

# Committee on Resources

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## **STATEMENT OF SUE MASICA ASSOCIATE DIRECTOR FOR PARK PLANNING, FACILITIES, AND LANDS NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR**

BEFORE THE SUBCOMMITTEE ON NATIONAL PARKS, RECREATION AND PUBLIC LANDS OF THE HOUSE COMMITTEE ON RESOURCES CONCERNING H.R. 4066, THE CHICKASAW NATIONAL RECREATION AREA LAND EXCHANGE ACT OF 2004.

July 15, 2004

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Mr. Chairman, thank you for the opportunity to present the views of the Department of the Interior on H.R. 4066. This bill would authorize a land exchange among the Chickasaw National Recreation Area, the Chickasaw Nation and the City of Sulphur, Oklahoma.

The Department supports H.R. 4066 with amendments. The bill would authorize the Secretary of the Interior to exchange Federal land in a three-way agreement between the Chickasaw Nation, the National Park Service, and the City of Sulphur, Oklahoma. This bill would authorize the Secretary to convey approximately 29 acres of land owned by the National Park Service to the Chickasaw Nation in exchange for approximately 39 acres of land donated to the Chickasaw Nation by the City of Sulphur, Oklahoma and direct the Secretary to place the land conveyed to the Chickasaw Nation in trust for the benefit of the Chickasaw Nation.

The Chickasaw Nation has expressed an interest in establishing a cultural center inside or adjacent to the park. The cultural center would include a performing arts theater, plaza area, administration/cultural education center, visitor center, stickball field, village, agricultural field, amphitheater, and parking lots. In 2000, the NPS Intermountain Regional Director signed a letter of support to work with the Chickasaw Nation and the City of Sulphur to investigate the possibility of a land exchange to allow the construction of the cultural center on a site that includes property currently within the park's boundary, after that property has been exchanged for property of equal value.

This bill would provide the following benefits to the National Park Service, the Chickasaw Nation, and the City of Sulphur:

- The NPS would enhance its ability to protect scenic values and reduce potential land use encroachments on both the east and west boundaries of the park through close cooperative efforts with the Chickasaw Nation and the City of Sulphur. The Chickasaw National Recreation Area, through a partnership with the Chickasaw Nation, would provide access to the culture and history of the Chickasaw Nation, in a way that allows the Nation to tell their story to the millions of park visitors. The addition of Tract 102-26 to Chickasaw National Recreation Area would help to protect Wilson Creek and its drainage, a major tributary to Veterans Lake located within current park boundaries.
- The Chickasaw Nation would establish an important research, education, and museum facility to document and extend understanding of their culture to its members and visitors on lands that hold significant historical connection to the Chickasaw Nation.
- The City of Sulphur and the surrounding Murray County communities would contribute to the protection of land resources within the county, while providing additional economic development potential to the local economies.
- Enactment of this bill would acknowledge and support the long and vibrant partnership among the National Park Service, the Chickasaw Nation, and the citizens of Oklahoma.

Set aside as Sulphur Springs Reservation in 1902, Chickasaw National Recreation Area has gone through several expansions and name changes. The Chickasaw Nation, fearful that Seven Springs, now called "Pavilion Springs", would end up in the hands of private developers, agreed to cede the springs to the Federal government. Amending the Treaty of Atoka of 1897, the Chickasaw and the Choctaw ceded a tract of 640 acres containing the springs to the Federal government for \$20 an acre. The government set aside

the 640 acres as the Sulphur Springs Reservation in 1902. In 1904, 218 acres were added and Sulphur Springs Reservation was opened to the public. Renamed Platt National Park in 1906 in honor of Senator Orville H. Platt of Connecticut, it carried that name for the next 70 years.

In the mid 1960's, a series of events occurred including the construction of Arbuckle Dam and Lake, the formation and management of the Arbuckle Recreation Area by the NPS, and the addition of land along Rock Creek to connect the recreation area to Platt National Park. In 1976, Platt National Park, the Arbuckle Recreation Area, and additional lands were combined and renamed Chickasaw National Recreation Area to protect and expand water and other resources, to memorialize the history and culture of the Chickasaw Nation, and to provide for public outdoor recreation.

