

DEPARTMENT OF AGRICULTURE,
Washington, D.C., September 18, 1968.

HON. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate.

DEAR MR. CHAIRMAN: Here is our report on H.R. 3306, an Act "To amend section 4 of the Act of May 31, 1933 (48 Stat. 108)."

Section 4 of the Act of May 31, 1933, directed the Secretary of Agriculture to segregate certain National Forest lands, and thereby withdraw them from mineral and other entry, in order to safeguard the interests and welfare of the Pueblo de Taos Indians. The lands described by section 4 include 32,000 acres within the Carson National Forest, New Mexico, from which the Indians obtain water, forage, and wood. The Indians also use part of the area for religious ceremonials.

Section 4 also directed the Secretary of Agriculture to grant to the Indians a permit to occupy and use the land and resources for their personal use and benefit for 50 years, with a provision for subsequent renewals. This permit has been granted. The Indians are also permitted exclusive use and occupancy of the described area for religious ceremonials in August of each year.

H.R. 3306 would amend section 4 by: (1) redescribing the area of lands set forth in that section to include an additional 16,000 acres of National Forest lands, including about 8,000 acres acquired by exchange in the early 1950s, and (2) providing that non-Indian lessees or permittees using the described lands would have the right to renew their leases or permits, but the Indians would have the right to obtain relinquishments of such permits or leases and to pay for them and related improvements from tribal funds.

The Act would also declare the entire 48,000-acre area to be held in trust for the Pueblo de Taos. The area would be a part of the Pueblo de Taos Reservation and would be administered the same as other trust or restricted Indian lands, but the Pueblo could use the lands for traditional purposes only, subject to regulations for conservation purposes prescribed by the Secretary of Agriculture. Except for such uses the lands would be maintained as a wilderness as defined in subsection 2(c) of the Wilderness Act (78 Stat. 891). With the consent of the Tribe, non-members would be permitted to enter the area for purposes compatible with their preservation as wilderness.

The Act further provides that the Secretary of the Interior shall be responsible for establishment and maintenance of conservation measures for the area. He would be authorized to contract with the Secretary of Agriculture to carry out such measures.

In recent years several bills have been introduced which would have dealt with lands covered by H.R. 3306. In the 89th Congress, your committee considered S. 3085, a bill very similar to H.R. 3306. On April 18, 1968, we reported to you on two related bills in the 90th Congress, S. 1624 and S. 1625.

In our report on S. 3085 we strongly recommended that no additional National Forest lands should be made available for the use of the Pueblo de Taos, and that the present permit area should remain a part of the Carson National Forest. We stated that we believe the Taos special use permit adequately protects and provides for the interests of the Indians. At the same time, the permit allows the greatest possible public use and benefits consistent with Indian needs. We continue in these beliefs.

We are concerned that transfer of the tract in trust or by outright conveyance, regardless of the acreage involved, would be a far-reaching, undesirable precedent. The Pueblo de Taos is seeking the area in partial settlement of a recent determination of the Indian Claims Commission. Thus, transfer to the Indians of any part of the area would be a payment to the Pueblo in land rather than in cash as is usual under the Claims Commission authorities. This would inevitably lead to many other similar demands by Indians for National Forest or other Federal lands in settlement of claims. It could also be considered as a precedent for payment-in-kind treatment for others.

Further, subsection (c) of the proposed amendment to section 4 of the 1933 Act would set another dangerous precedent. This subsection would authorize the Pueblo to obtain the relinquishment of non-Indian grazing permits under terms agreeable to the permittees and make payment therefore out of tribal funds. We have not recognized that National Forest grazing permits give the permittees vested rights that can be bought and sold. We do recognize that they may be transferred by waiver on the basis of the sale of the livestock or the base property. These principles should not be altered.