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TAOS INDIANS—BLUE LAKE

HEARINGS

BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS UNITED STATES SENATE

NINETIETH CONGRESS

SECOND SESSION

ON

H.R. 3306

AN ACT TO AMEND SECTION 4 OF THE ACT OF MAY 31, 1933 (48 STAT. 108)

S. 1624

A BILL TO AUTHORIZE THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LANDS TO THE PUEBLO DE TAOS INDIANS, NEW MEXICO, AND FOR OTHER PURPOSES

AND

S. 1625

A BILL TO DECLARE THAT CERTAIN LANDS BE HELD IN TRUST FOR THE PUEBLO DE TAOS INDIANS, NEW MEXICO, AND FOR OTHER PURPOSES

SEPTEMBER 19 AND 20, 1968

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U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1968

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CONTENTS

	Page
H.R. 3306	1
Department of Agriculture report	2
House Report No. 1490	5
S. 1624	43
Departmental reports:	
Agriculture	46
Budget	44
Interior	44
S. 1625	48

STATEMENTS

Anderson, Hon. Clinton P., a U.S. Senator from the State of New Mexico	70
Barker, Elliott S., Santa Fe, N. Mex	219
Belindo, John, executive director, The National Congress of American Indians	90
Bernal, Linda, Taos Pueblo Tribe	183
Bernal, Paul J., secretary of the Pueblo Council	112, 184
Bolander, Lloyd, Vadito, N. Mex	225
Burttram, Glen W., Santa Fe, N. Mex	224
Clapper, Louis S., National Wildlife Federation	212
Gordon, Ladd S., director, New Mexico Department of Game and Fish	216
Greeley, Arthur W., associate chief, Forest Service, Department of Agriculture	64, 75, 115
Gunter, N. Preston, Sportsmen's Legislative Action Committee of New Mexico	139
Hobert, Rev. Lee G., president, New Mexico Council of Churches, Las Cruces, N. Mex	87
Kelley, Dean M., director for civil and religious liberties, National Council of Churches	202
LaCombe, Elmer A., vice chairman, Taos County Commissioners, Taos, N. Mex	151
Little, Jon W., president, New Mexico Wildlife & Conservation Association, Inc	126
Phipps, Joe K., director of public affairs for WFIL Radio and Television, Philadelphia, Pa	89
Pomeroy, Kenneth B., chief forester, the American Forestry Association	214
Romero, Querino, governor, Taos Pueblo	119
Romero, Querino, governor; Bernal, Paul J., secretary; Mr. Martinez, member; and Schaab, William C., counsel, Taos Pueblo	154, 160
Schaab, William C., attorney at law, Albuquerque, N. Mex., special counsel for Taos Pueblo	95, 113, 118, 131
Snead, James E., president, Santa Fe Wildlife & Conservation Association	217
Spicer, Dr. Edward H., professor of anthropology, University of Arizona	219
Udall, Hon. Stewart L., Secretary of the Interior	49
Waner, Claude O., Alamegordo, N. Mex	223

COMMUNICATIONS

Barker, Elliott S., Santa Fe, N. Mex.: Letter to Hon. George McGovern, chairman, Indian Affairs Subcommittee, dated October 25, 1968	182
Gordon, Ladd S., Santa Fe, N. Mex.: Letter to Hon. George McGovern, chairman, Indian Affairs Subcommittee, dated October 25, 1968	182
Gunter, N. P., Albuquerque, N. Mex.: Letter to Hon. George McGovern, chairman, Indian Affairs Subcommittee, dated October 18, 1968	173

Page

Little, Jon W., Santa Fe, N. Mex.: Letter to Hon. George McGovern, chairman, Indian Affairs Subcommittee, dated October 14, 1968 180
McGovern, Hon. George, chairman, Indian Affairs Subcommittee: Letters to—
Gunter, N. Preston 172
Little, J. Warner 172
Schaab, William C., counsel, Taos Pueblo: Letter to Hon. George McGovern, chairman, Subcommittee on Indian Affairs, dated September 27, 1968 168

ADDITIONAL INFORMATION

Condition of Blue Lake after ceremonials ending August 25, 1968 192
"Impairment of Religious Liberty of the Taos Pueblo Indians by the U.S. Government," from the Journal of Church and State, spring 1967 209
Laws sponsored or cosponsored by Senator Anderson to assist the Indians of New Mexico 72
Theocratic Gerontocratic Democracy of Taos Pueblo 197

APPENDIX

Letters were received from the following:
Arnett, Katherine McC., and John H., M.D., Philadelphia, Pa 237
Baca, Fred, Taos, N. Mex 232
Barnett, Loyd O., Jr., Taos, N. Mex 232
Beasley, JoAnn, Taos, N. Mex 233
Blair, Alexander, Alamagordo, N. Mex 230
Bolander, Lloyd, Vadito, N. Mex 238
Boyd, James M., Phoenix, Ariz 242
Bridge, Diana H., Albuquerque, N. Mex 243
Brush, John E., New Brunswick, N.J 237
Butcher, Russell D., Santa Fe, N. Mex 240
Colbert, Herschel M., Taos, N. Mex 234
Connor, Leo T., Philadelphia, Pa 244
Craig, Gregory William, Minneapolis, Minn 231
Cunningham, C. G 230
Davidson, Alvin, Las Cruces, N.Mex 227
Davis, James P., Archbishop of Santa Fe, Albuquerque, N. Mex 244
DePew, Rev. T., Albuquerque, N. Mex 239
Dorand, Lloyd 237
Egri, Katherine and Ted, Taos, N. Mex 239
Garcia, Rumaldo, mayor, Taos, N. Mex 229
Gorman, Freddie and T. V., Eagle Nest, N. Mex 227
Gunter, N. P., Albuquerque, N. Mex 240
Howell, Cecil, El Prado, N. Mex 241
Hunt, Jack H., Carlsbad, N. Mex 230
Kerr, Eugene C., Los Alamos, N. Mex 244
LeClair, Jane Rode, Rochester, N.Y 238
Liberman, Maurice, Albuquerque, N. Mex 242
Lujan, Emilio S., Taos, N. Mex 235
Martinez, Louis C., chairman, Taos (N. Mex.) County Commissioners 228
Martinez, Roberto M., Taos, N. Mex 240
McCloud, Joseph E., Tiffin, Ohio 235
Montano, Joe M., Las Cruces, N. Mex 234
Nakai, Raymond, chairman, Navajo Tribal Council 229
O'Leary, Thomas V., Gladwyne, Pa 239
Openheimer, Rena, Taos, N. Mex 244
Pheatt, Richard, Toledo, Ohio 233
Rich, Marvin and Jeannette, Los Alamos, N. Mex 241
Royle, Jack, Taos, N. Mex 236
Sando, L. B., and Mrs. L. B., Albuquerque, N. Mex 243
Sando, Louisa B., Albuquerque, N. Mex 235
Sholer, B. J., Albuquerque, N. Mex 233
Snyder, Chancie L., Silver City, N. Mex 245
Sontag, Harry O., Silver City, N. Mex 236
Stephenson, Jim, Jemez Springs, N. Mex 236
Strober, Joan A., New York, N.Y 236

Letters were received from the following—Continued. Page

Tribby, Kerstin, Newtown, Conn---------- 237
Vigil, Charlie, Dulce, N. Mex---------- 244
Wanamaker, John R., Philadelphia, Pa---------- 233
Warner, Charles L., Los Alamos, N. Mex---------- 238
Waters, John W., Taos, N. Mex---------- 234
Whiting, A. Milton, Phoenix, Ariz---------- 243

TAOS INDIANS—BLUE LAKE

THURSDAY, SEPTEMBER 19, 1968

U.S. SENATE,
SUBCOMMITTEE ON INDIAN AFFAIRS OF THE
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to call ,at 10 a.m., in room 3110, Senate Office Building, Senator Lee Metcalf (chairman of the subcommittee) presiding.

Present: Senators Lee Metcalf, Henry M. Jackson, Clinton P. Anderson, Paul J. Fannin, Clifford P. Hansen, and Mark O. Hatfield.

Also present: Jerry T. Verkler, staff director; James Gamble, professional staff member; and E. Lewis Reid, minority counsel.

Senator METCALF. The subcommittee will come to order. The purpose of this hearing is to consider legislation to amend the act of May 31, 1933, providing for the conveyance of certain lands in the Carson National Forest in New Mexico to the Indians of the Taos Pueblo.

Copies of H.R. 3306, S. 1624 and S. 1625, together with reports from the various departments, will be inserted in the record at this point.

(The documents referred to follow:)

[H.R. 3306, 90th Cong., second sess.]

AN ACT To amend section 4 of the Act of May 31, 1933 (48 Stat. 108)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Act of May 31, 1933 (48 Stat. 108), providing for the protection of the watershed within the Carson National Forest for the Pueblo de Taos Indians in New Mexico, be and hereby is amended to read as follows:

"SEC. 4. (a) That, for the purpose of safeguarding the interests and welfare of the tribe of Indians known as the Pueblo de Taos of New Mexico, the following described lands and improvements thereon, upon which said Indians depend and have depended since time immemorial for water supply, forage for their domestic livestock, wood and timber for their personal use, and as the scene of certain religious ceremonials, are hereby declared to be held by the United States in trust for the Pueblo de Taos:

"Beginning at the southeast corner of the Tenorio tract on the north boundary of the Taos Pueblo grant in section 22, township 26 north, range 13 east;

"thence northwesterly and northeasterly along the east boundary of the Tenorio tract to the point where it intersects the boundary of the Lucero de Godoi or Antonio Martinez Grant;

"thence following the boundary of the Lucero de Godoi Grant northeasterly, southeasterly and northerly to Station 76 on the east boundary of the survey of the Lucero de Godoi Grant according to the March 1894 survey by United States Deputy Surveyor John H. Walker as approved by the United States Surveyor's Office, Santa Fe, New Mexico, on November 23, 1894;

"thence east .85 mile along the south boundary of the Wheeler Peak Wilderness, according to the description dated July 1, 1965, and reported to Congress pursuant to section 3(a)(1) of the Wilderness Act (Public Law 88–577);

"thence northeast approximately .25 mile to the top of an unnamed peak (which is approximately .38 mile southeasterly from Lew Wallace Peak);

"thence northwesterly 1.63 miles along the ridgetop through Lew Wallace Peak to Old Mike Peak;

"thence easterly and northeasterly along the ridgetop of the divide between the Red River and the Rio Pueblo de Taos to Station Numbered 109 of said 1894 survey, at the juncture of the divide with the west boundary of the Beaubien and Miranda Grant, New Mexico (commonly known as the Maxwell Grant) according to the official resurvey of said grant executed during July and August, 1923, by United States Surveyor Glen Haste and approved by the General Land Office, Washington, D.C., on April 28, 1926;

"thence southeasterly, southwesterly, and southerly along the west boundary of the Maxwell grant to the north line of unsurveyed section 33, township 26 north, range 15 east;

"thence southerly to the north boundary of fractional township 25 north, range 15 east;

"thence southerly and southwesterly through sections 4, 9, 8, and 7, township 25 north, range 15 east to the southwest corner of said section 7;

"thence westerly along the divide between the Rio Pueblo de Taos and Rio Fernandez de Taos to the east boundary of the Taos Pueblo grant;

"thence north to the northeast corner of the Taos Pueblo grant;

"thence west to the point of beginning; containing approximately 48,000 acres, more or less.

"(b) The lands held in trust pursuant to this section shall be a part of the Pueblo de Taos Reservation, and shall be administered under the laws and regulations applicable to other trust Indian lands: *Provided*, That the Pueblo de Taos Indians shall use the lands for traditional purposes only, such as religious ceremonials, hunting and fishing, a source of water, forage for their domestic livestock, and wood, timber, and other natural resources for their personal use, all subject to such regulations for conservation purposes as the Secretary of Agriculture may prescribe. Except for such uses, the lands shall remain forever wild and shall be maintained as a wilderness as defined in section 2(c) of the Act of September 3, 1964 (78 Stat. 890). With the consent of the tribe, but not otherwise, nonmembers of the tribe may be permitted to enter the lands for purposes compatible with their preservation as a wilderness. The Secretary of the Interior shall be responsible for the establishment and maintenance of conservation measures for these lands, including, without limitation, protection of forests from fire, disease, insects or trespass, prevention or elimination of erosion, damaging land use, or stream pollution, and maintenance of stream flow and sanitary conditions, and is authorized to contract with the Secretary of Agriculture for any services or materials deemed necessary to institute or carry out any such measures.

"(c) Those lands described in subsection (a) which are not included in the lands described in the Act of May 31, 1933, shall be held under this section subject to existing rights owned or held by non-Indians by lease or otherwise. Lessees or permittees in said land shall have the right to renew such leases or permits under the rules and regulations of the Forest Service to the same extent and in the same manner as they had prior to the enactment of this Act; but the Pueblo de Taos shall have the right to obtain the relinquishment of any and all such lease or permit interests from the lessees or permittees under such terms and conditions as may be agreed between said Pueblo and said lessees or permittees. The Secretary of the Interior is hereby authorized to disburse, from the tribal funds in the Treasury of the United States to the credit of said tribe, so much thereof as may be necessary to pay for the purchase of any rights or improvements owned by non-Indians on said lands, and for the acquisition or relinquishment of any leases or permits held by non-Indians on any of said lands.

"(d) The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1049, 1050), the extent to which the value of the interest in land conveyed by this Act should be credited to the United States or should be set off against any claim of the Taos Indians against the United States."

Passed the House of Representatives, June 18, 1968.

W. PAT JENNINGS,
Clerk.

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.

We recognize that the Indians desire firm assurance that the ceremonial areas will be protected and be available to them on a permanent basis. There is also a need to assure the many non-Pueblo residents who depend on the resources of the large Rio Pueblo de Taos watershed that these resources would be served and protected.

Accordingly, we have studied the area in the vicinity of Blue Lake with a view to defining an area which could be set aside by Congress for the exclusive use of the Pueblo. In our report to you on S. 1624 and S. 1625, we recommended amendments to those bills which would direct the Secretary of Agriculture to amend the existing permit granted to the Pueblo to provide also for the exclusive use by the Indians of about 3,150 acres in the Blue Lake area. The Secretary of Agriculture would further be directed by S. 1624 and S. 1625 to continue to protect the area's resources.

We would have no objection to the enactment of S. 1624 or S. 1625 if amended as suggested in our report, in lieu of H.R. 3306.

The 3,150 acres which that report describes encompasses Blue Lake and two other lakes that are reported to have special significance in the ceremonies of the Indians. A legislative grant of exclusive use and possession of this tract should meet Indian needs with respect to use of the area.

Other recommended provisions would be beneficial in confirming the Secretary's authority for protection and management of the remaining part of the permit area not subject to exclusive use and occupancy by the Indians, and the provisions relating to Indian and non-Indian use of the area.

The Bureau of the Budget advises that there is no objection to the presentation of this report and that the Bureau concurs with the views expressed herein.

Sincerely yours,

ORVILLE L. FREEMAN,
Secretary.

90TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 1490

AMENDING SECTION 4 OF THE ACT OF MAY 31, 1933 (48 STAT. 108)

MAY 28, 1968.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HALEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 3306]

The Committee on Interior and Insular Affairs to whom was referred the bill (H.R. 3306) to amend section 4 of the act of May 31, 1933 (48 Stat. 108), having considered the same, report favorably thereon with amendments and recommend that the bill do pass.

The amendments are as follows:

On page 2, line 8, strike out everything through page 3, line 4, and insert:

> thence northwesterly and northeasterly along the east boundary of the Tenorio tract to the point where it intersects the boundary of the Lucero de Godoi or Antonio Martinez Grant;
>
> thence following the boundary of the Lucero de Godoi Grant northeasterly, southeasterly and northerly to Station 76 on the east boundary of the survey of the Lucero de Godoi Grant according to the March 1894 survey by U.S. Deputy Surveyor John H. Walker as approved by the U.S. Surveyor's Office, Santa Fe, New Mexico, on November 23, 1894;
>
> thence east .85 mile along the south boundary of the Wheeler Peak Wilderness, according to the description dated July 1, 1965, and reported to Congress pursuant to section 3(a)(1) of the Wilderness Act (Public Law 88–577);
>
> thence northeast approximately .25 mile to the top of an unnamed peak (which is approximately .38 mile southeasterly from Lew Wallace Peak);
>
> thence northwesterly 1.63 miles along the ridgetop through Lew Wallace Peak to Old Mike Peak;

thence easterly and northeasterly along the ridgetop of the divide between the Red River and the Rio Pueblo de Taos to Station No. 109 of said 1894 survey, at the juncture of the divide with the west boundary of the Beaubien and Miranda Grant, New Mexico (commonly known as the Maxwell Grant) according to the official resurvey of said grant executed during July and August, 1923, by U.S. Surveyor Glen Haste and approved by the General Land Office, Washington, D.C., on April 28, 1926;.

On page 3, line 20, strike out "50,000" and insert "48,000".

On page 3, line 21, strike out all of subsection (b) and insert a new subsection (b) as follows:

(b) The lands held in trust pursuant to this section shall be a part of the Pueblo de Taos Reservation, and shall be administered under the laws and regulations applicable to other trust Indian lands: *Provided*, That the Pueblo de Taos Indians shall use the lands for traditional purposes only, such as religious ceremonials, hunting and fishing, a source of water, forage for their domestic livestock, and wood, timber, and other natural resources for their personal use, all subject to such regulations for conservation purposes as the Secretary of Agriculture may prescribe. Except for such uses, the lands shall remain forever wild and shall be maintained as a wilderness as defined in section 2(c) of the Act of September 3, 1964 (78 Stat. 890). With the consent of the tribe, but not otherwise, non-members of the tribe may be permitted to enter the lands for purposes compatible with their preservation as a wilderness. The Secretary of the Interior shall be responsible for the establishment and maintenance of conservation measures for these lands, including without limitation, protection of forests from fire, disease, insects or trespass, prevention or elimination of erosion, damaging land use, or stream pollution, and maintenance of stream flow and sanitary conditions, and is authorized to contract with the Secretary of Agriculture for any services or materials deemed necessary to institute or carry out any such measures.

On page 4, line 21, strike out "lands."" and insert "*lands.*"

On page 4, after line 21, insert:

(d) The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1049, 1050), the extent to which the value of the interest in land conveyed by this Act should be credited to the United States or should be set off against any claim of the Taos Indians against the United States.

Purpose

The purpose of H.R. 3306, introduced by Mr. Haley, is to grant to the Pueblo de Taos Indians in New Mexico trust title to 50,000 acres of federally owned land which the United States took from the Indians without the payment of any compensation.

NEED

The 50,000 acres are part of a larger area (approximately 130,000 acres in two tracts) to which the Taos Pueblo had aboriginal Indian title. In an interlocutory order dated September 8, 1965, the Indian Claims Commission determined that the Pueblo had established its Indian title to the larger area, and that the United States had extinguished the Indian title on November 7, 1906, without payment of compensation. The Commission ordered that the value of the land be determined in order that a monetary award could be made. The value has not yet been determined. In the same order the Commission determined that the Pueblo is entitled to payment of $297,684.67, less an offset not yet determined, as the purchase price for a different tract of land for which the Pueblo had not been paid.

The Pueblo attaches great significance to the ownership of these particular 50,000 acres, and urges the Government to return the title to the land, rather than give the Pueblo money as compensation for the 1906 taking.

The 50,000 acres were taken in 1906 by Presidential order and are now a part of the Carson National Forest. Of the 50,000 acres, 6,269 acres had passed into private or State ownership but had later been reacquired by the United States.

The importance of the area to the Pueblo has long been recognized by both the Department of the Interior and the Department of Agriculture. The Pueblo has made repeated efforts to obtain title to the land, but its efforts have been unsuccessful.

A statute enacted in 1933 (48 Stat. 108) authorized the Secretary of Agriculture to issue to the Pueblo a 50-year special use permit covering part of the area, and the permit was issued on October 24, 1940. The delay was due to controversy over the terms of the permit. Although the permit was finally issued, the controversy has continued to the present time.

