AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

107TH CONGRESS, 2d Session } HOUSE OF REPRESENTATIVES { REPORT 107–708

PROTECTING CERTAIN LANDS HELD IN FEE BY THE PECHANGA BAND OF LUISENO MISSION INDIANS FROM CONDEMNATION UNTIL A FINAL DECISION IS MADE BY THE SECRETARY OF THE INTERIOR REGARDING A PENDING FEE TO TRUST APPLICATION FOR THAT LAND, AND FOR OTHER PURPOSES

OCTOBER 1, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources, submitted the following

REPORT

[To accompany H.R. 3476]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3476) to protect certain lands held in fee by the Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 3476 is to protect certain lands held in fee by the Pechanga Band of Luiseño Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land.

BACKGROUND AND NEED FOR LEGISLATION

The Pechanga Band of Luiseño Mission Indians resides in Riverside County, California, near the City of Temecula. The Band's existing tribal trust lands consist of 3,163 acres. Much of this land is utilized for tribal member housing and community services, tribal government, and administration areas. The Band also uses a portion of its current land base to promote its economic development with a recreational vehicle park, a casino, and a concert area.

19–006

In May 2001, the Pechanga Band purchased the Great Oak Ranch property. The property, which consists of approximately 700 acres, connects two noncontiguous parcels that comprise the Pechanga Band's reservation. The Ranch is part of the ancestral lands of the Pechanga and contains cultural, spiritual, and archaeological sites, including the oldest living coastal oak tree.

San Diego Gas and Electric (SDG&E), a subsidiary of Sempra Energy, is considering exercising its power of eminent domain and placing a 500,000-volt transmission line on the Great Oak Ranch property. While the California Public Utilities Commission's (CPUC) review of the project is not complete, SDG&E has argued that the CPUC's approval of the project is not a condition precedent to a regulated utility's acquisition of property.

On March 21, 2002, the Department of the Interior released a notice of its decision to take the Great Oak Ranch property into trust for the Pechanga Band. Sempra Energy has appealed the Department's decision, and the tribe believes that because the Great Oak Ranch Property could still be condemned after a successful appeal, its only protection from condemnation may be enactment of H.R. 3476.

The Committee believes that the Great Oak Ranch located in Temecula, California, and the Great Oak Tree for which the Ranch is named, have unique natural and cultural significance and should therefore be protected as part of the Pechanga Band's heritage. The Committee understands that members of the Southern California Congressional delegation will work to identify a right-of-way through the nearby Cleveland National Forest as an alternative to the proposed Great Oak Ranch route, and move authorizing legislation to that effect in tandem with H.R. 3476.

COMMITTEE ACTION

H.R. 3476 was introduced on December 13, 2001, by Congressman Darrell Issa (R–CA), and was subsequently referred to the Committee on Resources. On April 17, 2002, the full Resources Committee held a hearing on the bill, and on July 10, 2002, the Committee met to consider the legislation. No amendments were offered and H.R. 3476 was ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides

that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 29, 2002.

Hon. JAMES V. HANSEN,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3476, a bill to protect certain lands held in fee by the Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Lanette J. Walker (for federal costs), Marjorie Miller (for the state and local impact), and Cecil McPherson (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

H.R. 3476—A bill to protect certain lands held in fee by the Pechanga Band of Luiseno Mission Indians from condemnation until a final decision is made by the Secretary of the Interior regarding a pending fee to trust application for that land, and for other purposes

H.R. 3476 would prohibit the transfer or condemnation of certain lands in fee by the Pechanga Band of Luiseno Mission Indians until the Secretary of the Interior renders a final decision on the pending application to designate such fee lands as held in trust and until final decisions have been made regarding all appeals to that application.

In March 2002 the Secretary decided to take the land into trust for the Band, but the Sempra Energy company has appealed that decision. San Diego Gas and Electric (SDG&E), a subsidiary of Sempra Energy, has proposed a new corridor for an electric transmission line that would cross this property and has indicated its

intention to condemn the property. (Electric utilities in California have the power of eminent domain.)

Under current law, these fee lands may be taken for public use upon just compensation paid to the owners of the land. Such compensation would be paid directly to the Pechanga Band of Luiseno Mission Indian tribe. Enacting H.R. 3476 could delay or prevent a taking of the land by SDG&E, but that transaction would not affect the federal budget. Because enactment of H.R. 3476 would not affect direct spending or receipts of the federal government, pay-as-you-go procedures would not apply.

H.R. 3476 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments. Enacting this legislation would benefit the Pechanga Band because it would protect tribal land from condemnation until its application to have that land taken into trust is resolved.

H.R. 3476 contains a private-sector mandate as defined by UMRA. The costs of the mandate, if any, would be the expected incremental costs to SDG&E of choosing among several alternative properties as routes for the new transmission line. CBO expects that the direct cost of the mandate would be below the annual threshold for the private sector established by UMRA ($115 million in 2002, adjusted annually for inflation).

The staff contacts for this estimate are Lanette J. Walker (for federal costs), Marjorie Miller (for the state and local impact), and Cecil McPherson (for the private-sector impact). This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates as defined in Public Law 104–4.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

○