

**TESTIMONY OF
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DIRECTOR, BUREAU OF INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
SUBCOMMITTEE ON INDIAN AND ALASKA NATIVE AFFAIRS
COMMITTEE ON NATURAL RESOURCES
U.S. HOUSE OF REPRESENTATIVES
ON
S. 3193, THE BARONA BAND OF MISSION INDIANS LAND TRANSFER CLARIFICATION ACT**

DECEMBER 4, 2012

Mr. Chairman, thank you for the opportunity to appear before you today to present the Department of the Interior's views on S. 3193, a bill to make technical corrections to the legal description of certain land to be held in trust for the Barona Band of Mission Indians (Band), and for other purposes. My name is Mike Black, and I am the Director of the Bureau of Indian Affairs. The Department of the Interior (Department) supports S. 3193.

The Barona Band of Mission Indians is a federally-recognized Tribe in the State of California. The Barona Band of Mission Indians' reservation, established in 1875, is located in southern California in San Diego County. The reservation consists of approximately 7,037 acres and is home to about 455 tribal members.

On August 13, 2002, the Band submitted a fee-to-trust land acquisition application to the Bureau of Indian Affairs (BIA), seeking the Secretary of the Interior to take certain lands into trust under the Department's 25 C.F.R. Part 151 process. The Band's application encompassed two parcels, commonly referred to as the Hutton and Brynwood parcels.

The Brynwood parcel included existing improvements consisting of a single-family residence with garage and barn, small cottages, corral, grain silo, large water tank, and sheds. The residence was reported to have been converted to administrative purposes for the Band's water agency. The Hutton property was vacant with no reported change in land use. The Brynwood parcel is contiguous to the Band's Reservation, and the Hutton parcel is contiguous to the Brynwood parcel.

During the Band's application for trust acquisition in 2002, legislation was enacted on May 2, 2004, the Native American Technical Corrections Act of 2004, Public Law No. 108-204. This law provided for the addition of the Hutton and Brynwood parcels to the Band's Reservation, but the Act also inadvertently included lands that were not owned by the Band. The BIA, by letter dated April 15, 2004, advised the Band of the discrepancy between the legal land descriptions contained in P.L. 108-204. The BIA also understands that the San Diego Tax Collector-Assessor contacted the Band with the same concerns.

The purpose of S. 3193 is to clarify the legal description of the land placed into trust for the Barona Band of Mission Indians in 2004 under Section 121 of the Native American Technical

Corrections Act of 2004 (Public Law No. 108-204; 118 Stat. 544), and to remove all doubt relating to the specific parcels of land that Congress placed into trust for the Barona Band of Mission Indians in 2004.

According to the legislation, the legal description of land previously taken into trust by the United States for the benefit of the Barona Band of Mission Indians may be interpreted to refer to private, nontribal land. This has caused continued, unresolved disagreement between the Barona Band of Mission Indians and certain off-reservation property owners relating to the causes of diminishing native groundwater. Therefore, as the legislation states, Congress seeks to amend Section 121 of the Native American Technical Corrections Act of 2004 (Public Law 108-204; 118 Stat. 544), by inserting a description of the land, approximately 86.87 acres, and clarifying such lands to be considered held in trust by the United States for the benefit of the Band and, that other lands identified as private, nontribal lands are not to be considered to be held in trust by the United States for the benefit of the Band, or to be considered to be a part of the reservation of the Band.

The Department supports S. 3193, and finds the legal land descriptions in the bill to be correct. The Department requests that, if the bill is enacted into law, a copy of the Act and the Record of Survey Maps are recorded at the BIA Pacific Region Land Titles and Records Office.

Mr. Chairman, this concludes my statement. I would be pleased to respond to any questions you or the other Members of the Subcommittee may have.