The controversy centers around the desire of the Pueblo to preserve the area in its natural state, and to limit access to, and use of, the area by non-Indians. The Forest Service, on the other hand, wants to administer the land for multiple-use purposes, including recreation by the general public.

Preservation of the area in its natural condition and limitation on non-Indian use is said to be essential to protection of the Indian religion of the Pueblo. The religion is secret and, therefore, not easily explained, but it is based on nature and is said to regard this area as sacred. Complete privacy is regarded as essential to maintenance of the integrity and efficacy of the Indian religion.

From the standpoint of the Forest Service, the 50,000 acres are part of a national forest that consists of 1,419,732 acres of federally owned land. Although retention of the 50,000 acres as part of the forest is desirable, transfer of the 50,000 acres to the Pueblo would not prejudice the administration of the remaining acreage in the forest.

The issue, therefore, is whether the pueblo should be paid for the 50,000 acres, as ordered by the Indian Claims Commission, and the land retained in the national forest for the benefit of the public generally, or whether the land should be restored to the pueblo. The committee concluded that the equities are on the side of the Indians and that the land should be restored to the pueblo. The Indians have a greater need for the land than does the public.

The committee wishes to make clear that it does not regard enactment of this bill as a precedent for settling claims before the Indian Claims Commission by conveying land rather than by paying money. Three facts make the Taos Pueblo case unique: (1) The land is essential to the preservation of the Indian religion, (2) despite the extinguishment of the Indian title in 1906, the Indians have continued to use the land and are using it today, and (3) the special needs of the Indians for the use of the land have been recognized by the Government throughout the past 62 years. The committee is aware of no other Indian tribe in a similar situation.

COMMITTEE AMENDMENTS

The committee has amended the bill to reduce the acreage from 50,000 to 48,000 acres. The 2,000 acres deleted are in Wheeler Peak wilderness, and the deletion was recommended by the pueblo in order to avoid any problem associated with modification of the wilderness.

An amendment recommended by the Secretary of the Interior and concurred in by the pueblo has been included. It requires the pueblo to use the land for traditional purposes only, and otherwise to maintain the land as a wilderness. This is compatible with pueblo desires and plans, and will assure administration that is compatible with adjacent national forest administration. The Secretary of the Interior may contract with the Secretary of Agriculture for conservation services that can be furnished by the latter.

The Indian Claims Commission has also been directed to determine the extent to which the value of the land conveyed to the pueblo by this bill should be credited to the Government in the pending claims litigation. The limitation on use referred to in the preceding paragraph may affect the value.

COST

Enactment of the bill will involve no Federal cost.

DEPARTMENTAL REPORTS

The reports of the Department of the Interior, the Department of Agriculture, and the Department of Justice are as follows:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 26, 1968.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for a report on H.R. 3306, a bill to amend section 4 of the act of May 31, 1933 (48 Stat. 108).

We recommend that the bill be enacted if amended as suggested below.

The bill provides that approximately 50,000 acres, more or less, that are within the Carson National Forest shall be held in trust by the United States for the Pueblo de Taos, subject to administration

under the rules applicable to other trust lands, except that the Secretary of Agriculture may supervise the establishment and maintenance of conservation measures for the lands. The 17,550 acres of the 50,000 acres that are not presently under permit to the pueblo pursuant to the act of May 31, 1933 (48 Stat. 108), will be held subject to existing rights of non-Indians who hold Forest Service leases or permits. These leases or permits will continue to be renewable under Forest Service regulations. The Indians may purchase with tribal funds relinquishments of the non-Indian leases or permits if the owners are willing to sell.

Under the act of May 31, 1933, the Pueblo de Taos Indians have had the use of some 32,450 acres of this land under a 50-year permit with provision for subsequent renewals. The purpose of this legislation is to give title to the Pueblo de Taos Indians to this acreage and to an additional 17,550 acres. A large part of the 50,000 acres is unsurveyed and the acreages mentioned may not be exact. On several occasions in the past legislation has been introduced to add the 17,550 acres to the area under permit to the pueblo.

The 50-year permit authorized by the 1933 act was issued on October 24, 1940, and gives to the Inda ns the right to use the lands for water, forage for their domestic livestock, wood and timber for their personal use, and as the scene for certain of their religious ceremonies subject to certain control by the Fosest Service.

The background of the area aboriginally occupied by the Taos Pueblo Indians, which includes this 50,000 acres, is found in the case entitled "*Pueblo de Taos* v. *United States of America*," docket No. 357, before the Indian Claims Commission.

An interlocutory order was issued by the Commission in this case on September 8, 1965. The case involved two claims. As to the first claim, the Commission found that the Indians established Indian title to an estimated 130,000 acres and that the United States extinguished Indian title to the lands without payment of compensation by establishment of the Taos National Forest on November 7, 1906. (The Taos National Forest was later incorporated into the Carson National Forest.) The Commission ordered that the case proceed to determination of the exact acreage and value of the lands as of November 7, 1906. In the second claim, the Commission found that the United States had extinguished title to town lots within the town of Taos and agreed to pay the Indians the sum of $297,684.67 as the purchase price for the lots; that the Indians had agreed to waive payment of this money in consideration that they be given title to the Blue Lake area; and, that the Indians had received neither the title they desired nor the payment in money. The Commission held that the Indians were entitled to recover the sum of money mentioned, less the value of the use permit given under the 1933 act, less offsets if there are any.

In the 72d Congress (S. Rept. No. 25, pt. 2, 72d Cong., first sess.), a Senate committee in reporting on the amount due the Pueblo for these town lots (and on an additional amount the Pueblo Lands Board found due the Pueblo for adverse claims within the original Taos Pueblo Grant) stated as follows:

"At the time of the hearing at Taos, the board was advised by representatives of the Pueblo that no claim would be asked by the Pueblo for those adverse claims within the town of Taos if the board would recommend to the Government that an area hereinafter described, known as the Blue Lake area, was patented to the Pueblo.

* * * For reasons unknown to your committee, the Pueblo Lands Board did not incorporate in its reports any recommendation in connection with this proposal of the Indians although the board evidently did not include any of the values of the tracts within the town of Taos in its award. It is apparent that the board pursued the stipulation or agreement entered into at the time of the hearing in Taos to the extent of awarding to the non-Indian claimants the numerous tracts of land within the town of Taos.

"Your committee believes that in this case the amount of the full appraisal in the sum of $458,520.61 should be made to the Indians in good faith, less the amount of the award heretofore made in the sum of $76,128.85, or, that the understanding at the time of the stipulation between the Indians and the board should be carried out by either the issuances of a patent by the Government of the United States to the Pueblo of Taos for the Blue Lake area hereinafter described, or the authorization by Congres of an Executive order reservation of the area in question by the President of the United States."

The Taos Pueblo Indians have never been satisfied with the permit arrangement for the 32,450 acres. They regard this land as theirs and they do not understand the requirement for Forest Service supervision. They are apprehensive that Congress could at some future time repeal the 1933 act and thereby take this land. They feel that if they had trust title they would have a more secure right to the area than they have under the permit. The religious significance of this particular land to the Taos Indians is perhaps best described in the Claims Commission's finding of fact No. 5 from which the following is quoted:

"One of the basic precepts of Pueblo philosophy and religion is that a way of life was established in the beginning by Mother Nature and the Pueblo's forefathers, and that things should be done as they were in the past.

"The native religion of the Taos Indians is to this day very much involved with the daily life of the people. This religion does now and has for centuries tied them closely to the land. The land and the people 'are so closely tied together that it is what might be technically called a symbiotic relationship—the people by their prayers and their religious functions, keep the land producing; and the land keeps the people.' This attachment to the land is an attachment to the specific circumscribed area defined in the original petition and encompassed approximately 300,000 acers. It is symbolized by shrines at which the Taos people worship. These shrines are visited almost daily. The attachment to specific geographic sites, which reaches back for centuries, continues to the present day. Where the location of a shrine has passed into non-Indian ownership, Taos men still visit it for ceremonial purposes."

Finding of fact No. 11 continues with a description of the religious significance of specific sites:

"In the native religion of Taos Pueblo, specific ceremonials were performed at designated spots or shrines. The Indians claimed that a shrine could not be moved. The area of aboriginal occupancy is thus dotted with religious shrines which were frequently visited by members of the Pueblo of Taos for ceremonial purposes.

"Starting with the northernmost part of the eastern claim area, the most important site identified on petirioner's Exhibit No. 84(a) is Blue Lake. This is the most sacred shrine of the Pueblo of Taos

Indians. It is claimed to be their church. In August of every year, the entire adult population of the Pueblo goes to Blue Lake for ancient religious ceremonies which have continued uninterrupted for centuries. On the first day, a ceremony is held in the canyon of the Taos River, east of the Pueblo. Then, on the second day, the Indians go to the Blue Lake and there hold ceremonies during the day and night. Absolute privacy is maintained by their war captains.

"Use of the Blue Lake, however, is not limited to this August ceremony. This area is used every day by at least a few Taos Pueblo Indians for private religious reflection. The village war captain is there once a week to clear the area and check for forest fires * * *."

As mentioned, the Indians also make secular use of the area. They are dependent on it for their water supply, forage for livestock, game, wood, and timber.

This bill is not unique in proposing the grant of federally owned land to an Indian tribe. In almost every session Congress considers many similar bills. Several of these bills have been enacted. The difference is that here the Indians are entitled to be paid for the lands, and in the view of the tribe no money payment can adequately compensate for these lands. There are apprehensions in some quarters that if the Taos Pueblo is given this land a precedent will be set whereby other Indian tribes will seek to have returned to them the lands to which they are determined by the Indian Claims Commission to have had Indian title. We do not think this is necessarily the case. In a great many of the cases the lands for which tribes are being compensated are not in the proximity of their present holdings. Moreover, few of the tribes have expressed any such desire. Even aside from these considerations, however, the question as to whether Indian tribes are to be given money payment or their lands returned is one that will have to be decided on an individual basis. We would not consider this proposal as opening the door for favorable action on similar requests that might be made. We believe that the special relationships between the Taos Pueblo Indians and this particular land warrants favorable consideration of this proposal, as an exception to the general rule.

The bill provides that the land not permitted to the tribe under the 1933 act will be given to the Indians in trust subject to existing rights owned or held by non-Indians by lease or permit. Provision is made for the Pueblo to purchase these rights and any improvements the non-Indians may have, if they are willing to sell. We appreciate the apprehensions that have been expressed about giving recognition to these leases and permits within the national forest as vested interests. We have the same situation with regard to permits on public land, and we share the view that they are not vested interests. We therefore would not regard congressional action in this special case as a recognition of vested interests in permits and leases on the public lands generally. We understand that there are only three permittees on this acreage and that one of these has indicated a willingness to sell his holdings to the Indians.

An argument that has been advanced against giving the Pueblo trust title to these lands is that what the Indians really want is the timber on these lands for commercial exploitation. It is, in our view, a challenge of the integrity of the Taos Pueblo Indians to suggest that they would seek behind a facade of religious belief something

20-496 O - 68 - 2

which they might not otherwise be able to obtain. We reject this argument. The Pueblo, however, is aware of this concern and is willing to have the bill changed to provide that the land granted to them will be kept in a wilderness condition, subject only to traditional Indian uses. We therefore suggest that the bill be amended as follows:

On page 3, line 21, change subsection (b) to read as follows:

"(b) The lands held in trust pursuant to this section shall be a part of the Pueblo de Taos Reservation, and shall be administered under the laws and regulations applicable to other trust Indian lands: *Provided*, That the Pueblo de Taos Indians shall use the lands for traditional purposes only, such as religious ceremonials, hunting and fishing, a source of water, forage for their domestic livestock, and wood, timber, and other natural resources for their personal use, all subject to such regulations for conservation purposes as the Secretary of Agriculture may prescribe. Except for such uses, the lands shall remain forever wild and shall be maintained as a wilderness as defined in section 2(c) of the Act of September 3, 1964 (78 Stat. 890). With the consent of the tribe, non-members of the tribe may be permitted to enter the lands for purposes compatible with their preservation as a wilderness. The Secretary of Agriculture shall be responsible for administering the trust lands described in subsection (a), and for that purpose he may exercise any of the applicable authorities of the Secretary of the Interior."

The last sentence in the foregoing amendment is intended to assure fullest coordination of the administration of the 50,000 acres of Indian trust land and the adjacent national forest land.

Inasmuch as the purpose of the bill is to give the Indians 50,000 acres of land, more or less, in lieu of a judgment by the Indian Claims Commission for the value of the land when it was taken in 1906, less any allowable offsets, the bill should have one further amendment. The amendment should specify the manner in which the Indian Claims Commission will consider the present 50,000-acre grant in connection with the 130,000-acre taking in 1906.

The Bureau of the Budget has advised that, while there is no objection to submission of this report from the standpoint of the administration's program, the Bureau concurs in the views of the Department of Agriculture as expressed in its report to the committee on the bill.

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., April 16, 1968.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives.

DEAR MR. CHAIRMAN: As you asked, here is our report on H.R. 3306, a bill to amend section 4 of the act of May 31, 1933 (48 Stat. 108).

We would have no objection to the enactment of H.R. 3306 if amended as suggested herein.

Section 4 of the act of May 31, 1933, directed the Secretary of Agriculture to segregate certain national forest lands, and thereby with-

draw 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, N. Mex., 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 18,000 acres of national forest lands, thus including a total of 50,000 acres in the permit area, 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 bill would also declare the entire 50,000-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, except that the Secretary of Agriculture would supervise the establishment and maintenance of conservation measures for the area.

We strongly recommend that no additional national forest lands be made available for the use of the Pueblo de Taos. The entire area involved in H.R. 3306 should remain a part of the Carson National Forest. 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.

H.R. 3306 would declare to be held in trust for the Pueblo not only the national forest land covered by the present permit arrangement but also an additional 18,000 acres of national forest land now fully available for public use. This would extend to this limited group exclusive and special privileges not available to other citizens.

The additional area is now administered under multiple use principles for greatest public use and benefit. These lands contain scarce resources in a generally arid region. The resources presently available to the Pueblo de Taos Indians appear to be sufficient for their needs.

The area described in H.R. 3306 includes approximately 2,000 acres of the Wheeler Peak Wilderness. This area was made a part of the national wilderness preservation system by the Wilderness Act of September 3, 1964. This act defines wilderness, in part, as an area of at least 5,000 acres of land or of sufficient size as to make practical its preservation and use in an unimpaired condition. Elimination of 2,000 acres from the wilderness would reduce its total to about 4,000 acres. If H.R. 3306 were enacted, the remaining portion of the Wheeler Peak Wilderness would no longer meet these criteria.

We are concerned that transfer of the tract in trust 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 de Taos in land rather than in cash as is usual under the Claims Commission authorities. This would inevitably lead to many other 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.

We recognize that special attachment to the land is a basic part of the tradition of the Pueblo de Taos, and that the area described in H.R. 3306 includes Blue Lake and other religious shrines of their people. The Indians desire firm assurance that the ceremonial areas will be protected and be available to them on a permanent basis. There is also a need to assure the many non-Pueblo residents who depend on the resources of the large Rio Pueblo de Taos watershed that these resources would be conserved and protected.

Accordingly, we have studied the area in the vicinity of Blue Lake with a view to defining an area which could be set aside by Congress for the exclusive use of the Pueblo. We suggest the attached amendment in the nature of a substitute to H.R. 3306. This substitute bill would direct the Secretary of Agriculture to amend the existing permit granted to the Pueblo to provide also for the exclusive use by the Indians of about 3,150 acres in the Blue Lake area. The Secretary of Agriculture would further be directed to continue to protect the area's resources.

The 3,150 acres which the substitute bill describes encompasses Blue Lake and two other lakes that are reported to have special significance in the ceremonies of the Indians. A legislative grant of exclusive use and possession of this tract should meet Indian needs with respect to use of the area. It would assure them of perpetual use of Blue Lake; there would be no revocation of the permit.

The boundary of this tract would generally be prominent ridges which could be easily identified, signed and posted. The area would be large enough to assure privacy and would be posted and fenced by the Indians. Non-Indian use could be restricted throughout the entire year.

The substitute bill also directs the Secretary of Agriculture to make certain clarifying amendments to the existing permit. The amendments outline the respective rights of the Secretary and the Pueblo regarding (1) use of the grazing capacity by the Pueblo, (2) use and disposition of the timber and wood in the area, (3) removal of damaged or diseased timber, (4) protection of the area from fire, forest insects and diseases, (5) use of the area by the tribe for religious ceremonies, (6) protection of religious shrines, and (7) use of the area by persons not members of the tribe.

These provisions could be beneficial in confirming the Secretary's authority for protection and management of the remaining part of the permit area not subject to exclusive use and occupancy by the Indians, and the provisions relating to Indian and non-Indian use of the area.

The Bureau of the Budget advises that there is no objection to the presentation of this report and that the Bureau concurs with the views expressed herein.

Sincerely yours,

ORVILLE L. FREEMAN,
Secretary.

Enclosure.

A BILL To provide for the amendment of the permit issued to the Pueblo de Taos Indians of New Mexico, pursuant to section 4 of the Act of May 31, 1933 (48 Stat. 108), and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, the Secretary of Agriculture is hereby directed to amend the permit granted to the tribe of Indians known as the Pueblo de Taos of New Mexico, pursuant to section 4 of the Act of May 31, 1933 (48 Stat. 108), to provide also for the following:

The Pueblo de Taos Indians shall be permitted to have exclusive use of about 3,150 acres more or less in the Blue Lake Area and including Star and Waterbird Lakes. The Secretary of Agriculture shall continue to be responsible for protection of the area from fire, insects, and disease, and maintenance of sanitary conditions as a part of the Carson National Forest and for administering the regulations applicable thereto, subject to the provisions of the permit. Law enforcement officers will continue to be authorized to enter the area in performance of official duties. Within such area the cutting of timber, grazing of livestock, and construction of improvements will be limited to activities found necessary by the Indians in the performance of their ceremonials or for the provision of adequate sanitation for the protection of health. Such area lies in the headwaters of the Rio Pueblo de Taos, within the Carson National Forest, New Mexico, and is described as:

Beginning at the summit of Lew Wallace Peak, on the divide between the Rio Lucero and the Rio Pueblo de Taos;

thence northwesterly along such divide 1 mile;

thence northeasterly on a line to a point on a National Forest trail where such trail turns sharply to the southeast toward Blue Lake;

thence easterly with the National Forest trail to the intersection of said trail with the ridge which is the easterly boundary of the watershed of the Rio Pueblo de Taos and also the boundary of the Carson National Forest and the west boundary of the Maxwell Grant;

thence southeasterly along such ridge approximately 1½ miles to the intersection of such ridge with the summit of the southwesterly trending ridge forming the northwesterly boundary of the Bonito Park drainage;

thence southwesterly along the crest of this ridge and a spur thereof to a junction with the Rio Pueblo de Taos at a point in the southwest quarter of projected section 5, township 26 north, range 15 east;

thence with the Rio Pueblo de Taos to a point where the east-west trending ridge that defines the south boundary of the drainage that flows easterly from Waterbird Lake meets the Rio Pueblo de Taos;

thence westerly on the summit of such ridge to the divide between the watershed of the Rio Lucero and the Rio Pueblo de Taos;

thence northerly on such divide to Lew Wallace Peak, the point of beginning, containing approximately 3,150 acres, more or less.

