary for the hydroelectric project, then, at SCE's election, SCE may have an independent appraisal prepared for that property. BSA will grant a conveyance of only the portion of the property within the authorized boundary of the hydroelectric project under

1 the same terms and conditions as in the notice, except that the price
2 will be the appraised value of the property located within the
3 authorized boundary of the hydroelectric project, and BSA may
4 then convey all other portions of the property to another person
5 under the same terms and conditions as in the notice."
6

On Page 4, to prior section 2(f), re-designated as section 2(h), make the following revision to line 8:

7 "(but no later than four months after the Secretary grants the easement to
8 the Southern California Edison Company), to the Sequoia Council of the
9 Boy Scouts of America. No other intermediate conveyances shall occur."

Mr. TANCREDO. Thank you, Mr. Fielder, and the Chair has no questions, and we will go directly to Mr. Radanovich.

Mr. RADANOVICH. Thank you, Mr. Tancredo. I have got about six questions, if I can go ahead and ask them.

Mr. TANCREDO. Absolutely.

Mr. RADANOVICH. OK. Thank you very much, and also for the valuable testimony here today. I do want to ask about six questions just to get the information down on the record. And, Ms. Estill, if I could begin with you, I would like to be able to do that.

When the Forest Service performs land exchanges with private parties, what types of terms and conditions has the Secretary of Agriculture placed on this conveyance as authorized by this bill?

Ms. ESTILL. Well, they would be subject to valid existing rights, and we would ensure that the hydropower operation could continue on. Now, the specific language I can get to you, but that in essence that is what it would do.

Mr. RADANOVICH. Would you please get me the specific information?

Ms. ESTILL. Certainly.

Mr. RADANOVICH. If you would, I would like to have it as part of the Congressional record here. That would be just fine and I would appreciate it. Another question is would the Secretary, in making the conveyance authorized by 1651 protect and preserve Southern California Edison's right under the Federal Power Act, or FERC regulations, and any other applicable law, to operate and maintain the hydroelectric facility located at Shaver Lake?

Ms. ESTILL. That is certainly the intent, and we would try to do that.

Mr. RADANOVICH. OK. Thanks. Why is the assessed valuation of the 148 acres of underwater land set at zero?

Ms. ESTILL. This has not actually gone through an appraisal process. The values were set by the bill.

Mr. RADANOVICH. OK. Great. Thanks. Could the Forest Service grant Edison an easement for the use of the 148 acres for hydropower purposes before issuing a deed to Mr. Glassman?

Ms. ESTILL. Just a second.

Mr. RADANOVICH. That's fine.

Ms. ESTILL. We could do it in the deed as a restricted covenant in the deed.

Mr. RADANOVICH. The Forest Service could do that?

Ms. ESTILL. The Forest Service could do that.

Mr. RADANOVICH. OK. Thank you. Mr. Fielder, thank you, too, for your testimony here, and I want to ask this question. Has Southern California Edison found precedent in law for the amendments that you seek in H.R. 1651, and if so, would you please be able to provide such a precedent prior to the mark-up of this bill, which will be the next step of this bill after this hearing.

Mr. FIELDER. It is my understanding that this is a unique situation, where we are using a Federal statute to transfer the property, and there are property rights associated with it.

I think the Forest Service normally can do this without a Federal law. So it is a little unique. We will look for precedence and see whether there is anything and get it to you certainly.

Mr. RADANOVICH. OK. Thank you very much. Mr. Perkins, and welcome to the Committee as well. The testimony given by Southern California Edison says that you plan to use H.R. 1651 to unduly influence the future Edison decisions regarding the continued lease, sale, or otherwise disposition of Camp Chawanakee property. Is it true?

Mr. FIELDER. No, and I have expressed that to their attorney in a meeting that we had with our executive committee of our board of directors, that we have no intention of forcing them. And quite frankly that is not the way that the Boy Scouts do business, and we respect their rights to make decisions about their property.

Mr. RADANOVICH. Very good. Thank you. I think that is about the only questions that I have. I would just say in closing that I know that there is some details to be worked out, and we are certainly not going to be able to work it out during this hearing of this bill.

