

Testimony of
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Before the
Committee on Resources
United States House of Representatives
Hearing on H.R. 3476

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Good Morning, Mr. Chairman, Members of the Committee. I would first like to take the opportunity to thank you for the invitation to present testimony today on H.R. 3476, a bill to protect certain land located in Riverside County, California, that is held in fee simple by the Pechanga Band of Luiseño Mission Indians ("Tribe") from condemnation until a final decision is made by the Secretary of the Interior on a pending application for trust status of the lands.

BACKGROUND

The Pechanga Reservation was established by Executive Order on June 27, 1882, in what is now Riverside County, California and currently consists of 4,396 acres of trust lands. In 2001, the Pechanga Band of Luiseño Indians acquired a parcel of land in fee simple consisting of 697.35 acres of land and known as the Great Oak Ranch ("Ranch"). In June 2001, the Tribe applied to the Department's Bureau of Indian Affairs ("BIA") to have the land placed into trust status, pursuant to the provisions of 25 CFR, Part 151.

The Ranch is contiguous to the Pechanga Indian Reservation and is home to the largest natural-growing, indigenous live oak tree in the United States, estimated to be over 1,500 years old. The tree serves as a spiritual place and has been used by the Tribe for generations for ceremonies.

Additionally, there are other cultural resources located within the Ranch property which are of importance to the Tribe. There are seven archaeological sites located on the property, and along with the tree, the tract is eligible for inclusion on the National Register of Historic Places. The Tribe's stated purpose for acquiring the ranch is to preserve and protect the cultural resources of the Luiseño people.

CURRENT SITUATION

On March 21, 2002, the Acting Regional Director of the BIA Pacific Region issued a Notice of Decision to accept the Ranch property into trust status pursuant to the Indian Land Consolidation Act of 1983 (25 U.S.C. 2202 *et seq.*). A copy of the Notice of Decision is attached.

Under 25 CFR, Part 151, unless an acquisition is mandated, the BIA must consider the following factors before determining to take land into trust:

1. the Tribe's need for additional land;
2. the purpose for which the land will be used;
3. the impact on the State and its political subdivisions resulting from the removal of the land from the tax rolls;
4. jurisdictional problems and potential conflict of land use which may arise;
5. whether the BIA is equipped to discharge the additional responsibilities resulting from the acquisition of the land;
6. whether or not contaminants or other hazardous materials may be present on the property.

The BIA found that the tribe did have the need for additional land; that the land would be used for religious and cultural preservation purposes; that there would be no adverse impact on the local governmental financial situation; that there would be no jurisdictional problems or potential conflicts after the transfer of the title into trust; that BIA is equipped to administer additional responsibilities resulting from the acquisition; and that there were no contaminants or hazardous substances present on the property.

This decision is not a final agency action as defined by the Administrative Procedures Act, but any party who is adversely affected may file an appeal of the Notice of Decision with the Interior Board of Indian Appeals ("IBIA") within thirty days of the initial decision.

Upon the conclusion of the thirty day period, unless there is an appeal to the IBIA, the Regional Director will publish notice of final agency action pursuant to 25 CFR 151.12(b), to allow 30 days for judicial review.

Lands held in trust by the United States for the benefit of Indian tribes enjoy a number of protections that land held in fee simple status do not. Lands held in trust are removed from local tax rolls. Additionally, lands held in trust may not be condemned without agreement of the Indian tribe involved and the lands are exempt from certain zoning laws.

The procedure for taking land into trust set out at 25 CFR, Part 151, sets high standards tribes must meet before the Department of Interior determines to take property into trust. It is a fair process which provides for a comment period during which affected parties may provide information to the Bureau of Indian Affairs regarding positive or adverse effects the decision may have, and it provides an opportunity for these parties to appeal a decision which is adverse to their interests.

The Department believes that in this case, the procedure set out in 25 CFR, Part 151 should continue to be followed. We recognize Congress has the plenary power to take the land into trust on behalf of a tribe. We remain seriously concerned, however, with congressional intervention once the administrative process has

been initiated.

This concludes my personal statement. I would be pleased to answer any questions you may have.

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