SEC. 2. The Secretary of Agriculture is hereby directed to further amend the permit granted to the Pueblo de Taos Indians pursuant to section 4 of the Act of May 31, 1933 (48 Stat. 108), to provide that the Secretary of Agriculture, in administering the remainder of the existing permit area as a part of the Carson National Forest, (1) shall make the total grazing capacity thereof, as determined by him after consultation with the Pueblo de Taos officials, available to the members of the Pueblo de Taos free of charge under such conditions as he finds necessary to protect and preserve the soil and and watershed; (2) shall make timber and wood from the area available without charge for the personal or Tribal community needs of the members of the Pueblo or the Pueblo community; (3) may sell timber and wood from the area to the Pueblo or its members for commercial use at its appraised value; (4) may, with the concurrence of the Pueblo de Taos officials, sell timber and other forest products from the area to non-Indians under national forest sales procedures; (5) may cause timber to be removed from the area when damaged by fire, insects, or disease, or when determined by him to be necessary to prevent the spread of insect infestations or diseases; (6) may take such other steps he determines to be necessary to protect the area and surrounding areas from fires, forest insects, and diseases; (7) shall permit the Pueblo de Taos to have exclusive use of the area during the period of August 16 through August 31 of each year to protect the privacy of their ancient ceremonies, subject to the authority of the Secretary to protect the area from fire, insects, and disease and the authority of law enforcement officers to enter the area in the performance of their official duties; (8) shall cooperate with the Pueblo in the protection from destruction or incompatible uses, to the extent feasible, of limited areas or localities within such area identified by the Indians as having special religious or ceremonial significance to them; (9) shall, if such procedure is requested annually by the governing officials of the Pueblo, require persons other than members of the Pueblo de Taos who desire to enter such area for other than official business to obtain permits, and permits for more than one day shall be concurred in by a designated official of the Pueblo.

SEC. 3. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the Carson National Forest permit granted pursuant to section 4 of the Act of May 31, 1933 (48 Stat. 108) should be credited to the United States or should be set off against any claim of the Pueblo de Taos Indians against the United States.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., April 22, 1968.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This will refer to H.R. 3306, a bill to amend section 4 of the Act of May 31, 1933 (48 Stat. 108).

The bill would provide that approximately 50,000 acres of public lands lying east of the Pueblo of Taos grant would hereafter be held in trust by the United States for the Taos Indians.

Section 4 of the Act of May 31, 1933, gave the Taos Pueblo Indians a 50-year renewable use right to 30,000 acres (later increased to 37,000 acres) and embracing the Taos religious shrine known as Blue Lake. Under the provisions of the bill the area to be held in trust for the Indians would include this and increase it to about 50,000 acres. The bill provides for the protection of existing non-Indian rights in the area but empowers the Indians to extinguish those rights by purchase if they so desire.

In the *Pueblo of Taos* case, decided by the Indian Claims Commission on September 8, 1965, 15 Ind. Cl. Comm. 666, the Indians' claim of aboriginal title to approximately 130,000 acres of land—divided into two parcels, one to the west of the Pueblo proper and the other to the east—was upheld. The eastern claimed area included the 50,000 acres under discussion.

The conveyance of this 50,000 acres in trust for the Indians will leave, for valuation and payment, a net of about 80,000 acres.

Apart from the foregoing, the Commission's order of September 8 also provides that the United States shall pay to the Taos Indians the amount of an award recognized as due in 1933—$297,684.67. Finally, the Commission provided that there should be offset against this total figure the value of the use permit which began in 1933.

Whether this legislation should be enacted involves policy considerations as to which the Department of Justice makes no recommendation.

However, if the bill is to be enacted it is suggested that it be amended to contain the following provision:

"The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the act of August 13, 1946 (60 Stat. 1049, 1050), the extent to which the value of the interest in land conveyed by this act should be credited to the United States or should be set off against any claim of the Taos Indians against the United States."

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

WARREN CHRISTOPHER,
Deputy Attorney General.

HISTORICAL BACKGROUND

A memorandum prepared by the Pueblo giving relevant historical background is as follows:

MEMORANDUM

H.R. 3306

The following memorandum sets forth the position of Taos Pueblo on H.R. 3306, which would return to our people the sacred lands of the Blue Lake Area. The memorandum was prepared by the Pueblo's special attorney, William C. Schaab, at the direction of, and in consultation with the General Council of the Pueblo, and is an accurate statement of why the people of Taos Pueblo have for two generations consistently sought return of these lands.

TAOS PUEBLO COUNCIL.

Dated: May 4, 1968.
Council Members:

Juan de Jesus Romero; Ben Marcus; John Marcus; Frank R. Archuleta; Joe D Romero; Manuel Lujan; Onesimo Cordova; Avelino Archuleta; Ben A. Lujan; Teles Reyna; Jerry Mirabal; John D. Reyna; Lupe Sandoval; Frank C. Martinez; Querino Romero, Governor; Severino Martinez, Council Spokesman; Paul J. Bernal, Council Secretary and Interpreter; Louis Castellano; James Mirabal; John J. Reyna; Teresino Jiron; Geronimo Trujillo; Manuel Reyna; Eleseo Suazo; Cesario Duran; T. L. Gomez; Cruz P. Trujillo; Cesario Romero; Don Mondragon; Santano Jiron; Sam Martinez.

SUMMARY

H.R. 3306 would transfer to Taos Pueblo by trust patent the entire watershed of the Rio Pueblo de Taos (hereinafter sometimes called the Blue Lake Area) and about 7,200 acres in the drainage of the Rio Lucero to the northwest, as shown on the map annexed hereto. The Indian Claims Commission held on September 8, 1965, that Taos Pueblo held aboriginal Indian title to all of that land, and that the United States extinguished that title without compensation in 1906 (exhibit 1). Since 1906 the Blue Lake Area has been continuously occupied and used by the Indians in the practice of their ancient religion. But the Indians' right to the exclusive use of the land under a permit authorized by Congress in 1933 has been challenged by the Forest Service.

The Pueblo now asks Congress for return of the land itself for the following reasons:

1. *Preservation of religious privacy.*—Ownership of the entire Blue Lake Area is necessary to preserve the absolute privacy with which the Indian religion is protected; if the sacred ways can be learned by outsiders, the religion will be profaned and its power vitiated. As a Taos Indian told the anthropologist Elsie Clews Parsons: "Our ways would lose their power if they were known. People have learned about the ways of the other pueblos, and those peublos have lost their power." (1 Parsons, "Pueblo Indian Religion," p. 433 (Chicago 1939).).

2. *Preservation of natural ecology.*—Ownership of the entire area is necessary to preserve the natural environment within which the religion is practiced. Preservation of the natural ecology of the "bowl" formed by the watershed of the Rio Pueblo is as important as preservation of privacy. The Indians' religion focuses on the world of nature undisturbed by technology; disruption of the ecology is a desecration of the area which threatens the vitality of the religion.

3. *Community progress.*—The will and leadership necessary to advance the life of the Pueblo and to sustain its orderly transition into American society depend upon preservation of the Pueblo's ancient religion. The religion is the basis for the social and political life of the Pueblo and for most of its economic life. Any weakening of the power of the traditional religion will thus weaken the cultural bonds that have held the Pueblo community together since A.D. 1300.

Decay of the religion can result only in confusion, hopelessness, and despair; in the complete inability of the Pueblo to advance the welfare of its people.

4. *Freedom of worship.*—The Pueblo should have ownership of the Blue Lake area to protect its freedom of worship. It would be unjust for the United States to deprive the Indians of their right to worship as they please by withholding control of the sacred area in which their religious practices take place.

The present system of permits and agreements (see the historical summary below) under which the Forest Service is responsible for administering the land covered by the bill has not adequately protected the Indians' religious use of the land for the following reasons:

1. *Conflicting philosophy.*—The Forest Service has been unable to reconcile (*a*) exclusive Indian possession of the sacred land held under the permit with (*b*) the "multiple use" philosophy governing national forest land generally. That fundamental conflict has led the Forest Service repeatedly to attempt to modify the provisions of the permit to reduce or eliminate the Indians' right to control and use the land.

2. *Administrative uncertainty.*—Apart from conflicts in basic policy, interpretations by Forest Service field personnel of Indian rights under the permit have been inconsistent and unpredictable; the Pueblo has not been secure in the enjoyment of its rights.

3. *Pressure on Pueblo religion.*—Forest Service administration of the Blue Lake area exerts a continuing pressure on the religious use of the land by the Pueblo. Religious privacy has been constantly jeopardized. A trust patent would protect the Indians' religious concerns while freeing the Forest Service from continued difficulties in administering the permit in a context of multiple use.

The claims made by the Forest Service and others in opposition to the bill are without merit. Those claims are answered as follows:

1. *Adverse precedent.*—Fear that enactment of H.R. 3306 will set a precedent for other tribes is misplaced.

(*a*) The Government's original intention was to preserve the land for exclusive Indian use. Congress recognized 40 years ago, by the act of March 27, 1928, and 35 years ago by the act of May 31, 1933, the special interests of the Taos Indians in the Blue Lake area. Any precedent has thus already been set by Congress; enactment of H.R. 3306 will merely carry out Congress' earlier intent to secure and protect the Indians' rights in the land.

(*b*) The Pueblo's special interests in the land have consistently been recognized for over 60 years by the Forest Service and the Department of the Interior.

(*c*) The Taos claim for return of the Blue Lake area is unique; no other Indian tribe can show a similar recognition by the Government of its continuing interest and equity in a defined area of Government-owned land. Other tribes are generally content with money damages under the Indian Claims Act.

2. *Public uses of land.*—Enactment of H.R. 3306 will not materially affect any "public rights" in the Blue Lake area.

(*a*) Congress determined 35 years ago that this area should not be open to the general public but shall be restricted for Indian use and benefit. In the act of May 31, 1933, Congress provided that the Taos Indians should have the right "to occupy said lands and use the resources thereof for the personal use and benefit of said tribe of

Indians." The permit of October 24, 1940, issued under that act provided that "persons not members of the Pueblo of Taos, other than forest officers, shall be admitted into this area only under written permits issued under authority of the forest supervisor and concurred in by the Governor or his designated representative."

(*b*) Contrary to the claim that public use is "important and increasing", the Forest Service has repeatedly diminished the use of the area by sportsmen: The lakes are no longer stocked with fish, the area is not prime country for hunting, and use by campers has been deliberately discouraged. Secretary Freeman himself stated in February 1962 that "the Indians' rights to use the area for ceremonial purposes will be fully protected." At present, the Pueblo is refusing to approve permits for entry of recreationalists into the area. No commercial timber operations have occurred in the permit area and cannot occur without the Pueblo's consent.

3. *Validity of religious uses.*—Whether explicitly or by implication opponents of the bill have challenged the good faith of the Indians with respect to the religious importance of the Blue Lake area. The Indians' good faith and the validity of the religious ground for their claim are established by the following:

(*a*) The Indians have consistently claimed the entire Blue Lake area since 1904. The religious importance of the entire area has been consistently asserted by successive generations of Taos Indians over nearly 65 years.

(*b*) The Indians have continuously used the entire Blue Lake Area for religious purposes, despite issuance by the Forest Service of grazing permits to outsiders and ownership of a portion of the land by others. Their continuous use has been recognized by the Forest Service and the Department of the Interior. Religious use continues during all months of the year in sections not inaccessible because of snow; it is not confined to only a few days in August.

(*c*) The Indians seek no economic benefit or advantage beyond use of the land for limited grazing. They have never permitted commercial timber operations in the permit area and have objected to such operations in La Junta Canyon, which occurred while the State of New Mexico owned that area. Commercial or industrial "development" of the area would be a desecration the Pueblo would never permit. The religious claim is not a veiled attempt to obtain riches.

4. *Protection of existing uses.*—The bill protects the rights of the existing grazing permittees along the east side of the Rio Pueblo watershed. The Pueblo has always recognized and is anzious to protect the rights of downstream users of the waters of the Rio Pueblo. Passage of the bill would have no effect upon water rights.

5. *Conservation management.*—In order to protect the purity of the water supply of both the Indians and downstream users and to insure continued conservation practices, the bill makes the Forest Service responsible for continued management of the Rio Pueblo watershed. The Forest Service has objected that it should not be made responsible for land controlled by the Department of the Interior. In response to that objection, the Pueblo believes that management of the watershed should be vested in the Department of the Interior with authority for the Bureau of Indian Affairs' Forestry Division to contract with the Forest Service for particular conservation measures.

6. *Harvesting of mature timber.*—From time to time the suggestion has been made that "mature" or "overripe" timber should be harvested. The Pueblo does not believe such harvesting of timber in the Blue Lake area is necessary; indeed, in 1905 a representative of the U.S. Geological Survey reported to the Department of Agriculture that traditional Indian practices regarding mature timber had had the highly beneficial effect of preventing floods on the Rio Pueblo and recommended their emulation in other forest areas (exhibit 9). At the present time mature timber is not methodically harvested in wilderness areas under Forest Service management. The same policy can surely be followed in the Blue Lake area. To harvest mature timber in the Blue Lake area would intolerably disrupt the religious life of the Indians; if continued over a long period it would destroy the foundation of the religion, which is the Blue Lake area.

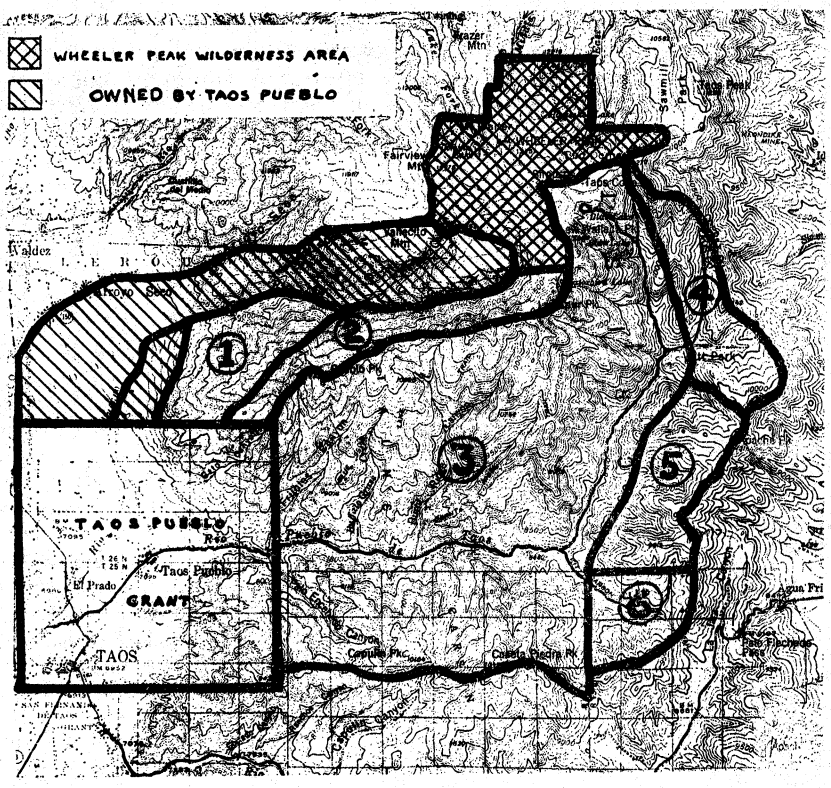
The long history of the Indians' attachment to the Blue Lake Area and of conflict between their claims and the policies of the Forest Service is summarized below. The Government's original intention was to preserve the area covered by the bill for exclusive Indian use. That intension was reaffirmed in the act of May 31, 1933, and has never been abandoned. But the growth of Forest Service programs to develop the economic and recreational uses of the land has generated conflicts within the Government and placed intolerable pressure on the Pueblo. The time has now come to reaffirm the Government's original and basic policy regarding this land, to scrap the half-measures of the permit system, and to transfer ownership of the land to the Indians. Not only will the bill resolve the regrettable conflict over use of the land, but it will save payment of monetary compensation to the Puelbo under the Indian Claims Act. Perhaps most importantly, the bill will guarantee the Indians' religious freedom and support their cultural growth and progress.

ANALYSIS OF H.R. 3306

The bill provides for a trust patent to Taos Pueblo covering 50,000 acres. Approximately 2,000 acres of the land described in the present bill now is included within the Wheeler Peak Wilderness Area; that acreage should be deleted from the bill. The map attached hereto shows the location of the land involved; for convenience the relevant sections of the area have been marked as tracts 1 through 6.

Tract 1 is approximately 3,929 acres in the drainage area of the Rio Lucero. This tract was acquired by the Forest Service in 1950 as the Will Ed Harris tract No. 2. Although the tract had been in private ownership for some years before 1950, the land was unfenced and the Taos Indians have always occupied and used the area. The only convenient access to the property is from lands owned by the Pueblo, and the owner of the property never excluded Indian stock from grazing thereon. The Forest Service itself has recognized that the tract has always been used by the Indians (Ex. 71, 72).

Tract 2 is approximately 3,270 acre in the Rio Lucero drainage. Like tract 1, this area has always been used by the Indians and has been covered by a cooperative agreement between the Pueblo and the Forest Service since September 6, 1933 (Ex. 40).



Tract 3 is approximately 32,450 acres in the watershed of the Rio Pueblo de Taos, which has been covered by a permit (Ex. 57) issued to the pueblo under the act of May 31, 1933 (hereinafter sometimes called the permit area).

Tract 4 is an area of about 2,809 acres known as Witt Park, which includes Bonito Park. Grazing permits have been outstanding for this area since 1918, but it was withdrawn from all forms of entry under the act of March 27, 1928, in recognition of its importance to the Indians. The present grazing permit covers 48 head from July 1 to September 15 each year. The rights of the permittee are protected under the bill, which authorizes the use of Pueblo funds to purchase such rights. The annual value of such rights is $240 on the basis of $2 per cow-month.

Tract 5 is an area of 3,520 acres known as Apache Springs. Grazing permits have been issued for this area since 1921. Like Witt Park, the area was withdrawn from entry under the act of March 27, 1928, by Executive Order 7361 dated May 5, 1936 (Ex. 49). The Forest Service has recently combined the Apache Springs grazing allotment with the La Junta Canyon allotment to form the Capulin grazing allotment. Six grazing permits are outstanding for that allotment covering a total of 191 head. Five permits cover 121 head from June 1 to September 30, and one permit covers 70 head from July 20 to September 30. The estimated annual value of those grazing rights is $1,290.

Tract 6 is approximately 2,340 acres known as La Junta Canyon. It is part of the property acquired by the Forest Service in 1952 from the State of New Mexico, which had received the area as a lieu selection for the benefit of the University of New Mexico. The tract was occupied and used by the Indians until sale by the State of a timber contract in the 1940's. The tract is presently combined with Apache Springs for grazing purposes.

Forest Service statements to Congress have made much of the fact that tracts 1 and 6 were acquired from non-Indian owners in recent years, but they have not pointed out the fact that the Taos Indians originally owned and have always occupied those tracts. The Indians' interest in tracts 4, 5, and 6 was recognized by the act of March 28, 1928 (Ex. 30), authorizing withdrawal from entry of all Federal land in the Rio Pueblo watershed, and tracts 4 and 5 were withdrawn from entry by Executive Order 7361 dated May 5, 1936 (Ex. 49). As noted in the historical summary below, the Forest Service has offered to give the Pueblo free-use grazing permits to tracts 1 and 6 (subject to the existing rights of grazing permittees on tract 6), and has always recognized the Indians' special interests in those tracts.

In addition to protection of the existing non-Indian grazing permits, the bill provides for continued management of the entire area by the Forest Service. In the hearings on S. 3085 (89:1) in May 1966 the Forest Service objected to that provision on the grounds that it should not be responsible for management of land outside the boundaries of a national forest. In response to that objection the Pueblo has requested an amendment of H.R. 3306 to provide for management of the area by the Secretary of the Interior with authority to contract with the Forest Service for services or materials necessary or advisable in connection therewith. There is ample precedent for that proposal in such statutes as the acts of September 20, 1922 (42 Stat. 857) and June 25, 1947 (61 Stat. 177), 16 U.S.C. section 594, and such interdepartmental agreements as those between Interior and Agriculture dated May 1942 and January 11, 1943, all of which provide for Forest Service actions on Indian lands. The Forestry Division of the Bureau of Indian Affairs and the Forest Service have long cooperated in relation to forests on Indian lands, and they would cooperte well regarding the Blue Lake Area. Interposition of the BIA between the Pueblo and the Forest Service will undoubtedly improve communication and coordination regarding management of the Rio Pueblo watershed. Moreover, the Interior Department's regulations applicable to Indian forest lands, 25 C.F.R. section 141.3(e), permit "preservation of the forest in its natural state wherever it is considered, and the authorized Indian representatives agree, that the recreational or aesthetic value of the forest to the Indians exceeds its value for the production of forest products." That regulation will permit BIA management of the Blue Lake Area as an untouched natural area in accordance with the desires of the Taos Indians, a result that has never been assured under Forest Service management.