It did take quite a long time to get this hearing established, and so I don't want to be the one responsible for limiting the progress of this issue. So if I could encourage both Southern California Edison and the Boy Scouts to work this out to mutual satisfaction to get what I think everybody recognizes as a worthy project done, it would be much appreciated.

And if we can get it done and move to mark-up from here, and get the bill finished this year, that would be just a wonderful thing. So I would encourage both of you, and I applaud you and thank you for working together; and if you would continue to do so and get this resolved, it would be much appreciated. Thank you very much. Thank you, Mr. Chairman.

Mr. TANCREDO. Thank you, Mr. Radanovich. I would thank the panel very much for their attendance here, and members may have additional questions for the witnesses, and we would ask that you please respond to those in writing. The hearing record will be held open for 10 days for those responses, and thank you all very much.

Mr. TANCREDO. Now I want to introduce Congressman Rob Bishop, the First District of Utah, sponsor of H.R. 511, for his opening statement, followed by Ms. Estill. I recognize Mr. Bishop for 5 minutes.

STATEMENT OF HON. ROB BISHOP, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. BISHOP. I appreciate it. Mr. Chairman, this is a bill that this House passed last year, but the Senate in their wisdom did not get to it. And that has been remedied this time around, and so if you pass the Mount Naomi bill one more time, you will never Mount Naomi again as long as you live, unless you want to blow it up or something.

The Mount Naomi Wilderness is a little over 44,000 wilderness acres in Northern Utah. It makes it one of the larger wilderness areas, and one of the problems that it faces is that it is very close to the city of Logan, and that means that when it was created there is a utility corridor that goes through the edge of this wilderness area that includes telephone, water, utility structures.

They actually were there before the wilderness area was created and obviously since that is not a definition of wilderness area, they don't really exist, but you can understand how Logan City has a difficult time of maintaining those facilities that don't exist in this area causes a problem.

One of the solutions would be very simply to take these 31 acres, which is the smallest full print that is possible, and in which this utility corridor exists, revert it back to where it was, and then give to the Forest Service or create on the other side actually, the southern side of this wilderness area, another 31 acres which does fit the criteria of wilderness.

Therefore, the acreage would not take place, and Logan City would be able to facilitate their lines, electricity would flow evenly to Logan City and their football team, and Utah State would never again have an excuse for losing games in their stadium.

This I believe has the excitement and enthusiastic endorsement of the Forest Service, as well as Logan City, Cash County, and it seems to be a simple and common sense solution to a problem. That is under 5 minutes, right?

Mr. TANCREDO. Yes.

Mr. BISHOP. Good.

[The prepared statement of Mr. Bishop follows:]

Statement of The Honorable Rob Bishop, a Representative in Congress from the State of Utah, on H.R. 511

Mr. Chairman, thank you for including this important bill in today's legislative hearing and thank you for the opportunity to testify.

Mount Naomi is located in the Wasatch–Cache National Forest near Logan Utah. The Wilderness area is composed of 44,523 acres, making it one of the largest wilderness areas in the state of Utah.

Mount Naomi was designated as a Wilderness Area by the Utah Wilderness Act of 1984, in a bill sponsored by my predecessor and the former Chairman of the Resources Committee, Congressman James V. Hansen. However, since its creation, complications in the management of the Wilderness Area have arisen due to the proximity of the wilderness boundary to the Logan City, Utah, limits. A utility corridor, containing water and power lines, runs through the southwest portion of the Wilderness Area. You can only begin to imagine the problems this has presented

to the utility owners and the Forest Service in seeking to gain access to and manage this portion of the Wilderness Area.

The utility corridor existed prior to the designation of the wilderness area. It's inclusion in the Wilderness Area was a congressional oversight. A simple adjustment of the wilderness boundary will provide a common-sense solution to both the utility corridor's maintenance and the Forest Service's management problems. This legislation will adjust the wilderness boundary to exclude the 31-acre parcel that houses the utility corridor. The new boundary will follow the natural contour lines of Mount Naomi. To compensate for this adjustment, and prevent a net loss of wilderness, the Forest Service has identified a separate 31-acre parcel with wilderness characteristics located adjacent to the southern boundary of the wilderness area. This needful adjustment will provide a manageable, natural boundary for the wilderness area. This legislation has the support of the local Forest Service Office, Logan City, and people of Cache County, and is the smallest area needed to alleviate the problem with the utility corridor.