From prehistoric times to the present, access to the combination of cool water, mineral springs, cool breezes, shade, and wildlife has created at Chickasaw National Recreation Area an experience that sets it apart from the surrounding environment. The springs and streams of Chickasaw come from a complex geological and hydrological feature and these resources have been economically and environmentally significant throughout the history of the region, and are valuable for scientific research.

The park holds a vast diversity of natural resources. These unique flora, fauna, waters, and geological formations have withstood the external pressures of man-made and natural changes.

The Secretary, the Chickasaw Nation and the City have completed all required environmental compliance and have signed a preliminary agreement to effect the land exchange to allow the construction of a tribal cultural center. The value of the federal land and non-federal land is approximately equal, as determined by the Secretary through an appraisal performed by a qualified appraiser and in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions. Through the signed preliminary agreement, the Chickasaw Nation has agreed to bear all costs associated with this transfer, including environmental surveys, appraisals, boundary surveys, title examinations, and closing costs.

The land to be conveyed to the Chickasaw Nation holds significant historical and cultural connections for the people of the Nation, and the proposed use by the Nation is consistent with protecting park values. Once the exchange is completed, the boundary of Chickasaw National Recreation Area will be revised to reflect the exchange of the two parcels.

The Department proposes three amendments following this statement. First, we have suggested a minor technical amendment. Second, we are concerned that the bill does not specify what duties and responsibilities are required of the Secretary in taking the land into trust. The Department has devoted a great deal of time to trust reform discussions. The nature of the trust relationship is now often the subject of litigation, and much of the current controversy over trust stems from the failure to have clear guidance as to the parameters, roles and responsibilities of the trustee and the beneficiary. As Trustee, the Secretary may face a variety of issues, including land use and zoning issues. Accordingly, the Secretary's trust responsibility to manage the land should be addressed with clarity and precision.

The Department has an established regulatory process for taking land into trust that would provide such clarification. Before land is taken into trust through this process, the Secretary considers important issues such as the use of the land and the potential impact upon the relationship between the tribe and local residents. If Congress directs the Secretary to take land into trust, as it does in the bill, we feel that Congress should clarify what that relationship means. Both the Executive Branch and the Judicial Branch are faced with the question of what exactly does Congress intend when it puts land into trust status. Congress should decide these issues, not the courts.

Therefore, we recommend the Committee set forth in the bill the specific trust duties it wishes the United States to assume with respect to the acquisition of these lands for the Chickasaw. For example, the bill should be more specific about the use of the trust property. We understand that the Chickasaw Nation, the State of Oklahoma, the City of Sulfur and the National Park Service have worked to address some of these issues, including the use of the trust land. An amendment that in part reflects this agreement is provided at the end of this testimony. The benefits of either the Department's regulatory approach or Congress providing more specific direction concerning the Secretary's trust duties are that it would clearly establish the beneficiary's expectations, clearly define the roles and responsibilities of each party, and establish how certain services are provided to tribal members.

Third, we would like to clarify that the boundary of Chickasaw National Recreation Area will be adjusted to

reflect the exchange of the two parcels.

Mr. Chairman, that concludes my statement. I would be pleased to answer any questions you or other members of the subcommittee may have.

Proposed Amendments:

Page 4, line 21 strike "take" and insert "place".

Page 4, line 22 after "Nation" insert "for the exclusive purposes of constructing and operating a tribal cultural center to interpret the culture and history of the Chickasaw Nation and for protecting the watershed and riparian resources of the Chickasaw National Recreation Area".

Page 5, line 11 strike all after "Land—" and insert "Upon completion of the conveyance of the non-Federal land to the Secretary pursuant to this Act, the Secretary shall revise the boundary of Chickasaw National Recreation Area to reflect the exchange with the Chickasaw Nation and shall administer the acquired land in accordance with applicable laws and regulations."