Trust patent status will mean that the land like all other Indian land, cannot be sold without congressional approval, and leases or other actions affecting the land must be approved by the Secretary of the Interior. Thus, the Pueblo will not be receiving the full economic value of ownership. That the Indians do not seek economic benefits is established by their consistent assertion of the religious significance

of the land, their refusal to develop commercially the timber available in the permit area, and their renunciation of monetary compensation for the area.

RELIGIOUS IMPORTANCE OF BLUE LAKE AREA

The religious practices of the Taos Indians in the Blue Lake area have never been disclosed. As in many religions both ancient and modern, to reveal the holy mysteries to the uninitiated is a blasphemy which destroys their religious power. Thus, the Indians' religion must remain secret if it is to remain an effective force in the life of the Pueblo. The Indian Claims Commission in finding 13 of its findings of fact in *Taos Pueblo* v. *U.S.*, 15 Ind. Cl. Comm. 666, 678 (Ex. 1), determined that "religion permeates the Pueblo's way of life" and that "the Pueblo is anxious to preserve secrecy concerning its religion." The Commission also noted that conflicts between the Pueblo and the Forest Service "have revolved around the demands of the Pueblo that tourists be kept away from the Blue Lake and other Taos religious shrines, so as to permit Pueblo members to practice their religion in peace." As a Taos Indian told the anthropologist Elsie Clews Parsons, "Our ways would lose their power if they were known. People have learned about the ways of the other Pueblos, and those Pueblos have lost their power." 1 Parsons, Pueblo Indian Religion 433 (Chi. 1939). The Pueblo has repeatedly fought to exclude outsiders from the sacred Blue Lake area and has defended its privacy to the fullest extent. The Indians simply refuse to practice their religion in an area open to the public. Forest Service demands that the permit area be opened up to the public have been rejected for the simple reason that such action would destroy the Pueblo's religion.

Because of the essential secrecy of its religion it has been difficult for the Pueblo to explain in terms satisfactory to the American mind why it must own and control the entire watershed of the Rio Pueblo. It has pointed out that the watershed includes Blue Lake and the Rio Pueblo, which provides drinking water for the people and irrigation for the crops of the Pueblo. But it has been impossible to disclose in detail the ways in which all areas of the watershed are sacred in the practice of their religion, or to reveal the places where or times when religious use is made of the area throughout the year. (The religious calendar is as secret as the religious rituals.)

However, a basic framework for an understanding of the Indians' religion can be suggested; to insist that the Indians disclose more is to ask them to profane their holy mysteries (see ex. 2). The watershed creates the Rio Pueblo de Taos. Blue Lake and numerous sacred springs are the sources of the stream. The waters of the Rio give life to the watershed and to the Indians who dwell therein; the Indians, in turn, give succour and husbandry to the watershed lands. Men and nature, in the watershed, are interlocked in an ecological and religious unity; preservation of the natural ecology of the area is as important to preservation of the religion as is the preservation of the Indians' religious privacy. Blue Lake, as the principal source of the Rio Pueblo, is symbolically the source of all life; it is the retreat also of souls after death, the home of the ancestors who likewise gave life to the people of today. The August ceremonies at Blue Lake serve

to bind the youths of the Pueblo to the community as it exists and as it has existed over the centuries. Blue Lake, therefore, symbolizes the unity and continuity of the Pueblo; it is the central symbol of the Indians' religion as the cross is in Christianity. Because the symbolism of Blue Lake extends to the entire watershed, the entire area is sacred. The numerous shrines and holy places exist throughout the area because the watershed is sacred; the watershed is not made sacred by the presence of particular shrines. It would be a tragic misunderstanding to construe the Indians' religious use of the area as involving only occasional use of a few sacred precincts.

The strong leadership necessary to achieve progress for the Pueblo in the contemporary world requires the preservation of the religious base for the organization of power in the community. The traditional religion is the foundation of the social and political structure of the Pueblo. The sacred Rio Pueblo separates the two imposing adobe structures (surely the most famous Indian constructions on the continent) and thus divides the Pueblo physically into north and south areas. Each half of the Pueblo is organized in three kivas or societies, each of which is a religious as well as a social and political unit. Each kiva represents a separate religious system with a complicated structure of subgroups. All of the many religious organizations require secret practices of their members, most of which occur in the Blue Lake area at different times and places. The communal education of the sons of the Pueblo is accomplished both in the kivas and in the Blue Lake area. The governmental system of the Pueblo is determined principally by the religious leaders of the kivas. If the power of the Indians' ancient religion is weakened, the power of the kivas will diminish. The bonds between the Pueblo and her sons will weaken, the authority of the Pueblo Council will be impaired, and there will be no system of effective leadership of the people.

Maintenance of complete privacy in, and the natural ecology of, the Blue Lake area are the most important factors in preserving the ancient religion. Domination of the Blue Lake area by tourists, campers, sportsmen, and loggers will destroy both the privacy necessary for the practice of the religion and the natural ecology of the area which is an integral part of the religion in the lives of the people. On May 27, 1960, Oliver La Farge described the Indians' statement of the religious importance to them of the Blue Lake area (exhibit 3):

"They then restated the vital importance to Taos Pueblo of the Blue Lake area, the sacredness of the lake and surrounding land, the location in that general vicinity of a number of shrines of the greatest importance, and the constant threat to this sacred area posed by the admission of non-Indian pleasure seekers. They reminded me that the whole pattern of Taos life that they are maintaining depends upon their religion, and their religion, in turn, depends upon the sacred area. Their earnestness and intensity when they discuss this matter is extremely moving."

HISTORICAL SUMMARY

The trust patent provided for by H.R. 3306 will resolve a controversy between Taos Pueblo and the United States which has continued over 65 years. The religious importance of the Blue Lake area to the Indians was first noted by a Government official in 1903;

demands for protection of their rights in the sacred lands have been voiced continuously by the Indians since 1904. Both the Departments of Agriculture and the Interior have always recognized the special interests of Taos Pueblo in these lands. The Government's original intention was to hold the land for the benefit of the Indians, to protect against its loss to white settlers. That intention was continued in the two acts of Congress in 1928 and 1933 which sought to establish the Indians' rights. The permit covering tract 3 on our map was intended by Congress as a means of insuring exclusive Pueblo use of the entire watershed. However, the developing policies of the Forest Service came more and more into conflict with the Pueblo's claims and Congress intent. By the 1960's Forest Service pressure threatened the destruction of the Indians' religion. Accordingly, they have turned to Congress to reestablish the original policy of the Government with respect to these lands: they should be held solely for the benefit of Taos Pueblo. The trust patent provided by the bill will accomplish that end and set the controversy to rest.

For convenience the history of the Blue Lake controversy is described below, decade by decade.

1903–19: On November 23, 1903, the Secretary of Agriculture requested the Secretary of the Interior to withdraw from entry the Blue Lake area (exhibit 4). A temporary withdrawal was ordered on December 15, 1903 (exhibit 5). The permanent establishment of the Taos Forest Reserve was accomplished by Presidential proclamation on November 7, 1906 (exhibit 6).

The Department of Agriculture knew the Blue Lake area was occupied and used by the Taos Indians. In September 1903 Vernon Bailey of the Bureau of Biological Survey reported to the Department of Agriculture (exhibit 7) that the Taos Indians were "in constant dread" of losing their lands and water supply and recommended that "To insure the Indians right to the water from their creeks, the line of the forest reservation should be made to join the Indian grant along its east side. It is important that no gap be left where a white man or Mexican can get a foothold between the Indians and the forest reservation." Referring to the Blue Lake ceremonies, he reported that "their religion is an essential part of their life and happiness." He concluded: "you will be glad to know that both their sacred lake and mountain will be in and have the protection of the forest reservation." In 1948, Bert Phillips, the first supervisor of the Taos Forest Reserve, described Mr. Bailey's visit in the statement annexed as exhibit 8. (In another report concerning the Rio Pueblo watershed, Theodore F. Rixon of the U.S. Geological Survey in 1905 noted the excellence of Indian conservation practices.) (Exhibit 9.)

Seeking such protection the Governor and Pueblo Council on October 21, 1904, petitioned the Secretary of the Interior "to set aside the watershed of said Pueblo Creek * * * for the exclusive use of our tribe. * * *" (Exhibit 9–A.)

Between 1906 and 1918 the Indians were given exclusive use of the Blue Lake area. On January 11, 1908, Bert Phillips, the forest supervisor, gave notice that "the Rio Lucero and the Pueblo Canyons have been given as grazing areas to the Pueblo Indians." (Exhibit 10.) On March 31, 1909, the Forest Service advised the Governor of the Pueblo that "there need be no uneasiness either upon your part or upon the part of the Taos Indians that you will not receive full protec-

tion for irrigation and grazing interests in the section of country to which you refer." (Exhibit 11.)

On April 1, 1912 (exhibit 12), the Commissioner of Indian Affairs, referring to a report dated March 16, 1912 (exhibit 13), recommended to the Secretary of the Interior that 44,640 acres of the national forest and public lands be set aside as an executive order reservation for Taos Pueblo. The Secretary requested the Secretary of Agriculture to approve the proposal on October 19, 1912 (exhibit 14), but Agriculture declined (exhibit 15). Again on September 23, 1916 (exhibit 16), the Superintendent of the Pueblo Agency requested the Commissioner of Indian Affairs to take up with the President creation of an executive order reservation for the Blue Lake area and that portion of the Rio Lucero drainage within the national forest. The Superintendent noted that the Taos Indians had been given exclusive use of the Blue Lake area but that they desired creation of the reservation to protect their rights. He pointed out that outsiders were grazing sheep in the Rio Lucero area and that "pressure" was being exerted for grazing permits along the east side of the Rio Pueblo watershed (the Witt Park and Apache Springs areas).

On May 1, 1918, Mr. Elliot S. Barker, Supervisor of the Carson National Forest, wrote (exhibit 17) to the Pueblo recognizing "an understanding between the Forest Service and the Taos Pueblo Indians whereby the Indians have free grazing on the watershed of Pueblo Canyon and that no permits are issued to any other parties on the Pueblo Canyon watershed." He requested Pueblo approval of a permit for 50 head in Pretty Park (now called Bonito Park) for the summer of 1918 as an aid to the war effort. He also requested the Pueblo to act promptly on "the agreement covering the free grazing on Pueblo watershed and the free use of timber by the Indians which was presented to the Council some time ago." That Elliot S. Barker is the same man who, in conjunction with the New Mexico Wildlife and Conservation Association, submitted a statement dated May 16, 1966, to the Senate Committee on Interior and Insular Affairs regarding S. 3085, stating: "While I was Supervisor of the Carson National Forest I never heard of the Taos Indians claiming that the lands they now seek to acquire belonged to them. It was many years before any such claim came to my attention." He further asserted that the Indians had exclusive use of only a small area of about 2,000 acres around Blue Lake itself. Yet in 1918 Mr. Baker had clearly recognized exclusive Indian use of the entire watershed, while attempting to get an agreement from the Pueblo which would deprive it of control over the east side of the watershed. Mr. Barker's term as forest supervisor marked the end of exclusive Pueblo use of the Blue Lake area and the first qualification of the Forest Service's original intention to hold the area for the exclusive benefit of the Pueblo. The 1918 permit for Witt Park was followed in 1921 by a grazing permit to Bennett and Weber for 150 head in Apache Springs.

1920–29.—When the Pueblo Lands Board met in Taos in the fall of 1926, the Indians, through their representative John Collier, asked the board for an executive order reservation of the Blue Lake area. On September 30, 1926, Gov. H. J. Hagerman, the Secretary of the Interior's representative on the Pueblo Lands Board, informed the Commissioner of Indian Affairs of the Pueblo's desire that the Blue

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Lake area be made an executive order reservation, indicating that the area had religious significance to them and that the proposed reservation "could be a good thing to do" because the Government could then prohibit the "improper and immoral" ceremonies he had heard the Indians conducted (exhibit 18). The Commissioner advised that the board had no power to establish the proposed reservation (exhibit 19).

Nevertheless, the Pueblo offered to waive its right to $297,684.67 for loss of land in the town of Taos if the board could obtain for it the "entire watershed" of the Rio Pueblo (exhibit 20). The board failed to recommend payment of that compensation or transfer of the Blue Lake area. The Indians, however, kept trying to obtain the land; they were unsatisfied with monetary compensation.

As a result of the Pueblo Lands Board fisaco, Dudley Cornell, the Pueblo's attorney, contacted the Forest Service and was advised that the Indians could obtain "the exclusive use of the area" by a cooperative agreement with the Forest Service. (Hearings before the subcommitted of Committee on Indian Affairs, U.S. Senate, 71:2, p. 10909). (Exhibit 21.) Mr. Cornell then prepared such an agreement on the basis of a draft submitted by the Forest Service, and the agreement was signed under date of September 28, 1927 (exhibit 22). The cooperative agreement did not give the Indians "exclusive use" of the Blue Lake area; the Pueblo instead received exclusive grazing and timber rights and exclusive use for only 3 days in August for the Blue Lake ceremonies. Visitors to the area could enter with permission granted by the Forest Service alone.

The description of the area covered by the agreement was furnished by the Forest Service. The description fixed the east boundary "by a line one-half mile east of Pueblo Creek" and gave the included area as "approximately 31,000 acres". The Forest Service's description excluded Witt Park and Apache Springs, and thus clearly diminished the rights of the Pueblo as recognized by the Forest Service before 1918. Yet neither the Indians nor the Indian Service realized that the east side of the watershed was not covered by the cooperative agreement. The agreement was not reviewed or approved by the Indian Service before the Pueblo signed it, and the Indians were not aware that the agreement did not cover the entire watershed until long afterward. A letter dated December 15, 1927 (exhibit 23), to the Commissioner of Indian Affairs from the special attorney for the Pueblos stated that the agreement had been "recently made between the Department of Agriculture through the local Forest Service office and the Pueblo of Taos" and indicates the attorney's assumption that the agreement covered the entire "Blue Lake region", which he stated had long been desired by the Indians for religious purposes. He also pointed out that "a few of the Taos Indians * * * still feel that this land is rightfully theirs and that the same should have been set aside to them without restriction but I believe that the more intelligent of them realize that this agreement is the most that they could hope for and are satisfied with it."

It is not clear whether the description in the cooperative agreement was the result of a deliberate attempt to deprive the Pueblo of rights to Witt Park and Apache Springs, or was a result of confusion. Before September 6, 1927, the Forest Service had furnished Superintendent McCormack of the Northern Pueblos Agency a description

of "the land needed for the Taos Indians", which fixed the east boundary 1½ miles east of the Rio Pueblo and was said to comprise 32,000 acres (exhibit 24). On November 15, 1928, the acting forester advised Representative Hudspeth (exhibit 25) that "This watershed contains approximately 34,000 acres, of which 26,000 acres are inside the Carson National Forest, 5,000 acres in the Pueblo of Taos grant, and 3,000 acres outside of the forest." On that assumption, the 30,000 acres described in the cooperative agreement obviously was intended to include the entire watershed outside the Taos grant. The Forest Service, nevertheless, failed to call the problems of describing the area to the attention of the Indians or the Indian Service. The results of using the 30,000-acre description in the cooperative agreement were far reaching.

On May 26, 1927 (Ex. 26), the Taos Pueblo Council petitioned the Commissioner of Indian Affairs "to help us obtain an unquestioned title to [the Blue Lake] region and to help in keeping prospectors and other people from coming to this land and interfering with our possession." The council pointed out that "this region is like a church to us, and if you look at it in that way you will understand how deeply we feel." On the following day Floyd W. Beutler, an attorney in Taos, informed Secretary Work (Ex. 27) that ownership of the Blue Lake region was important to the Pueblo because of its religious significance to them, "being regarded by the Indians much as we regard our churches." The Secretary on June 29, 1927 (Ex. 28), asked the Secretary of Agriculture whether the Department had "serious objections to the elimination of the Blue Lake region from the Forest for the purpose of adding it to the Taos Land," citing its religious significance.

The Pueblo's petition to the Commissioner brought the matter to the attention of Congress. The Secretary of the Interior on January 6, 1928 (Ex. 29), quoting the Pueblo's petition, requested Senator Frazier, chairman of the Senate Committee on Indian Affairs, to introduce the bill which was enacted on March 27, 1928, as Public Law 194 (45 Stat. 372) (Ex. 30). The act authorized the President to withdraw "from any and all forms of entry or appropriation" any lands of the United States "within the watershed of the Rio Pueblo de Taos". On July 7, 1928, President Collidge signed Executive Order No. 4929 (Ex. 31) so withdrawing 30,000 acreas described according to the language of the 1927 cooperative agreement. No one responsible for the Taos Pueblo realized at the time that the east side of the Rio Pueblo watershed remained open for entry.

The Forest Service restated its recognition of the Pueblo's special interest in the Blue Lake Area in the Acting Forester's letter of November 15, 1928 (Ex. 25). He there advised Representative Hudspeth that "the Forest Service has recognized that Pueblo Canyon is closely related to the Pueblo of Taos, and that the Indians while holding no title to this land have a peculiar interest and, to some degree, equity in the area." He pointed out that the Forest Service had granted "special concessions" to the Indians covering grazing and timber cutting and "has been consistently regardful of the Indians in this watershed and has made the most complete provision for their protection practicable under the circumstances." He also noted the religious use of the land by the Indians. On October 15, 1931 (Ex. 32), the Forest Service informed Governor Hagerman that the Blue Lake Area "has been used almost exclusively for grazing by the Indians, with two small cattle allotments along the east side of the area."

Nevertheless, the signing of the 1927 cooperative agreement was taken as a signal to open the Blue Lake Area to recreationalists. In 1928 the Forest Service issued 95 permits, according to a memoradum of the forest supervisor dated January 12, 1929 (Ex. 33). That memorandum also rejected the request of the Pueblo, through Superintendent McCormack, that the Pueblo be given the right to countersign permits and that access be limited to the Taos entrance. The Indians regarded such developments as white-man's perfidy. In the letter of October 15, 1931, to Governor Hagerman (Ex. 32) the Forest Service itself described the cooperative agreement as "a more definite recognition of the Indian rights in this canyon" which gave the Indians "the full use and benefit of the area." Yet the agreement clearly diminsihed the rights of the Indians and extended the rights of the Forest Service. That letter also described the "entire watershed" as comprising 34,000 acres in the same language as the 1928 letter to Representative Hudspeth. Not surprisingly the letter also noted the "desire of some of the Indians to own the lands in this watershed."

1930–39: In January 1932 the Senators from New Mexico introduced a bill, S. 2914, which authorized a patent to the Pueblo for the 30,000 acres covered by Executive Order 4929, subject to "a reservation of authority and control in the United States over said lands * * * to be vested in the Department of Agriculture of the United States." (Ex. 34.) The bill was favorably reported by the Frazier committee, which stated "that the understanding [between] the Indians and the [Pueblo Lands] Board should be carried out by either the issuance of a patent by the Government of the United States to the Pueblo of Taos for the Blue Lake Area hereinafter described, or the authorization by Congress of an Executive order reservation of the area in question by the President of the United States." (S. Rept. 25, (72:1) 5.) (Ex. 35.) The Forest Service objected that a patent would raise an issue whether public funds for management of the land could be expended on land privately owned by the Pueblo.