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

This is good legislation and I thank my colleagues on the Committee for holding this hearing today. I urge its quick discharge out of the Subcommittee and Committee, so that this long-standing problem may be corrected.

Again, thank you for the opportunity to testify this morning. I look forward to working with you on issues of mutual interest.

Mr. TANCREDO. Ms. Estill.

STATEMENT OF ELIZABETH ESTILL, DEPUTY CHIEF, PROGRAMS, LEGISLATION, AND COMMUNICATIONS, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Ms. ESTILL. The Department supports H.R. 511, the bill that would adjust the boundary amount in the Naomi Wilderness and the Wasatch-Cache National Forest in Utah. We believe that the boundary adjustments will add a higher level of wilderness values, including solitude, scenery, and pristine qualities.

The adjustment will provide for the alignment of Bonneville Shoreline Trail, a multi-county recreational trail, designed predominantly for heavy, non-motorized use, including mountain bikes, that wouldn't be allowed in the wilderness area, and which does not conform to the criteria of a wilderness trail.

The boundary adjustment would also eliminate the need for the power line easement within the wilderness area, which is another non-conforming use. So we wholeheartedly support this.

Mr. TANCREDO. Thank you very much, Ms. Estill.

Does the gentleman have any other questions?

Mr. BISHOP. The gentleman has no further questions.

Mr. TANCREDO. Then I think we have taken care of this one. So, thank you very much again. Actually, I kept apologizing to you earlier because I thought I kept you over. I didn't realize that you were the permanent witness.

Ms. ESTILL. I am your permanent witness in five bills today.

Mr. TANCREDO. OK. Thank you very much. Thank you, Mr. Bishop. I want to introduce Congressman Mike Thompson, from the First District of California, the sponsor of H.R. 708, for his opening statement, followed again by Ms. Estill.

STATEMENT OF HON. MIKE THOMPSON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. THOMPSON. Thank you, Mr. Chairman. I am here as you stated to provide testimony on my bill, H.R. 708, and this measure is supported by the property owner whose property it affects, as well as the National Forest Service.

And what it attempts to do is resolve a longstanding problem, one that I have been working on not only the entire time that I have been in Congress, but I think when I was first elected to the State Senate when this issue first came about, and there is a private property owner that purchased a ranch, a longstanding ranch in my district, and operated it more as a recreational venue than a ranching venue.

And after a while they had some problems with the Forest Service, and a dispute over a road that was eroding, and the property owner wanted to close off the road, and the Forest Service said, no, it is our property, and you can't close it off. And he said, no, I have got a deed right here that says that it is my property.

And so the dispute ended in a new survey which found out not only was the road the property of the Forest Service, but the land upon which the barn was built was the Forest Service property also.

And so we have been working to try and resolve this. We finally came up with the idea that the Forest Service is going to just sell 120 acres to the landowner, and then they will use that money to buy more appropriate property.

This 120 acres, the way it is situated, is of no or little value to the Forest Service, and if it is taken away from the property owner, it is an area that is of no value to him either, and this is an amicable way, and an equitable way, to resolve the issue.

And as I pointed out, everybody supports it; the Forest Service, the landowner, the county, and anyone else who knows about it and understands the situation. And I would really appreciate your favorable consideration of the bill.

[The prepared statement of Mr. Thompson follows:]

Statement of The Honorable Mike Thompson, a Representative in Congress from the State of California, on H.R. 708

Mr. Chairman and members of the Committee, thank you for the opportunity to provide testimony on H.R. 708. I appreciate the Committee's continuing leadership on sound resources legislation.

H.R. 708 would resolve a long-standing problem regarding the property boundary between the Mendocino National Forest and the Faraway Ranch in rural Northern California. The National Forest Service and the local landowners jointly support H.R. 708.

