

**TESTIMONY of Michael Hardiman,
representing the American Land Rights Association.**

September 25, 2002,

Committee on Resources.

Subject: HR 5155, Native American Sacred Lands Act.

www.landrights.org

Good morning Mr. Chairman, thank you for inviting me to testify today.

My name is Michael Hardiman, representing the American Land Rights Association. ALRA is a twenty-five year old organization with members in all fifty states. Our membership generally includes landowners located within or nearby federal property, as well as lease and permit holders on federal lands.

I am an inholder of a small parcel in the Southern California desert surrounded by Bureau of Land Management property.

HR 5155, the Native American Sacred Lands Act, contains at least three parts which, especially in combination, pose a severe threat to private property rights and the Wise Use of federal lands.

FIRST is Section One, part (b) (4), the definition of what can be designated as "sacred land." This reads in part, "any geophysical or geographical area or feature which is sacred by virtue of its traditional cultural or religious significance" The term "geophysical" is defined in the Merriam-Webster dictionary as "physical processes and phenomena occurring in the earth and in its vicinity."

It would be difficult to come up with a broader definition.

SECOND is Section Three, parts (c) and (d), the hearing and appeal process.

From the time a petition is filed, the agency in question has only seven months to hold a public hearing, and produce a written decision, and rule on any appeals.

This is an incredibly rapid designation process. It is greased lightning compared to getting a species delisted under the Endangered Species Act, for example.

However, due to the multibillion dollar maintenance backlog of the National Park Service and other land management agencies, this section may actually aggravate the degradation of sacred lands. For example, the burial grounds of Chumash Indians on the Channel Islands off the coast of Santa Barbara have exposed remains. The Park Service claims it is unable to address the problem due to lack of funds. If HR 5155

became law, even more resources would be drawn away from current protection efforts in order to deal with this bill's mandated deadlines, making the situation even worse.

THIRD is Section Four, part (a), exemptions from the Freedom of Information Act. This states in part that no petitioner's information which "contains a reference pertaining to a specific detail . . . of cultural practice

or religion, or the significance of . . . sacred land, or the location of that sacred land, shall be released."

Now, it is understandable that there may be a desire to keep certain traditions and practices confidential. However, this should be balanced by the general public's and the directly effected land owners right to know. This section as currently written keeps too many people in the dark.

HR 5155 effectively assigns sweeping new land use powers to Indian tribes, combined with a fast track designation process not available in many other statutes. It then provides for broad exemptions from public disclosure laws, allowing much of the land lockup process in this bill to be hidden away, behind closed doors.

Here is an example. My property is located a few miles away from the Chocolate Mountain Gunnery Range, a bombing and training area used by United States Navy aviation units. Portions are used for Navy SEAL special forces training. The Navy's Blue Angels also train in the area; I have been treated to many magnificent shows overhead without the long lines and crowds below.

The Chocolate Mountains, contained within the Gunnery Range boundaries, are a dark, foreboding spine of rock rising out of the desert floor, a dramatic and unusual sight. Under this bill, they may be subject to the whims of Native American geophysical phenomena, and within only seven months, largely in secret, be locked away from any further use by the American military.

I don't stand a chance if they come for my land, with this proposal for a nearly open-ended ability to eliminate use of property.

I have heard it said that if the only tool you have is a hammer, then everything begins to look like a nail. If this proposal becomes law, there may suddenly appear across the American landscape more sacred geophysical phenomena in this country than we could ever have imagined.

Thank you for the opportunity to testify today, Mr. Chairman.

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