At conferences with the Pueblo's representatives, John Collier and R. H. Hanna, the Forest Service suggested the Pueblo's rights could be protected by a 50-year special use permit. That idea was accepted, and the bill was revised to provide for a permit. (Ex. 36.) The Secretary of the Interior endorsed the revised bill as "in effect a substitution of an award of land tenure * * * for an award of money." (S. Rept. 123 (73:1) 17.) (Ex. 37.) The Department thus interpreted the bill as granting the Pueblo substantially the same possessory rights as it would have received under a patent. In a letter to the Secretary of Agriculture dated June 30, 1933 (Ex. 38), John Collier, then Commissioner of Indian Affairs, described the bill as providing a "50-year lease contract" under which "the Pueblo would have the exclusive use of an area of about 30,000 acres of canyon land, high in the Rockies, at the top of which is situated Blue Lake * * * [which] is the shrine of the pre-Colombian religion of the Taos Tribe. It is sacred and taboo. * * * The contract which is provided for in the act would insure the exclusive use of the area by the tribe, subject to reasonable regulation by the Department of Agriculture. Already, the exclusive use is provided for under an agreement revocable at 60 days' notice by the tribe or by the Department. The guarantee of exclusive use has not been very thoroughly observed. Tourists have been too freely permitted to visit the lake and camp on its banks, with sanitary conditions not at all good. The Indians are aggrieved and troubled."

The permit arrangement was enacted on May 31, 1933 (48 Stat. 108) (Ex. 39), as follows:

"Sec. 4. That *for the purpose of safeguarding the interests and welfare of the tribe of Indians known as the Pueblo de Taos* of New Mexico in the certain lands hereinafter described, upon which lands said Indians depend for water supply, forage for their domestic livestock, wood and timber for their personal use and *as the scene of certain of their religious ceremonials*, the Secretary of Agriculture may and he hereby is authorized and directed to designate and segregate said lands, which shall not thereafter be subject to entry under the land laws of the United States, and to thereafter grant to said Pueblo de Taos, upon application of the governor and council thereof, *a permit to occupy said lands and use the resources thereof for the personal use and benefit of said tribe of Indians for a period of 50 years*, with provision for subsequent renewals if the use and occupancy by said tribe of Indians shall continue, the provisions of the permit are met and the continued protection of the watershed is required by public interest. Such *permit shall specifically provide for and safeguard all rights and equities hitherto established and enjoyed by said tribe of Indians under any contracts or agreements hitherto existing*, shall authorize the free use of wood, forage, and lands for the personal or tribal needs of said Indians, shall define the conditions under which natural resources under the control of the Department of Agriculture not needed by said Indians shall be made available for commercial use by the Indians or others, and *shall establish necessary and proper safeguards for the efficient supervision and operation of the area for national forest purposes and all other purposes herein stated.* * * *" [Italic added.]

The descripton of the land to be included in such permit was the same as Executive Order 4929: 30,000 acres excluding the Rio Lucero area, Witt Park, and Apache Springs.

The language of the act was appropriate to describe the right of exclusive use Collier thought Congress had bestowed: the Indians were to receive a permit "to occupy said lands and use the resources thereof for the personal use and benefit of said tribe." Since the Indians' "personal" use was principally a secret religious use, admission of outsiders should be deemed to be prohibited as incompatible therewith.

After enactment of the law, Commissioner Collier learned that the 30,000-acre description in the act did not include the Rio Lucero area nor Witt Park and Apache Springs. The matter was discussed with the Forest Service, which then submitted a cooperative agreement date September 6, 1933 (Ex. 40), providing for exclusive grazing rights on 2,000 acres in the Rio Lucero drainage. The Pueblo approved that agreement and (through Superintendent Faris) asked Collier to help them obtain the additional 7,000 acres in Witt Park and Apache Springs (Ex. 41).

Commissioner Collier then sought to have the entire 9,000 acres withdrawn from entry under the 1928 act (Ex. 42) but was informed the act covered only the 7,000 acres within the watershed of the Rio Pueblo (Ex. 43). He and the Secretary of the Interior then sought enactment of H.R. 9407 (73:2) (Ex. 44) to amend the 1928 act to include the Rio Lucero watershed and the 1933 act to include Witt Park and Apache Springs as well as the additional 2,000 acres in the Lucero drainage covered by the 1933 cooperative agreement. The

Secretary's letter of April 27, 1934, to the chairman of the House Committee on Indian Affairs (Ex. 45) pointed out that "It was believed that the area embraced in the Executive order and act referred to included all the lands being used by the Indians of this Pueblo for the purposes mentioned. However, it has since been learned that there is a tract of about 7,000 acres on the east within the Rio Pueblo de Taos watershed, and another continuous tract of about 2,000 acres on the northwest within the Rio Lucero watershed, which should have been included." Although favorably reported by committee (Ex. 46), the bill failed of enactment because the Forest Service pointed out the grazing permits outstanding for Witt Park and Apache Springs.

Again in 1935 (Ex. 47) Commissioner Collier and the Secretary of the Interior sought enactment of H.R. 6910 (Ex. 48) which did not include provisions amending the 1928 act but would have added the 9,000 acres to the 1933 act, subject to purchase by the Indians of the outstanding grazing permits. Although the bill was approved by the Forest Service, it failed to become law. By supporting the 1935 bill the Forest Service impliedly admitted that its description of the watershed in the 1927 cooperative agreement, the 1928 Executive order, and the 1933 act was erroneous. Similar bills were reintroduced in 1938 and 1943, each time with support from the Secretary of the Interior.

On May 5, 1936, the President signed, at the request of the Secretary of the Interior, Executive Order 7361, which increased to 37,000 acres the land withdrawn from entry under the 1928 act (Ex. 49). Thus, the Pueblo's interest in the Blue Lake Area and the Rio Lucero was recognized in withdrawals under the 1928 act and the 1933 cooperative agreement.

In 1935 the Pueblo tried to purchase the La Junta Canyon area from the State of New Mexico. William A. Brophy, in a letter to Commissioner Collier dated April 27, 1935 (Ex. 50), described the council's decision to try to purchase the land as "one of the most unequivocal and vigorous decisions made by any Indian Council." Although purchase of the land was not economically sound "they seem to attach a prodigious sentimental value to the lands and want to own the same. They distinctly stated that their forefathers for hundreds of years had owned the land, occupied, and administered the same, and that they now cherished a strong desire to get these lands as long as the same were available." The Indians' failure to describe the religious importance of the land as part of the sacred "bowl" of the Rio Pueblo watershed is typical; the religious uses were secret.

On May 31, 1939, the Assistant Secretary of the Interior requested the Secretary of Agriculture to order segregation of the lands described in the 1933 act and to issue a permit thereunder (ex. 51). He enclosed a draft permit, endorsed by the Pueblo Council, which would give the Pueblo "the free and exclusive use" of the 30,000 acres covered by the act, and provided that "no persons shall be admitted to this area without written permission of the Taos Pueblo Council or its properly delegated officials" except "forest officials", who would be free to enter the area after "notifying the proper Pueblo officials". On August 1, 1939 (exhibit 52), Acting Secretary of Agriculture Brown responded by recognizing that "the main object of the legislation * * * was to safeguard certain interests of this tribe of Indians" but denying that Congress intended to give the Indians exclusive use of the land.

That position was taken despite the Forest Service's assurances in 1932 that the permit would give the Pueblo exclusive rights tantamount to title. However, the Secretary of Agriculture signed the order of segregation affecting 30,000 acres (exhibit 53).

The Forest Service's draft of the proposed permit (exhibit 54) would have given exclusive rights only during such periods as the forest supervisor might agree and would have required Indian compliance with State game laws. The Assistant Secretary of the Interior vigorously objected to that draft on December 9, 1939 (exhibit 55). On December 27 the Indians registered their strong objection to any limitation of the Pueblo's rights as set forth in the 1927 agreement, in particular to incursions of tourists and the applicability of State game laws (exhibit 56). Negotiations proceeded until the final form was signed on October 24, 1940 (exhibit 57).

The permit as issued gave the Pueblo exclusive use of the 30,000 acres for 3 days in August "announced to the forest supervisor by the Governor of the Taos Pueblo 10 days prior to contemplated use" and provided that "persons not members of the Pueblo of Taos, other than forest officers, shall be admitted into this area only under written permits issued under authority of the forest supervisor and concurred in by the Governor or his designated representative." Thus, the Forest Service defeated Congress intention by the 1933 act to give the Indians exclusive use of the area; but the Pueblo appeared to have established its right to refuse to issue permits for entry into the area, which it had failed to establish under the 1927 cooperative agreement. The appearance was, however, more apparent than real. It would be more than 20 years before the Forest Service would grudgingly accede to those terms of the permit.

1940–49: The Pueblo never was satisfied with the 1940 permit. In a letter dated September 24, 1948 (exhibit 58), the special attorney for Pueblo Indians, William Brophy, reflected the Indians' feeling that they had been cheated of the eastern side of the Rio Pueblo watershed by the Forest Service's 30,000-acre description. Mr. Brophy's memorandum dated December 16, 1948, voiced Indian objections to intrusions of non-Indian stock into the permit area (exhibit 59).

In October 1948 the Pueblo asked the United Pueblos Agency to help it in stopping alleged timbercutting in the La Junta Canyon area (exhibit 60). Although inspection failed to reveal any timber operations in the canyon, the Pueblo had asserted its interest in that part of the Rio Pueblo watershed 5 years before the land was acquired by the Forest Service.

In 1948 the Pueblo requested William A. Brophy, special attorney for the Pueblos, to help them get a patent to the lands in the Rio Pueblo watershed. Brophy carefully researched the history of the matter and prepared a bill to expand the permit area to 44,800 acres (exhibit 61). However, no other action was taken.

In 1949, after the Pueblo had again complained to the Forest Service of non-Indian stock trespassing into the permit area, the Forest Service responded by insisting that all Indian stock must be ear-tagged. On May 16, 1949 (exhibit 62), the forest supervisor advised the Pueblo that any untagged stock would be impounded, and it thereafter regularly impounded Indian stock despite the "rights" granted by the permit.

The Pueblo also complained of Forest Service stocking of fish in Blue Lake, Star Lake, Waterbird Lake, and Bear Lake. From time to time one or more of the lakes would become overstocked and dead fish would appear (in 1939 Star Lake had been dynamited to kill excess fish). However, despite repeated vigorous protests, the Pueblo did not succeed in correcting such abuses of its religious attachment to the land.

1950–1959: The Pueblo's frustration in attempting to maintain the privacy of its sacred Blue Lake area and to preserve the natural ecology from commercial interference continued during the 1950's. Mr. Brophy's memorandum of June 22, 1950 (exhibit 63), states Indian complaints of continuing trespasses by non-Indian livestock, the stocking of Blue Lake, and incursions of "hundreds of tourists." In the early 1950's Forest Service cooperation in meeting the Pueblo's desires generally improved. In the summer of 1950 Area Director Hagberg (exhibit 64) obtained the agreement of Forest Supervisor Cottam to limit or halt the stocking of Blue Lake. The forest supervisor in a letter dated July 14, 1950 (exhibit 65), also agreed that the area around Blue Lake was "not entirely satisfactory" because of heavy use by campers, pointed out that the Forest Service had "in recent years" changed the permits limiting overnight camping to one night instead of three, and indicated a willingness "to try to work out some arrangement" to prohibit overnight camping. In 1952 (exhibit 66) at the Pueblo's request the Forest Service investigated the possibility of halting logging operations in La Junta Canyon, which were being conducted under a contract let by the State of New Mexico. However, that brief period of cooperation did not achieve lasting results. On June 7, 1957, the Pueblo's concern with steadily increasing use of the Blue Lake area by campers and sportsmen was taken up at a meeting with representatives of the Pueblo Council, the United Pueblos Agency, and the Forest Service (exhibit 67). The Pueblo asserted that the number of recreationalists should be reduced, but the Forest Service proposed only that applicants for permits be required to apply 1 week in advance of their visit. The problem of controlling access was to be taken up anew in the 1960's.

The Pueblo was shaken by other challenges to its privacy during the 1950's. In early 1955 the Indians protested vigorously a Bureau of Reclamation proposal to build a dam on the Rio Pueblo, a suggestion which caused alarm in the Pueblo. A year later the Pueblo was again shocked by a report that a road was proposed through the Rio Pueblo Canyon. It was also disturbed at the continued logging activities in La Junta Canyon. Therefore, on June 15, 1956, the Pueblo Council adopted resolutions (exhibit 68) condemning the proposed road, asking for termination of logging operations in La Junta Canyon, and asking for a grazing permit for La Junta Canyon with construction of a fence to keep non-Indian stock out of the canyon. In September 1956 the Pueblo objected to proposed mining operations in Twining Canyon, north of the Blue Lake area, because they feared miners might intrude into the Rio Pueblo watershed. Although assured that no mining activities were likely, the Pueblo nevertheless wrote to President Eisenhower on October 25 (exhibit 69) asking that Executive Orders 4929 and 7361 be "observed and respected." In December 1956 the Pueblo Council adopted resolutions asking for grazing permits for all areas in the Rio Lucero and Rio Pueblo watersheds not covered by existing agreements (exhibit 70).

In 1950 and 1952, respectively, the Forest Service acquired by exchange of lands the Will Ed Harris tracts and the State land in Township 25 North, Range 15 East, including La Junta Canyon. The Pueblo asserted an interest in both the Harris Tract No. 2 (exhibit 71) and the La Junta Canyon (exhibit 50) on the basis of its long-continued use of those areas. As early as September 8, 1950 (exhibit 72), the Forest Service recognized the Pueblo's interest by offering to grant the Pueblo a grazing permit on the Harris tracts within the Rio Lucero drainage. The Pueblo did not accept such offer because, as the Governor explained in a letter dated March 6, 1951 (exhibit 73), to the United Pueblos Agency, it was already grazing stock on those areas and did not understand "why we should ask you or anyone else for a permit to use our own land." On April 10, 1951 (exhibit 74), the Service offered to grant the Pueblo a grazing permit for La Junta Canyon upon completion of the exchange with the State. The Pueblo finally asked for a permit in 1956 (exhibit 70) but no permit has been granted.

The Pueblo reluctantly authorized the filing under the Indian Claims Act of a claim which included the Blue Lake area. The Indians feared that the filing of the claim would prejudice their demand for ownership, and they required their claim attorney to make clear in the petition their desire for the land rather than money. At one point, the Pueblo undertook to discharge its claim attorney because they feared he would seek a monetary recovery for the Blue Lake area (exhibit 75).

By 1955, after constant urging by the Pueblo, a bill was prepared (in substance the same as the present bill, H.R. 3306) to grant a trust patent to 50,000 acres. However, after opposition was expressed the bill was modified to amend the 1933 act by adding 20,000 acres to the permit area. That bill was introduced in 1955 as H.R. 7758 (8:1) (exhibit 76). Identical bills were introduced in 1957 and 1959 by Senator Anderson as S. 48 (85:1) and S. 903 (86:1). The Pueblo was not satisfied with the proposed additions to the permit area instead of a trust patent, but the Indians were advised that the bills should be supported as a first step, until the Indian Claims Commission had ruled the Indians were the original owners of the land.

The Secretary of the Interior, in reporting to the Senate committee on S. 48 and S. 903, had asked an amendment to permit the Secretary of Agriculture to harvest mature timber in the permit area (exhibit 77). When that recommendation was discovered by the Pueblo it protested to Assistant Secretary Ernst on October 3, 1959 (exhibit 78), pointing out that harvesting such timber would disrupt the area and was unnecessary. The letter stated: "* * * the area sacred to our tribe (which is more than only the shores of Blue Lake) would be dragged, trampled, perhaps burned over. The very thing which the existing permit, and the act of May 31, 1933, protects us and the area against, would be done if commercial lumbering were permitted." Mr. Ernst later met with the Governor and agreed to sponsor a more satisfactory bill (exhibit 79).

1960–67.—In the spring of 1960 the Pueblo requested the Department of the Interior to sponsor a bill to give it a trust patent to the 50,000 acres comprising the Rio Pueblo watershed and the Rio Lucero areas (exhibit 80). However, no bill was introduced until Senator Anderson sponsored S. 3085 (89:1) in 1965. The delay was attributable to the national election in 1960 and to the advice of the

Pueblo's claims attorneys to delay introduction of a bill until the Indian Claims Commission had determined that the Pueblo was the aboriginal owner of the Blue Lake area.

The Indian Claims Commission entered its decision on September 8, 1965, 15 Ind. Cl. Comm. 666 (exhibit 1). The Commission found the Pueblo had aboriginal Indian title to all land covered by H.R. 3306 and that the United States wrongfully took the land from it on November 7, 1906.

In the spring of 1961 the Pueblo attempted to persuade the Department of Agriculture to change its position on a proposed transfer of title to the Blue Lake area. Appeals were made to Secretary Freeman (exhibit 81) and Under Secretary Murphy (exhibit 82) of the Department, pointing out that the Indians did not want a monetary recovery for the Blue Lake area in their claims case and instead insisted upon obtaining ownership of the land. Secretary Freeman replied to the Governor of the Pueblo on July 31, 1961 (exhibit 83), stating, "We recognize the significance of Blue Lake in the religious life of your community and the interest of Taos Pueblo in the sound management and protection of the watershed of the Rio Pueblo de Taos." The Secretary further stated that "officials of the Taos Pueblo have the opportunity to concur in or to register objections to * * * permits" for entry into the area. On August 2, 1961, Under Secretary Murphy, writing to the Pueblo's Washington counsel, (exhibit 83–A) similarly recognized the religious importance of the Blue Lake area and pointed out that "for some years now, permits issued by the Forest Service have prohibited camping within 300 yards of Blue Lake. It is also our understanding that these permits prohibit stopovers of more than 24 hours in the Blue Lake vicinity." However, the Department of Agriculture did not change its position opposing a transfer of title to the Blue Lake area.

On April 21, 1961, representatives of the Pueblo discussed the Blue Lake matter with Richard E. McArdle, Chief of the Forest Service. Mr. McArdle referred to the conference in a letter on June 1 (exhibit 84) as follows:

"On April 21 Mr. McArdle, Chief of the Forest Service, and Assistant Chief Edward C. Crafts, met with Taos Pueblo Governor Seferino Martinez, Secretary Paul Bernal, and Legal Counsel Alan Wurtzel and discussed the problem at Blue Lake. The Forest Service understands and sympathizes with the Indians' sentiment for the area, and want to cooperate with them in maintaining it in an appropriate condition. We will do our best to keep the area clean. Also, *we will do what we can to discourage use by non-Indians.* We will also advise the State fish and game people of the Indians' desire that no more fish be placed in this lake. Our contact with the State in this matter will pave the way for further contacts by the Governor, should that prove desirable. [Italic added.]

"We are glad to report that the meeting was harmonious and courteous, and that the Governor and others left with apparent good feeling. We assure you that we will work with the Indians and do all possible to maintain their use of this special area. We do not believe the transfer of the land to Pueblo ownership is necessary."

Despite the chief forester's assurances of sympathetic cooperation, disputes rapidly devellped between the Pueblo and Forest Service field personnel. On June 12, 1961 (exhibit 85), the Pueblo's attorney

wrote to the chief forester to request that he terminate further stocking of Blue Lake, When assurances that stocking would be discontinued were not immediately forthcoming from the Forest Service or from the State authorities, the Governor of the Pueblo announced that he would close the Blue Lake area to recreationalists. Also contributing to the Governor's decision was the local forest ranger's request that the Pueblo sign entry permits in advance of applications so that the permits could be issued directly from the forest office. After the Governor's announcemnt, the forest supervisor announced that he would issue entry permits without approval of the Pueblo (exhibit 86).

The matter was then discussed by the Pueblo's representatives in Washington with representatives of the Forest Service, and it was hoped that a conference between Forest Service field personnel and Pueblo representatives would reach agreement on permit procedures. The hoped-for meeting was held on August 15, 1961. At the conference (exhibit 87) the Forest Service representatives asserted that the Service had the right to issue permits to recreationalists whether or not the Pueblo concurred; the Pueblo insisted that it had the right to refuse to concur and thus prevent issuance of a permit. The conference resulted in no agreement; the Forest Service stated it would continue the procedure previously followed; the Pueblo would approve permits unless it had a "valid reason" (valid to the Forest Service) for disapproving. However, on September 15, 1961, the Pueblo wrote to Chief Forester McArdle (exhibit 88) and Secretary Freeman (exhibit 89) regarding the permit dispute. As a result, a further conference with Forest Service personnel was held on December 19.