The Faraway Ranch is a tract of several hundred acres of private land in Lake County, California, surrounded by Mendocino National Forest lands. The original ranch was settled and patented as private land in 1884, prior to establishment of the National Forest. Various dwellings, roads, fences, water impoundments and other improvements have been constructed on the ranch over the years. The current owner purchased the main portion of the ranch in 1989.

An updated survey of the area conducted in the 1990's revealed substantial errors in the official historical survey. However, because the past owners had relied on the historical survey for the last century, long-standing buildings unintentionally encroached onto Federal lands.

The corrected property boundary lines are in an untenable location for the ranch owner and for the public use and management of the adjacent Mendocino National Forest lands. This bill adjusts the property boundaries to eliminate the encroach-

ments and provides a buffer around the ranch dwelling area. A buffer will enhance safety and provide reasonable privacy for public hunting, camping and motorized vehicle use and access on national forest lands in the area. The new boundaries outlined in this legislation will also simplify and reduce administrative expenses for the Forest Service.

The ranch owner and Forest Service have been working cooperatively for several years on land exchange proposals to provide adjusted boundaries between the ranch and the Mendocino National Forest. In 1999, the parties reached a basic agreement regarding the configuration of bordering lands that should be transferred to the ranch to resolve the encroachment and property boundary management issues. These parcels total approximately 120 acres.

This bill provides for prompt transfer of the 120 acres of national forest lands to the current ranch owner, in exchange for a payment equal to the fair market value of these lands according to Federal appraisal standards. The ranch owner will pay the direct costs of the transfer, including the title work, survey and appraisal. The payments will be deposited in the Treasury fund established by Public Law 90–171, known as the Sisk Act.

This bill designates these funds for use by the Forest Service to purchase priority non-Federal lands adjacent to other national forest lands in California.

No significant environmental or other issues have been identified regarding transfer of the specified 120 acres to the Faraway Ranch. These parcels are not considered to be of particular value for retention in the Mendocino National Forest. National forest boundary maintenance costs, use conflicts and safety risks will be reduced at the ranch location. The priority lands to be acquired by the Forest Service will be identified based on their proximity and contribution to national forest lands, wildlife habitat and for other uses. These lands will be purchased from willing sellers. Boundaries will be simplified and national forest values will be enhanced at the locations where the Forest Service acquires these lands.

Thank you for this opportunity to discuss this important issue with the Committee. I would now like to answer any questions you may have.

Mr. TANCREDO. Thank you, Mr. Thompson.

Ms. Estill.

STATEMENT OF ELIZABETH ESTILL, DEPUTY CHIEF, PROGRAMS, LEGISLATION, AND COMMUNICATIONS, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Ms. ESTILL. With your permission, I will submit my entire testimony for the record, and jump to the bottom line.

Mr. TANCREDO. Permission granted.

Ms. ESTILL. Which is that the Department supports this bill, because it will improve the management efficiency for the forest, while recognizing the value of the public's assets.

I would like to also say that as H.R. 708, the Mendocino National Forest Land Exchange, and H.R. 1651, the Sierra National Forest Land Exchange, both illustrate that the Department has a number of facilities and pertinent administrative lands in excess to agency needs.

The Fiscal Year 2004 budget contains a proposal for the establishment of a facilities acquisition and enhancement fund that would enable the Secretary to sell such units, and utilize the proceeds from those sales for the acquisition or development of land and improvements for administrative purposes.

Funds collected under this authority would address backlogs and administrative consolidations, while improving efficiencies.

The Department will submit proposed legislation to establish this fund in the upcoming weeks, and it might reduce your time and my time as a witness on these kinds of bills in the future.

Mr. TANCREDO. Thank you very much.

Mr. THOMPSON. I would just like to add that this measure passed both this Committee and the House in the last Congress. Unfortunately, it was part of an Omnibus effort that didn't do as well over in the Senate. So it is a bill whose time has come a number of times, and it would help both the Service, as well as the private property owner if we could expedite this action. Thank you.

Mr. TANCREDO. Thank you very much, Mr. Thompson, and thank you very much, Ms. Estill, and if there is no further business to come before the Subcommittee, then we will stand adjourned.

[Whereupon, at 2:38 p.m., the Subcommittee was adjourned.]