On December 29, 1961 (exhibit 90), the regional forester summarized the results of that conference in a letter to the Pueblo, stating the Service's agreement that "permits will be required for all persons not Forest Service employees or Taos Pueblo Indians" and that the Forest Service will make renewed efforts to advise tourists of "restrictions in the use of the Blue Lake areas." On January 5, 1962 (exhibit 91), the Pueblo's counsel objected that the regional forester's letter of December 29 did not reflect the agreement reached at the conference that each permit would be countersigned by the Governor or his representative. He asked the Service to agree that each permit issued "shall bear the signature of an authorized Forest Service employee and the Governor of the Taos Pueblo or his authorized representative." On February 1, 1962 (exhibit 92), the regional supervisor responded to the Pueblo's request of Janaury 5 by agreeing to the cosigning procuedures but added the qualification that "you will cooperate with the Forest Service in signing permits provided there is an absence of valid reasons to the contrary and when agreed-to limits on the number of permits are not exceeded." The Pueblo's counsel on February 13 (exhibit 93) rejected the regional supervisor's qualification and insisted on the Pueblo's right to disapprove permits regardless of reasons. On March 13, 1962 (exhibit 94), the regional forester again wrote that "all applications will be referred to the Governor or his representative, and his wishes will be carefully weighed before we reach a decision on the approval or disapproval of permits." On April 2 (exhibit 95), the Pueblo's counsel rejected the Forester's assertion of authority to issue permits despite lack of Pueblo approval and threatened legal action to determine the validity of the Forest Service's position.

On June 14, 1962, after discussions between the Department of the Interior and the Department of Agriculture, the Chief Forester informed the Bureau of Indian Affairs (exhibit 96) that the "Forest Service is willing to continue following the policy of authorizing non-Indians to go into the permit area only on the basis of permit issued by the Forest Service and countersigned by the Governor of the Taos Pueblo or his representative authorized to sign for him." However, he hoped the Pueblo would agree "to let non-Indians go into the area under permits" and suggested "a written understanding particularly about the times and circumstances when the Taos Pueblo would prefer that we not request the Governor, or someone acting for him, to countersign permits."

The decision to recognize the Pueblo's right to veto entry into the Blue Lake area ended the controversy for only a brief period. On August 4, 1964 (exhibit 97), the forest supervisor indicated his approval of the system of granting countersigned permits to the Blue Lake area and gave the Pueblo Council his assurance that he did not wish to encourage public travel into the area. On October 13, 1964, however, the forest supervisor suggested (exhibit 98) that it would be desirable to have a "formal agreement" with the Pueblo with respect to issuance of permits, pointing out that the Pueblo had not approved any permits during the summer of 1964 and that many people had entered the area without permits. On January 15, 1965 (exhibit 99), the district ranger advised the Pueblo that as a result of the Pueblo's failure to approve any permits in 1964 "the situation got out of control" and stating "we must establish a system of issuing permits for entry to those who will respect the area." On March 2, 1965 (example 100), the ranger again wrote to the War Chief that "the Forest Service will continue to issue permits to visit the Blue Lake area," but he agreed that the Service "will discourage all travel" within the permit area. The letter enclosed a form of permit which provided that the Pueblo's reasons for not granting the permit must be stated. On March 15, 1965 (exhibit 101), the Pueblo rejected the arrangements proposed by the ranger and notified him that his letter had been referred to its local counsel for review.

The extent to which the permit area has been open to recreationalists since 1940 may be indicated by the numbers of permits issued over the years. In February 1962 Secretary Freeman stated (exhibit 102):

"For the period 1940 to 1960 the number of permits per year have [sic] averaged about sixteen. These permits have authorized use by an average of only 65 people during the whole year. In 1960, eleven permits to go into the area were issued. These permits were applicable to only 48 people."

On the basis of Forest Service figures the following table has been prepared:

Year	Number of permits	Number of persons	Year	Number of permits	Number of persons
1940–60 average	16	65	1964	None	None
1960	11	48	1965	6	41
1961	4	7	1966	3	13
1962	2	7	1967	10	58
1963	15	90			

Recreational use in recent years has dropped well below the long-term average.

The Pueblo has also been involved in other disputes with the Forest Service. On October 25, 1965, the Pueblo objected to Forest Service development of tourist facilities at Bear Lake, which lies just outside the permit area, on the grounds that the proposed facilities would attract visitors to the Blue Lake Area. The Forest Service has repeatedly required Indian stock to be ear-tagged for the purpose of regulating grazing in the permit area; the Indians have resisted. On August 9, 1966, the Pueblo notified the district ranger that a commercial logging company was committing a trespass along the eastern border of the Rio Pueblo watershed. On August 12, 1966 (exhibit 103), the ranger admitted that a trespass into the watershed had occurred but asserted that the trespass had stopped and that the company would be reqiured to restore the area to its original condition. However, the Pueblo complained to the Secretary of Agriculture on October 6, 1967 (exhibit 104), that the trespass was continuing and the damage area had not been restored. In November (exhibit 105) the Forest Service notified the Pueblo that the trespass had stopped and restoration work was in progress. The trespass area was outside the permit area; the Pueblo's protest indicated its continuing concern with trespasses anywhere in the Rio Pueblo watershed.

CONCLUSION

Although the Government originally intended to preserve the land for the Indians, and Congress, in 1933, directed that the land be held "for [their] personal use and benefit," the permit system has not secured to the Indians the rights of exclusive control and use which are necessary for their religious purposes. The welfare and religious freedom of these American citizens require that those rights be secured. It is now time to fulfill the Government's basic policy with respect to this land by granting it to the Pueblo by trust patent.

Changes in Existing Law

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change in proposed is shown in roman):

Section 4 of the Act of May 31, 1933

(48 Stat. 108)

[Sec. 4. That for the purpose of safeguarding the interests and welfare of the tribe of Indians known as the Pueblo de Taos of New Mexico in the certain lands hereinafter described, upon which lands said Indians depend for water supply, forage for their domestic livestock, wood and timber for their personal use and as the scene of certain of their religious ceremonials, the Secretary of Agriculture may and he hereby is authorized and directed to designate and segregate said lands, which shall not thereafter be subject to entry under the land laws of the United States, and to thereafter grant to

said Pueblo de Taos, upon application of the Governor and council thereof, a permit to occupy said lands and use the resources thereof for the personal use and benefit of said tribe of Indians for a period of fifty years, with provision for subsequent renewals if the use and occupancy by said tribe of Indians shall continue, the provisions of the permit are met and the continued protection of the watershed is required by public interest. Such permit shall specifically provide for and safeguard all rights and equities hitherto established and enjoyed by said tribe of Indians under any contracts or agreements hitherto existing, shall authorize the free use of wood, forage, and lands for the personal or tribal needs of said Indians, shall define the conditions under which natural resources under the control of the Department of Agriculture not needed by said Indians shall be made available for commercial use by the Indians or others, and shall establish necessary and proper safeguards for the efficient supervision and operation of the area for national forest purposes and all other purposes herein stated, the area referred to being described as follows:

Beginning at the northeast corner of the Pueblo de Taos grant, thence northeasterly along the divide between Rio Pueblo de Taos and Rio Lucero and along the divide between Rio Pueblo de Taos and Red River to a point a half mile east of Rio Pueblo de Taos; thence southwesterly on a line half mile east of Rio Pueblo de Taos and parallel thereto to the northwest corner of township 25 north, range 15 east; thence south on the west boundary of township 25 north, range 15 east, to the divide between Rio Pueblo de Taos and Rio Fernandez de Taos; thence westerly along the divide to the east boundary of the Pueblo de Taos grant; thence north to the point of beginning; containing approximately thirty thousand acres, more or less.]

SEC. 4. (a) That, for the purpose of safeguarding the interest and welfare of the tribe of Indians known as the Pueblo de Taos of New Mexico, the following described lands and improvements thereon, upon which said Indians depend and have depended since time immemorial for water supply, forage for their domestic livestock, wood and timber for their personal use, and as the scene of certain religious ceremonials, are hereby declared to be held by the United States in trust for the Pueblo de Taos:

Beginning at the southeast corner of the Tenorio tract on the north boundary of the Taos Pueblo grant in section 22, township 26 north, range 13 east;

thence northwesterly and northeasterly along the east boundary of the Tenorio tract to the point where it intersects the boundary of the Lucero de Godoi of Antonio Martinez Grant;

thence following the boundary of the Lucero de Godoi Grant northeasterly, southeasterly and northerly to Station 76 on the east boundary of the Survey of the Lucero de Godoi Grant according to the March 1894 survey by U.S. Deputy Surveyor John H. Walker as approved by the U.S. Surveyor's Office, Santa Fe, New Mexico, on November 23, 1984;

thence east .85 mile along the south boundary of the Wheeler Peak Wilderness, according to the description dated July 1, 1965, and reported to Congress pursuant to section 3 (a) (1) of the Wilderness Act (Public Law 88-577);

thence northeast approximately .25 mile to the top of an unnamed peak (which is approximately .38 mile southeasterly from Lew Wallace Peak);

thence northwesterly 1.63 miles along the ridgetop through Lew Wallace Peak to Old Mike Peak;

thence easterly and northeasterly along the ridgetop of the divide between the Red River and the Rio Pueblo de Taos to Station No. 109 of said 1894 survey, at the juncture of the divide with the west boundary of the Beaubien and Miranda Grant; New Mexico (commonly known as the Maxwell Grant) according to the official resurvey of said grant executed during July and August 1923, by U.S. Surveyor Glen Haste and approved by the General Land Office, Washington, D.C., on April 28, 1926;

thence southeasterly, southwesterly, and southerly along the west boundary of the Maxwell grant to the north line of unsurveyed section 33, township 26 north, range 15 east;

thence southerly to the north boundary of fractional township 25 north, range 15 east;

thence southerly and southwesterly through sections 4, 9, 8, and 7, township 25 north, range 15 east to the southwest corner of said section 7;

thence westerly along the divide between the Rio Pueblo de Taos and Rio Fernandez de Taos to the east boundary of the Taos Pueblo grant;

thence north to the northeast corner of the Taos Pueblo grant;

thence west to the point of beginning; containing approximately 48,000 acres, more or less.

(b) The lands held in trust pursuant to this section shall be a part of the Pueblo de Taos Reservation, and shall be administered under the laws and regulations applicable to other trust Indian lands: Provided, That the Pueblo de Taos Indians shall use the lands for traditional purposes only, such as religious ceremonials, hunting and fishing, a source of water, forage for their domestic livestock, and wood, timber, and other natural resources for their personal use, all subject to such regulations for conservation purposes as the Secretary of Agriculture may prescribe. Except for such uses, the lands shall remain forever wild and shall be maintained as a wilderness as defined in section 2(c) of the Act of September 3, 1964 (78 Stat. 890). With the consent of the tribe, but not otherwise, non-members of the tribe may be permitted to enter the lands for purposes compatible with their preservation as a wilderness. The Secretary of the Interior shall be responsible for the establishment and maintenance of conservation measures for these lands, including, without limitation, protection of forests from fire, disease, insects or trespass, prevention or elimination of erosion, damaging land use, or stream pollution, and maintenance of stream flow and sanitary conditions, and is authorized to contract with the Secretary of Agriculture for any services or materials deemed necessary to institute or carry out any such measures.

(c) Those lands described in subsection (a) which are not included in the lands described in the Act of May 31, 1933, shall be held under this section subject to existing rights owned or held by non-Indians by lease or otherwise. Lessees or permittees in said land shall have the right to renew such leases or permits under the rules and regulations of the Forest Service to the same extent and in the same manner as they had prior to the enactment of this Act; but the Pueblo de Taos shall have the right to obtain the relinquishment of any and all such lease or permit interests from the lessees or permittees under such terms and conditions as may be

agreed between said Pueblo and said lessees or permittees. The Secretary of the Interior is hereby authorized to disburse, from the tribal funds in the Treasury of the United States to the credit of said tribe, so much thereof as may be necessary to pay for the purchase of any rights or improvements owned by non-Indians on said lands, and for the acquisition or relinquishment of any leases or permits held by non-Indians on any of said lands.

(d) The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1049, 1050), the extent to which the value of the interest in land conveyed by this Act should be credited to the United States or should be set off against any claim of the Taos Indians against the United States.

[S. 1624, 90th Cong., first sess.]

A BILL To authorize the Secretary of the Interior to convey certain lands to the Pueblo de Taos Indians, New Mexico, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) for the purpose of safeguarding the interests and welfare of the tribe of Indians known as the Pueblo de Taos of New Mexico, the Secretary of the Interior is authorized and directed to convey all the right, title, and interest of the United States in and to the following described lands within the Carson National Forest, upon which said Indians depend and have depended since time immemorial as the site of certain of their religious ceremonials:

Beginning at the summit of Lew Wallace Peak, on the divide between the Rio Lucero and the Rio Pueblo de Taos;

thence northwesterly along such divide 1 mile;

thence northeasterly on a line to a point on a National Forest trail where such trail turns sharply to the southeast toward Blue Lake;

thence easterly with the National Forest trail to the intersection of said trail with the ridge which is the easterly boundary of the watershed of the Rio Pueblo de Taos and also the boundary of the Carson National Forest and the west boundary of the Maxwell Grant;

thence southeasterly along such ridge approximately 1½ miles to the intersection of such ridge with the summit of the southwesterly trending ridge forming the northwesterly boundary of the Bonito Park drainage;

thence southwesterly along the crest of this ridge and a spur thereof to a junction with the Rio Pueblo de Taos at a point in the southwest quarter of projected section 5, township 26 north, range 15 east;

thence with the Rio Pueblo de Taos to a point where the east-west trending ridge that defines the south boundary of the drainage that flows easterly from Waterbird Lake meets the Rio Pueblo de Taos;

thence westerly on the summit of such ridge to the divide between the watershed of the Rio Lucero and the Rio Pueblo de Taos;

thence northerly on such divide to Lew Wallace Peak, the point of beginning, containing approximately 3,150 acres, more or less.

(b) The Secretary of Agriculture is authorized and directed to continue to protect the lands conveyed to the Pueblo de Taos Indians pursuant to this Act from fire, insects, and disease, to maintain favorable conditions of waterflow, to maintain sanitary conditions, otherwise to conserve and protect the natural resources of the area, and to take such steps as are necessary to protect adjacent national forest lands. The instrument of conveyance to the Pueblo de Taos Indians shall recite the authority of the Secretary of Agriculture pursuant to this subsection to continue to conserve and protect the lands conveyed.

(c) Funds available to the Secretary of Agriculture for the protection and administration of the national forests shall be available for the conservation and protection of the lands conveyed to the Pueblo de Taos Indians pursuant to this Act.

SEC. 2. (a) The Secretary of Agriculture (hereinafter referred to as the "Secretary") is hereby directed to amend the permit granted to the Pueblo de Taos Indians pursuant to section 4 of the Act of May 31, 1933 (48 Stat. 108) to provide that the description of the area under permit to the Pueblo de Taos shall be amended to exclude that part of the area conveyed to the Pueblo de Taos Indians pursuant to this Act.

(b) The Secretary, in administering the remainder of the existing permit area as a part of the Carson National Forest, (1) shall make the total grazing capacity thereof, as determined by him after consultation with the Pueblo de Taos officials, available to the members of the Pueblo de Taos free of charge under such conditions as he finds necessary to protect and preserve the soil and watershed; (2) shall make timber and wood from the area available without charge for the personal or Tribal community needs of the members of the Pueblo or the Pueblo community; (3) may sell timber and wood from the area to the Pueblo or its members for commercial use at its appraised value; (4) may, with the concurrence of the Pueblo de Taos officials, sell timber and other forest products from the area to non-Indians under national forest sales procedures; (5) may cause timber to be removed from the area when damaged by fire, insects, or disease, or when determined by him to be necessary to prevent the spread of insect infestations or diseases; (6) may take such other steps he determines to be

necessary to protect the area and surrounding areas from fires, forest insects, and diseases; (7) shall permit the Pueblo de Taos to have exclusive use of the area during the period of August 16 through August 31 of each year to protect the privacy of their ancient ceremonies, subject to the authority of the Secretary to protect the area from fire, insects, and disease and the authority of law enforcement officers to enter the area in the performance of their official duties; (8) shall cooperate with the Pueblo in the protection from destruction or incompatible uses, to the extent feasible, of limited areas or localities within such area identified by the Indians as having special religious or ceremonial significance to them; (9) shall, if such procedure is requested annually by the governing officials of the Pueblo, require persons other than members of the Pueblo de Taos who desire to enter such area for other than official business to obtain permits and permits for more than one day shall be concurred in by a designated official of the Pueblo.

SEC. 3. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the title conveyed pursuant to section 1 of this Act as well as the value of the Carson National Forest permit pursuant to section 4 of the Act of May 31, 1933 (48 Stat. 108) should be credited to the United States or should be set off against any claim of the Pueblo de Taos Indians against the United States.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., April 17, 1968.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge your letters of April 29 and May 1, 1967, requesting the views of the Bureau of the Budget on S. 1624 and S. 1625, bills relating to lands for Pueblo de Taos Indians, New Mexico.

The Departments of Agriculture and the Interior are submitting reports to your Committee on these bills.

As indicated in the advice contained in their reports, the Bureau of the Budget concurs in the views of the Department of Agriculture and would have no objection to enactment of either bill if amended as recommended by the Department of Agriculture.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 18, 1968.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for this Department's views on S. 1624, a bill "To authorize the Secretary of the Interior to convey certain lands to the Pueblo de Taos Indians, New Mexico, and for other purposes", and S. 1625, a bill "To declare that certain lands be held in trust for the Pueblo de Taos Indians, New Mexico, and for other purposes."

We recommend the enactment of H.R. 3306 which was passed by the House of Representatives on June 18, 1968, or of amendment of S. 1624 or S. 1625 to correspond to its provisions.

S. 1624 authorizes the Secretary of the Interior to convey fee title to the Pueblo de Taos Indians for 3,150 acres of land including Blue Lake. S. 1625 is a similar bill, except that it provides the 3,150 acres will be held in trust for the Pueblo de Taos Indians. Other provisions of section 1 of the bills provide that the Secretary of Agriculture shall continue to protect the area from fire, insects and diseases, maintain favorable conditions of waterflow, conserve and protect the natural resources of the area, maintain sanitary conditions, and take such other steps as are necessary to protect the adjacent national forest lands.

Section 2 in each bill directs the Secretary of Agriculture to amend the permit granted to the Pueblo de Taos Indians, pursuant to section 4 of the Act of May 31, 1933 (48 Stat. 108), to exclude this 3,150 acres. Other provisions of section 2 set forth specific authorities for the Secretary of Agriculture to exercise in administering the remainder of the existing permit area as a part of the Carson National Forest. These include determining the total grazing capacity after consultation with the Pueblo de Taos officials; making timber and wood from the area available without charge to the Pueblo; selling timber and wood to the Pueblo and its members for commercial use at the appraised value; selling, with the concurrence of the Pueblo de Taos officials, such timber and other forest products to non-Indians; causing damaged timber to be removed from the area; taking whatever other steps he determines to be necessary to protect the area from fire, forest insects and diseases; permitting the Pueblo de Taos to have exclusive use of the area for its ancient ceremonies during the period of August 16 through August 31 of each year; cooperating with the Pueblo in the protection of the area from destruction or incompatible uses; and, if requested by the Pueblo, requiring persons other than members of the Pueblo de Taos to obtain permits to enter the area for other than official business.

In a recent discussion with Department officials, Taos Pueblo Governor Seferino Martinez stated that he reflected the opinion of the council and people of Taos in opposing these two bills, and expressed the Pueblo's continued support for legislation identical with that of H.R. 3306.

The Pueblo has a legitimate and just claim to the remaining 44,850 acres, which are included in H.R. 3306, but are not included in S. 1624 and S. 1625. This was decided by the Indian Claims Commission in *Pueblo de Taos* v. *United States of America*, Docket No. 357. In fact, the Indian Claims Commission determined that the Pueblo de Taos had Indian title to 130,000 acres, including the 48,000-acre "Blue Lake" area, before it was taken from the Pueblo in 1906 to be made a part of the Carson National Forest.

The Pueblo's insistence on a 48,000-acre area already represents a significant compromise when compared to the 130,000 acres that was found to belong to it before the 1906 taking. The 48,000-acre area is based upon the Indians' religious needs, and so important is this area to the practice of their religion that they are unwilling to consider a further reduction in their acreage. We have no doubt about the religious significance of the entire 48,000 acres to these Indians. The Taos Pueblo Indians' freedom to practice their religion depends on their being able to conduct their sacred ceremonies and religious contemplations in private. The entire watershed of the Rio Pueblo is also a part of the symbolism of Blue Lake because it is the area in which the Pueblo's religious life is practiced. It plays an important role in the physical, social, and political structure of the Pueblo.

Provisions contained in H.R. 3306 give the United States Government, through the Departments of Agriculture and Interior, authority to protect the forest and watershed within this area, as the Government has in other forest or wilderness areas upon which it has conservation and protection responsibilities. In addition, the bill fully provides for the protection of existing private claims in the 48,000-acre area.

H.R. 3306 provides that the land now permitted to the tribe under the 1933 Act will be held in trust for the Pueblo de Taos for traditional uses subject to existing rights owned or held by non-Indians by lease or permit. Provision is made for the Pueblo to purchase these rights and any improvements the non-Indians may have, if they are willing to sell. We appreciate the apprehensions that have been expressed about giving recognition to these leases and permits within the National Forest as vested interests. We have the same situation with regard to permits on public land, and we share the view that they are not vested interests. We therefore would not regard congressional action in this special case as a recognition of vested interests in permits and leases on the public lands generally.

Evidence developed by the Indian Claims Commission provides ample justification for returning the entire Blue Lake area to the Pueblo de Taos. Although this area may be desirable for outdoor recreation, we believe that the concepts of private property rights should apply to the 48,000 acres in question.

In summary, passage of either of the two bills, S. 1624 or S. 1625, would adversely affect the religion and culture of the people of the Pueblo de Taos and could lead to further disruption of the Pueblo's society. We believe that these consequences can be avoided by recognizing the justice of the Pueblo's claim as supported by the findings of the Indian Claims Commission.

In view of the Commission's findings and the importance of the Blue Lake area to the Pueblo de Taos people, we ask that S. 1624 or S. 1625 be not enacted, but that H.R. 3306 be enacted.

The Bureau of the Budget has advised that, while there is no objection to submission of this report from the standpoint of the Administration's program, the Bureau concurs in the views of the Department of Agriculture as expressed in its report to the committee on these bills.

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., April 16, 1968.

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

DEAR MR. CHAIRMAN: As you asked, here is our report on S. 1624, a bill "To authorize the Secretary of the Interior to convey certain lands to the Pueblo de Taos Indians, New Mexico, and for other purposes," and S. 1625, a bill "To declare that certain lands be held in trust for the Pueblo de Taos Indians, New Mexico, and for other purposes."

We would have no objection to the enactment of S. 1624 or S. 1625 if amended as suggested herein.

S. 1624 and S. 1625 would eliminate from the Carson National Forest, New Mexico, an area of approximately 3,150 acres described in the bills. These lands are administered by the Forest Service of this Department. The area lies in the headwaters of the Rio Pueblo de Taos, and encompasses Blue Lake, Waterbird Lake, and Star Lake. These lakes are reported to be religious shrines of the Pueblo de Taos. All but a small portion of the area is covered by an existing permit granted to the Pueblo de Taos by the Secretary of Agriculture pursuant to section 4 of the Act of May 31, 1933 (48 Stat. 108).

S. 1625 would declare the 3,150 acre area to be held in trust by the United States for the Pueblo de Taos, to be administered as a part of the Pueblo de Taos Reservation. S. 1624 would direct the Secretary of the Interior to convey all right, title and interest of the United States in the 3,150 acres to the Pueblo de Taos.

Under both bills, the Secretary of Agriculture would be directed to continue to protect the 3,150 acres from fire, insects and disease, to maintain favorable conditions of waterflow, to maintain sanitary conditions, and to otherwise conserve and protect the area and adjacent National Forest lands. Funds available to the Secretary of Agriculture for protection and administration of the National Forests would be available for this purpose.

The remaining provisions of both bills are substantially identical.

The Secretary would be directed to amend an existing permit granted the Pueblo to exclude the 3,150 acres referred to above.

The bills further contain a number of provisions outlining the authority of the Secretary of Agriculture in administering the remainder of the permit area. These provisions deal with the respective rights of the Secretary and the Pueblo regarding (1) use of the grazing capacity by the Pueblo, (2) use and disposition of the timber and wood in the area, (3) removal of damaged or diseased timber, (4) protection of the area from fire, forest insects and diseases, (5) use of the area by the Tribe for religious ceremonies, (6) protection of religious shrines, and (7) use of the area by persons not members of the Tribe.

The Indian Claims Commission would be directed to determine the value of the title conveyed to the Pueblo and the value of the existing permit. Such value would be credited to the United States or set off against any claim of the Pueblo de Taos against the United States.

The existing permit to the Pueblo de Taos Indians, covering most of the area affected by S. 1624 and S. 1625, derives from section 4 of the Act of May 31, 1933. The Act directed the Secretary to grant to the Indians a permit to occupy and use the land and resources for their personal use and benefit for fifty years, with a provision for subsequent renewals. The Indians are also permitted exclusive use and occupancy of the described area for religious ceremonials in August of each year.

Section 4 of the 1933 Act also directed the Secretary to segregate and withdraw the permit lands from mineral and other entry, in order to safeguard the interests and welfare of the Pueblo de Taos Indians.

In recent years several bills have been introduced which would have dealt with these lands. In the 89th Congress, your committee considered such a bill, S. 3085. The bill would have added some 18,000 acres of National Forest lands to the permit area of about 32,000 acres and declared the entire 50,000 acre area to be held in trust for the Pueblo de Taos. 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.

However, we have considered further the desires of the Pueblo de Taos. We recognize that the Indians desire firm assurance that the ceremonial areas will be protected and be available to them on a permanent basis. There is also a need to assure the many non-Pueblo residents who depend on the resources of the large Rio Pueblo de Taos watershed that these resources would be conserved and protected.

The 3,150 acre area which S. 1624 and S. 1624 describe encompasses Blue Lake and two other lakes that are reported to have special significance in the ceremonies of the Indians. The boundaries of this tract would generally be prominent ridges which could be identified, signed and posted.

We do not recommend that these lands either be conveyed to the Tribe, or transferred to Indian trust status as the bills would do. Instead we suggest that the following be substituted for the language on page 1 of either bill, beginning on line 3 and ending at the end of line 10:

That the Secretary of Agriculture is hereby directed to amend the permit granted to the tribe of Indians known as the Pueblo de Taos of New Mexico pursuant to section 4 of the Act of May 31, 1933 (48 Stat. 108), to provide also for the following:

> The Pueblo de Taos Indians shall be permitted to have exclusive use of about 3,150 acres more or less in the Blue Lake Area and including Star and Waterbird Lakes. The Secretary of Agriculture shall continue to be responsible for protection of the area from fire, insects, and disease, and maintenance of sanitary conditions as a part of the Carson National Forest and for administering the regulations applicable thereto, subject to the provisions of the permit. Law enforcement officers will continue to be authorized to enter the area in performance of official duties. Within such area the cutting of timber, grazing of livestock, and construction of improvements will be limited to activities found necessary by the Indians in the performance of their ceremonials or for the provision of adequate sanitation for the protection of health. Such area lies in the headwaters of the Rio Pueblo de Taos, within the Carson National Forest, New Mexico, and is described as:

A legislative grant of exclusive use and possession of the 3,150 acre tract should meet Indian needs with respect to use of the Blue Lake area. It would assure them of perpetual use of Blue Lake; there would be no revocation of the permit. The area would be large enough to assure privacy and could be posted and fenced by the Indians. Non-Indian use could be restricted throughout the entire year.

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 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.

We would have no objection to the other provisions of section 2 of S. 1624 and S. 1625. These could be beneficial in confirming and clarifying the Secretary of Agriculture's authority for protection and management of the remaining part of the permit area not subject to exclusive use and occupancy by the Indians, and the provisions relating to Indian and non-Indian use of the area.

To conform S. 1624 or S. 1625 with the amendment suggested above, all beginning with line 6 on page 3 of each bill through line 5 on page 4 should be deleted and the following inserted in lieu thereof:

SEC. 2. The Secretary of Agriculture is hereby directed to further amend the permit granted to the Pueblo de Taos Indians pursuant to section 4 of the Act of May 31, 1933 (48 Stat. 108), to provide that the Secretary of Agriculture, in administering the remainder of

To conform section 3 of the bills with the above suggested amendments, that section should be amended to read as follows:

SEC. 3. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the Carson National Forest permit granted pursuant to section 4 of the Act of May 31, 1933 (48 Stat. 108), should be credited to the United States or should be set off against any claim of the Pueblo de Taos Indians against the United States.

The Bureau of the Budget advises that there is no objection to the presentation of this report and that the Bureau concurs with the views expressed herein.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

[S. 1625, 90th Cong., first sess.]

A BILL To declare that certain lands be held in trust for the Pueblo de Taos Indians, New Mexico, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, (a) for the purpose of safeguarding the interests and welfare of the tribe of Indians known as the Pueblo de Taos of New Mexico, the following described lands within the Carson National Forest, upon which said Indians depend and have depended since time immemorial as the site of certain of their religious ceremonials, are hereby declared to be held by the United States in trust for the Pueblo de Taos:

Beginning at the summit of Lew Wallace Peak, on the divide between the Rio Lucero and the Rio Pueblo de Taos:

thence northwesterly along such divide 1 mile;

thence northeasterly on a line to a point on a national forest trail where such trail turns sharply to the southeast toward Blue Lake;

thence easterly with the national forest trail to the intersection of said trail with the ridge which is the easterly boundary of the watershed of the Rio Pueblo de Taos and also the boundary of the Carson National Forest and the west boundary of the Maxwell Grant;

thence southeasterly along such ridge approximately 1½ miles to the intersection of such ridge with the summit of the southwesterly trending ridge forming the northwesterly boundary of the Bonito Park drainage;

thence southwesterly along the crest of this ridge and a spur thereof to a junction with the Rio Pueblo de Taos at a point in the southwest quarter of projected section 5, township 26 north, range 15 east;

thence with the Rio Pueblo de Taos to a point where the east-west trending ridge that defines the south boundary of the drainage that flows easterly from Waterbird Lake meets the Rio Pueblo de Taos;

thence westerly on the summit of such ridge to the divide between the watershed of the Rio Lucero and the Rio Pueblo de Taos;

thence northerly on such divide to Lew Wallace Peak, the point of beginning, containing approximately 3,150 acres, more or less.

(b) The lands held for the Pueblo de Taos under this section shall be a part of the Pueblo de Taos Reservation and administered in the same manner as other trust or restricted Indian lands and shall be subject to the exclusive use and benefit of the Pueblo de Taos: *Provided,* That the Secretary of Agriculture shall continue to protect the area from fire, insects, and disease, to maintain favorable conditions of waterflow, to maintain sanitary conditions, otherwise to conserve and protect the natural resources of the area, and to take such steps as are necessary to protect adjacent national forest lands: *Provided further,* That funds available to the Secretary of Agriculture for the protection and administration of the national forests shall be available for the protection and administration of the lands declared by this Act to be held in trust for the Pueblo de Taos.

SEC. 2. (a) The Secretary of Agriculture (hereinafter referred to as the "Secretary") is hereby directed to amend the permit granted to the Pueblo de Taos Indians pursuant to section 4 of the Act of May 31, 1933 (48 Stat. 108), to provide that the description of the area under permit to the Pueblo de Taos shall be amended to exclude that part of the area declared by this Act to be held by the United States in trust for the Pueblo de Taos.

(b) The Secretary, in administering the remainder of the existing permit area as a part of the Carson National Forest, (1) shall make the total grazing capacity thereof, as determined by him after consultation with the Pueblo de Taos officials, available to the members of the Pueblo de Taos free of charge under such conditions as he finds necessary to protect and preserve the soil and watershed; (2) shall make timber and wood from the area available without charge for the personal or tribal community needs of the members of the Pueblo or the Pueblo community; (3) may sell timber and wood from the area to the Pueblo or its members for commercial use at its appraised value; (4) may, with the concurrence of the Pueblo de Taos officials, sell timber and other forest products from the area to non-Indians under national forest sales procedures; (5) may cause timber to be removed from the area when damaged by fire, insects, or disease, or when determined by him to be necessary to prevent the spread of insect infestations or diseases; (6) may take such other steps he determines to be necessary to protect the area and surrounding areas from fires, forest insects, and diseases; (7) shall permit the Pueblo de Taos to have exclusive use of the area during the period of August 16 through August 31 of each year to protect the privacy of their ancient ceremonies, subject to the authority of the Secretary to protect the area from fire, insects, and disease, and the authority of law enforcement officers to enter the area in the performance of their official duties; (8) shall cooperate with the Pueblo in the protection from destruction or incompatible uses, to the extent feasible, of limited areas or localities within such area identified by the Indians as having special religious or ceremonial significance to them; (9) shall, if such procedure is requested annually by the governing officials of the Pueblo, require persons other than members of the Pueblo de Taos who desire to enter such area for other than official business to obtain permits, and permits for more than one day shall be concurrred in by a designated official of the Pueblo.

SEC. 3. The Indian Claims Commission is directed to determine in accordance with the provisions of section 2 of the Act of August 13, 1946 (60 Stat. 1050), the extent to which the value of the title conveyed pursuant to section 1 of this Act as well as the value of the Carson National Forest permit pursuant to section 4 of the Act of May 31, 1933 (48 Stat. 108), should be credited to the United States or should be set off against any claim of the Pueblo de Taos Indians against the United States.

Senator METCALF. We have a witness list containing the names of some 14 individuals who I understand are here and prepared to testify. If during the proceedings I should fail to call the name of anyone who wishes to testify, please let me or the staff know, because we want to be certain everyone who wishes to give the benefits of his views has the opportunity to do so.

The first witness today is an old friend, the distinguished Secretary of the Interior, the Honorable Stewart L. Udall.

However, before calling the first witness, the chairman wishes to recognize the senior Senator from New Mexico, who has served longer than any other member and is a true friend to Indians all over America. Senator Anderson, we recognize you as a member of the subcommittee.

Senator ANDERSON. I think you had better let Secretary Udall go first.

Senator METCALF. We have the able Secretary of Interior here and in order to let him go about some of his other arduous and important duties we will call on him first.

Secretary Udall, we are delighted to have you before us.

STATEMENT OF HON. STEWART L. UDALL, SECRETARY OF THE INTERIOR

Mr. UDALL. Thank you, Mr. Chairman. This may be the last time I appear in this room in my present capacity and I would like to say

there have been many times I have appeared before this committee in the last 8 years and it has always been a pleasure to appear and it has always been stimulating to deal with the members of this committee on matters of public policy.

Of course this is one of the most important and one of the most controversial Indian policy questions before this committee or that has come before the committee in the past.

I am glad to appear before you to discuss the provisions of S. 1624, S. 1625 and H.R. 3306 which declare that certain lands be conveyed to or held in trust for the Pueblo de Taos Indians of New Mexico.

As I pointed out in my written report to you on S. 1624 and S. 1625 I favor the enactment of H.R. 3306 which was passed by the House of Representatives on June 18, 1968.

S. 1624 authorizes the Secretary of the Interior to convey fee title to the Pueblo de Taos Indians for 3,150 acres of land including Blue Lake.

S. 1625 is similar in nature, except that it provides that the 3,150 acres will be held in trust for the Pueblo de Taos Indians. Other provisions of the bills provide that the Secretary of Agriculture shall continue to protect the area from fire, insects, and diseases, maintain favorable conditions of waterflow, conserve and protect the natural resources of the area, maintain sanitary conditions and take such other steps as are necessary to protect the adjacent national forest lands.

Both S. 1624 and S. 1625 direct the Secretary of Agriculture to amend the permit granted to the Pueblo de Taos Indians, pursuant to section 4 of the act of May 31, 1933 (48 Stat. 108) to exclude these 3,150 acres.

Other provisions set forth specific authorities for the Secretary of Agriculture to exercise in administering the remainder of the existing permit area as a part of the Carson National Forest.

In a recent discussion with Departmental officials, Taos Pueblo Governor Seferino Martinez states that he reflected the opinion of the council and people of Taos in opposing these two bills, and expressed the Pueblo's continued support for legislation identical with that of H.R. 3306.

The Pueblo has a legitimate and just claim in our view, to the remaining 44,850 acres which are included in H.R. 3305, but are not included in S. 1624 and S. 1625. This was decided by the Indian Claims Commission in *Pueblo de Taos* v. *United States of America*, docket No. 357.

In fact, the Indian Claims Commission determined that the Pueblo de Taos had Indian title to 130,000 acres including the 48,000 acre Blue Lake area, before it was taken from the Pueblo in 1906 to be made a part of the Carson National Forest.

I believe that H.R. 3306 affords our Government an opportunity to right a wrong that was done to these Indians, in the only manner that will be meaningful to the Indians.

The Taos Pueblo Indians since about the 12th century have occupied and used the area of which this land is a part. The area does not represent, so far as the Indians are concerned just land from which a livelihood is obtained. The exercise of their religious worship is dependent on this tract of land.

In our report on this bill we have quoted at length from the findings of the Indian Claims Commission regarding the religious significance of this particular land—not any land but this particular land.

So fundamental to consideration of this bill is this point that I repeat some of the Claim Commission's findings:

One of the basic precepts of Pueblo philosophy and religion is that a way of life was established in the beginning by Mother Nature and the Pueblo's forefathers and that things should be done as they were in the past.

The native religion of the Taos Indians is to this day very much involved with the daily life of the people. This religion does now and has for centuries tied them closely to the land.

Quoting further from the Commission's findings:

". . . This attachment to the land is an attachment to the specific, circumscribed area defined in the original petition and encompassed approximately 300,000 acres. It is smybolized by shrines at which the Taos people worship. These shrines are visited almost daily. The attachment to specific geographic sites, which reaches back for centuries, continues to the present day . . ."

The Claims Commission found that specific sites had religious significance to the Taos Indians:

"In the native religion of the Taos Pueblo specific ceremonials were performed at designated spots or shrines. The Indians claimed that a shrine could not be moved. The shrines which were frequently visited by members of the Pueblo of Taos for ceremonial purposes."

The Claims Commission found that the most important site is Blue Lake. This is the most sacred shrine of the Taos Indians. To the Taos Pueblo Indians, Blue Lake is symbolically the source of all life; it is the retreat also of souls after death, the home of the ancestors who likewise gave life to the people of today. The annual August ceremonies at Blue Lake, which have continued uninterrupted for centuries, serve to bind the youths of the Pueblo to the community as it exists and as it has existed for centuries. Thus Blue Lake symbolizee the unity and continuity of the Pueblo, it is the central symbol of these Indian's religion as the Cross is in Christianity.

Because of its sacredness to the Taos Pueblo, it is used every day by at least a few Indians for private religious reflection.

The Taos Pueblo Indians freedom to practice their religion depends on their being able to conduct their sacred ceremonies and religious contemplations in private. The entire watershed of the Rio Pueblo is also a part of the synbolism of Blue Lake because it is the area in which the Pueblo's religious life is practiced. It plays an important role in the physical, social and political structure of the Pueblo.

Under a 1933 act, the Taos Indians have had the use of 32,450 acres of this land under a 50-year permit with provisions for subsequent renewals. This permit though has not proved satisfactory to the Indians. They regard this land as theirs.

They know that Congress could at some future time repeal the 1933 act and thereby deprive them of the use of this land. They believe that trust title to the area would give them a more secure right than they have under the permit. We certainly agree with that.

As I have already indicated, again the Indian Claims Commission entered an interlocutory order on September 8, 1965, which determined that the Pueblo should be compensated for some 130,000 acres, including the area that is the subject of this bill.

In addition to this the Claims Commission found that the Pueblo should be paid the sum of $297,684.67 for the taking by the United States of the town lots within the town of Taos.

Against this latter claim there is to be an offset of the value of the use permit given under the 1933 act and other offsets if there are any.

Three main arguments have been expressed against enactment of this legislation.

The House of course confronted these arguments in making its determination. Foremost is that a precedent will be set and that other Indian tribes will want lands rather than money from the Indian Claims Commission. We do not share this concern. I want to underscore this to the committee. In my 8 years as Secretary I have had a chance to become acquainted with all the Indian problems, the Indian questions and traditions of the Indian tribes. I know of no case which has the unique circumstances which surround this and certainly we have no desire to set a precedent that would require the returning of public lands to Indian ownership rather than to continue under the precedent procedures of the Indian Claims Act and Indian Claims Commission.

This is a special circumstance and this is the reason we support it as an essential thing to the Indian policy. In many cases the lands for which tribes are being compensated are not in the proximity of their present holdings, have not been used by the Indians in any way for many years, or have been divided into hundreds—even thousands—of private holdings, so that restoration to the Indians would compromise the interests of numerous citizens.

In fact it would be impossible in most circumstances to take such action. Furthermore, of the few tribes who have expressed some interest in having certain of their lost lands restored, none has presented a compelling reason of the nature of the Taos Pueblo appeal.

We would not, therefore, consider a grant of land in this case as opening the door for favorable action on similar future requests. In our view the religious significance of the land, I think the case must stand or fall on this point, to the Taos Indian warrants favorable action as an exception to the general rule.

Another area of concern about this bill is the provision concerning the non-Indian leases or permits. We appreciate the apprehensions that have been expressed about giving recognition to these holdings as vested interests. We would not regard congressional action in this special case as recognition of vested interests in permits and leases on public lands generally.

A third argument against enactment of this bill is that what the Indians really want is the timber on these lands for commercial exploitation. The suggestion that these Indians would seek behind a facade of religious belief something which they might not otherwise be able to obtain is a challenge to their integrity.

We reject this argument. I have talked this point over on more than one occasion with the leaders and members of this tribe and I have implicit and complete confidence in the integrity of their intentions with regard to the use and the manner in which they will administer this land.

The Pueblo, however, agreed to have the bill changed when it was discussed in the House to provide that the area will be maintained as a wilderness area, subject only to traditional Indian uses, and those uses would be subject to conservation regulations by the Secretary of Agriculture.

This amendment was adopted in the House and is embodied in H.R. 3306 so that the bill now provides that persons not members of the tribe may enter the area for purposes consistent with its preservation as a wilderness.

However, they would be permitted to do so only with the consent of the Taos Pueblo. I would like to emphasize that the permission of the Indians will be the deciding factor in determining whether others may enter.

Conservation values are fully protected. In fact the religious values which the Indians attach to the land require the preservation of the land in its natural state.

As Secretary of a Department that has broad conservation responsibilities, I would not recommend the enactment of this bill if I believed that its enactment would conflict with basic conservation values.

The House amended the bill in subsection (b) so as to give both the Secretary of Agriculture and the Secretary of the Interior responsibilities in regard to conservation administration.

While it is possible to reconcile the two areas of responsibility, we believe it would be preferable to concentrate responsibility in one office, under the circumstances we think that of Interior.

This would require the deletion of the words "Secretary of Agriculture" on line 19 of page 5 of H.R. 3306, and the insertion of the words "Secretary of Interior" in their place.

Senator METCALF. Thank you very much, Mr. Secretary.

The Senator from New Mexico.

Senator ANDERSON. When you state that H.R. 3306 will right a wrong, has the House been wrong to a greater extent at other times?

Mr. UDALL. Well, because of my view of the history of this, the creation of this particular national forest, and of the view that these Indian people take of the injustice that was done, I think both of these pieces of legislation, rather all three bills, recognize a wrong was done and that corrective action should be taken.

The basic argument is really a question of what area should be restored to them. In one instance it is proposed 3,000 acres and in another 48,000. I think as far as the question of righting a wrong, that there is agreement in both pieces of legislation with regard to principle.

No one admires more than I do the action Teddy Roosevelt took in 1906 when with a stroke of the pen he put millions of acres of forest land that were publicly owned in the West into national forests.

He did more than any other President. Yet as late as 1906—these were not lands taken a hundred years ago; they were taken about 60 years ago—this was land this particular group of Indians had been using for centuries; and it was not a case where typical public domain land was taken from them and put in national forests.

The question is whether we should give them money or, because of the religious significance to them, give them back the land; and it seems to me the best approach, and both bills say it is, is to say we are not going to make you conform to the usual pattern and give you money.

It is recognized some land should be restored to them. We favor the larger parcel of land and the Department of Agriculture favors the smaller tract.

Senator ANDERSON. If this legislation were passed, would it right the other wrongs and give the other Indian tribes the same privileges?

Mr. UDALL. I want to be frank with you and the committee on this point. I want to help make a record on this point. I have seen one or two bills introduced this year of the same tenor. I don't agree with these bills. I find myself as sympathetic as I try to be to the cause of the Indian, feeling that as far as the great bulk of the land that was taken from Indian tribes over the last 150 or 200 years, you can't unscramble those eggs; and the approach of the Indian Claims Act was correct and the only thing to do—and no other civilized country has done this—is to compensate them for the value of the lands at the time they were taken.

I know of no other Indian group where lands were taken that had the type of religious significance as for this tribe—with their very peculiar religion, their deeply held religion—where the lands taken are unspoiled, in the same condition, as when they were taken.

Most of the land has long since gone into different uses, has been cut up, has been placed in private ownership; and, therefore, I don't see any case, no case has come to my attention as Secretary, I can say this very honestly to the committee, where I would support the claim of any Indian tribe or any Indian group to receive land rather than money under a claim that would be presented or has been presented to the Indian Claims Commission; and I want to close that door if I may.

Senator ANDERSON. The Indian Claims Act prohibits the Commission from giving land in place of money; do you agree with that?

Mr. UDALL. Yes; I think that was sound and correct; but in this instance, the Indian tribe, because of their special circumstances, have come to Congress as an appeals court—that is the only way I can describe it—and said we think there are such special circumstances here that we should be singled out for special treatment and we should receive part land and part money.

They will receive a money judgment; but they want the land they attach religious significance to, rather than receiving money.

Senator ANDERSON. There is a bill pending, H.R. 19072, by Mr. Steiger, an Arizona Congressman, which would transfer certain lands which are part of the Grand Canyon. How would you view that bill?

Mr. UDALL. I don't think that bill has any merit. I don't think my Department would support it.

Senator ANDERSON. I don't see how you can support this and not support that.

Mr. UDALL. I tell you the way I distinguish here. I am as familiar with the Havasupi Indians as with the Pueblo de Taos Indians, because they are in my State. These lands the Congress has included in this legislation have no special meaning to this tribe in terms of their culture, their religion; and I think the whole thing comes back to the special religious significance that this tribe with their unique religion attaches to it and there is no argument advanced by the Arizona Congressman with regard to these Indians other than the fact he would like to give them more land.

They have a beautiful reservation right at the bottom of the Grand Canyon. There is no reason for taking part of the national forest off Grand Canyon and add to it. The area where they live is where they always lived. They don't use these lands and they have no religious or cultural reason for using them.

That is why I think the cases are different. That is why I am for one and not the other.

Senator ANDERSON. I was in the Congress when they started talking of the Indian Claims Act. Did they at that time talk of anything other than money for lands?

Mr. UDALL. The act, as I recall it, called for money judgments, payments for lands. The Congress and Claims Commission have followed this. This is brought to the Congress, as I say, as a special appeal to say this should be an exception to the general approach of the Indian Claims Act of 1946.

Senator ANDERSON. I am sure the question is answered later on, but I am anxious to know why two identical pieces of ground are treated differently. You are willing to give land to the Taos de Pueblo and not to the other tribe? How do you do that?

Mr. UDALL. Your own bill would give them lands. The argument is not whether we should depart from the general rules of the Claims Act and recognize these Indians do have a powerful special case and restore land to them. The question is how much land, as I see it. I think the issue of the principle of shouldn't we restore some lands to them is decided and agreed upon. Both bills have that in common. The question is how much land.

Senator ANDERSON. Should the Congress give some land as is now being proposed?

Mr. UDALL. The Congress has a very special responsibility and very substantial power in dealing with public lands, whether parks, forests, or other public lands, and naturally the Congress can enter into these questions anytime it wants to.

I would think and strongly believe if the Congress expressed its view in the past legislation that that would resolve this issue once and for all, whatever its determination.

Senator ANDERSON. When we passed the Indian Claims Act we set the policy then and now it is reopened, isn't that true?

Mr. UDALL. I think what Congress did in 1946 was to lay down a national policy and it was a very humane policy, a very generous policy with regard to Indian claims and their settlement, and I think what this represents, as I indicated a moment ago, is to get Congress to amend that act and say here is a very special case, very special circumstances and we are going to deal with this issue in a different way than we dealt with all the other Indian tribe groups because of these special conditions.

Senator ANDERSON. Mr. Chairman, we have other people here that we have to hear but I intend to keep questioning more at a later date.

Senator METCALF. Mr. Hansen.

Senator HANSEN. Thank you, Mr. Chairman.

I have a great interest in this legislation and I would like to ask, Mr. Secretary, am I correct in assuming or in concluding that, because of the peculiar religious significance this area holds to the Taos Indians, it is your considered judgment that special treatment is indicated?

Mr. UDALL. This is the whole basis for this legislation, Senator. If it were not for this, I don't think we would have much of a case and I think it really hinges on this. If members of the committee believe these Indians are sincere and these lands have religious significance to them, I think this is the thing you have to weigh basically.

Senator HANSEN. It is your opinion that the area, the lakes, the mountains, the land itself, by use throughout the centuries has become of special significance to the Indians in the practice of their religion and that is the fact rather than the possibility that certain shrines could be moved and transported?

Mr. UDALL. The truth of the matter is that you must study the culture of these Indians and look at this whole history, the shrines, the lake, the setting. In other words their religion is intimately involved with nature. Here is the highest mountain in the State of New Mexico, I believe, a beautiful natural setting. The watershed drains right down into the place where they have lived for eight or 10 centuries and the religion is connected intimately with nature. The shrine is connected with the lake and it is not a cathedral of some kind.

Senator HANSEN. You feel an injustice was done the Indian when these lands were taken from them as a Presidential proclamation and made a part of the national forest?

Mr. UDALL. One of the great moments to me in conservation history was that day in 1906 when Gifford Pinchot and Teddy Roosevelt were down on their knees in the White House trying to describe areas of public domain forest land to be put into national forests by executive proclamation. But they had to act hastily and I have enough respect for Teddy Roosevelt's memory to believe if it had been pointed out to him that here was a tribe of Indians that lived there a thousand years or more with a particular tract of land that had special religious significance, it might have been excluded. This was not taken as a result of the Indian tribe making war on the white man as he came in; it was taken with a swoop of the pen in 1906.

The question is whether we should right this wrong.

Senator HANSON. You are saying that those were well intentioned efforts undertaken by the President in 1906?

Mr. UDALL. I know they were, I know what his intentions were but the point is they were not aware of the fact this is a special case because they were acting in great haste.

Senator HANSEN. In light of the history and continued pleadings of this tribe since that time it is your feeling that the way really to do justice to the Taos Indians is to enact this legislation which would reserve this 48,000-acre tract for their rather exclusive use?

Mr. UDALL. That is right. That is our view of what should be done.

Senator HANSEN. Thank you.

Mr. UDALL. Senator Hatfield.

Senator HATFIELD. Mr. Chairman, without getting into the specific issues as to whether or not we should begin giving the Indians land in lieu of money claims, because really I think that issue might be more carefully studied than it has been up to this point. As I say without getting onto that question, I am concerned about the testimony on page 5 of your report.

I have some documents that relate to this subject. These are some House documents I would like to quote from and, Mr. Chairman, I would like to engage in a series of questions here if I could.

As you realize, Mr. Secretary, your tenure will be up in about 3 or 4 months but the rest of us on this committee will have to be dealing with these issues as they may confront us from time to time because of what we do here on this case.

In the testimony you indicate that there is not a precedent that will be set by our acting favorably on this bill. Then you indicate the whole case rises or falls on the religious significance.

I would like to quote to you, Mr. Secretary, from a document about a case that involved the Pueblo of the Nambe, the Indian Claims Commission. In this report they noted the great similarity between the Nambe and the Taos cases.

At page 400 of the Commission's findings they listed their facts by number and this is fact No. 9 on page 400 on the Nambe, the Commission says, and I would like to quote from this Commission Report.

(The document referred to follows:)

9. Native religion was very much alive at Nambe Pueblo from 1848 to the first decade of this century. Ceremonials were held as late as the 1930's. In the native religion of Nambe Pueblo, specific ceremonials must be performed at designated spots or shrines. A shrine cannot be moved. The area of aboriginal occupancy is thus dotted with religious shrines which were frequently visited by members of the Pueblo of Nambe for ceremonial purposes.

The most important shrines are the sacred lakes of Tamayoge Okwinge (Sandy Lake) and Kate Okwinge (Lake Katherine). Initiation and healing ceremonies were held there and it was believed that the supernaturals inhabited these sacred lakes. Petitioner identified 16 other religious shrines, in most cases piles of sacred stones, dotted throughout the claimed area. These were thought to bring good luck in hunting or other endeavors and were regularly visited, and strewn with corn meal, at the time of secret religious rites. Although native religious practices have to a large extent died out at Nambe, these shrines are still maintained.

Senator HATFIELD. Now the Commission, Mr. Secretary, found that 45,000 acres were taken from the Nambe Pueblo which are now in the Santa Fe National Forest. The Indians have not been paid and there is absolutely no reason to believe that if H.R. 3306 is passed, that the Nambe Indians will not come in and ask for similar treatment.

I think in the face of that decision I would like to ask what the Department of Interior would do about a bill if introduced upon that basis under the circumstances you have outlined, of paying these Indians in land in lieu of money claims?

Mr. UDALL. This is a crucial question; you are quite right in saying the committee ought to look ahead and try to anticipate what door you are opening in this if you pass this legislation.

I have never had any conference with or been visited by the Nambe Pueblo, I am not familiar with the circumstances of any claim. I am not sure they are preparing or would like to make a claim of special circumstances such as the Taos people make.

If they have such intentions I am surprised I have not heard of it. I try to keep my door open to the Indian people and their leaders.

I would say this, however, the one thing that seems to me to make out a very powerful case for the Taos Pueblo is that this land is unspoiled, it is undeveloped, it is wilderness for all practical purposes, it has never been invaded or despoiled by man; therefore, it is in the condition it was at the time it was taken.

Practically all of the Indian lands of this country, what was once Indian land, has been carved up into different tracts, it has gone through private ownership, it has been timbered, it is being used.

If, for example, the aboriginal Nambe lands have been developed and cut up and roads have been built and the condition has been changed, I think they have a rather weak case but the real power of the claim of the Taos Indians, it seems to me, is the fact that this land

today is for all practical purposes just like it was in 1906 when it was taken from them. We can restore something here.

Senator HATFIELD. Would you not agree if these shrines are maintained and there is religious significance that the Indians consider, the Nambe Pueblo consider this land for, there would be a precedent set in the bill you now introduce or have cause to be introduced?

Mr. UDALL. Let me answer you directly on that; if the Nambe Pueblo have facts that are similar, I would favor the same relief, I would think overall with all Indian tribes of the country. If it may be for one group of Indians we gave special treatment, I see nothing wrong with that as long as it is based on circumstances such as these we are faced with this morning.

Senator HATFIELD. You are not familiar, or do not have information about all the Indian groups that might have such claims that could come to light if a precedent were set.

Actually we may be setting a precedent.

Mr. UDALL. That is right.

Senator HATFIELD. There is another case, the New Mexico Jemez docket 137. Here the Commission, the Indian Claims Commission found the Indians lost 36,172 acres which were lost under circumstances similar to the Taos and Nambe.

These are now part of the Jemez Forest Reserve; other lands were included in a grazing district. The Indians have not been paid for these lands as yet. Would the Department of Interior look favorably on a request of land return instead of money, if it could be established again under the precedents there were religious precedents?

Mr. UDALL. I think you would have to look at the religious circumstances, and if they could make out the kind of case recognized in the House and Senate bills, there might be some land restoration.

Again I am not familiar with the circumstances with regard to these Pueblos. If they are preparing to make such claims, I am not aware of it.

Senator HATFIELD. Mr. Secretary, let me emphasize again, it might be well if we made known if we pass this bill, it might be our responsibility through the Department of Interior, Bureau of Indian Affairs, to make known to all Indians that they could make claim to return of land in lieu of money if this bill is enacted.

I am not making the evaluation that we should give land or money. I don't believe that you should, with a stroke of your pen, brush aside that there is no precedent here, maybe it is a good precedent, I don't know.

But I know your testimony tends to minimize the continuing responsibility this committee has to all the Indians, and I think we, as invading white Americans, have a continuing responsibility to all of them.

Let me quote from the House Report on H.R. 3306. I believe this is substantially the same testimony you have given to our committee here in the Senate.

There are apprehensions in some quarters that if the Taos Pueblo is given this land to which they are determined by the Indian Claims Commission to have had Indians title to, we do not think this is necessarily the case. In a great many of the cases the land for which tribes are being compensated are not in the proximity of their precedent holdings. Moreover, few of the tribes have expressed any such desire. Even aside from these consideraitons, however, a

question as to whether Indian tribes are to be given money payments or return of land is one that will have to be decided on an individual basis. We would not consider this proposal as opening the door on similar requests that might be made. We believe favorable consideration of this proposal as an exception to the general rule.

Now the word that the Department uses, Mr. Secretary, "a few of the tribes have expressed such a desire of land in lieu of money." What tribes have expressed that request—that desire, where are they located and what is the Department's attitude with respect to their requests?

Secretary UDALL. All I can speak of is what has come to my desk and I have had no conferences, letters, visits of any kind with any Indian tribe or group that I can recall making or attempting to make out the case that they wanted the type of treatment that the Taos people have been asking for in this legislation.

There may be some that are beginning to think that way or are formulating such plans but at the moment it has not crystallized to the point where I could identify for you. The legislation the Senator from New Mexico referred to was introduced by an Arizona Congressman, this year.

That is one of the first things to come to my attention. Whether this represents his view as to what would be a solution or whether the Indians themselves want this, I don't know.

Maybe Commissioner Bennett is familiar with it, I am not.

Senator HATFIELD. Would you interpret what this language means from your Department? "Moreover few such tribes have requested such desire but aside from these considerations." Could we get that information from the commissioner about these other tribes that you or the Department allude to in this House report?

Mr. UDALL. Senator, the type of record you are trying to make, I think it is a good record and we should give the committee a report that summarizes this whole picture so you can know what the precedent is and what door you might be opening by passing this legislation.

Senator HATFIELD. The record will be open for us to receive this report, will it not?

Senator METCALF. Yes; the record will be open until the Secretary can provide this information.

(The document referred to follows:)

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SOLICITOR,
Washingon, D.C., October 7, 1968.

Hon. HENRY M. JACKSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to a request during the recent hearings on S. 1624, S. 1625, and H.R. 3306, bills relating to the Taos Pueblo, for clarification of the statement appearing at the top of page 4 of the Departmental report of April 26, 1968, that "Moreover, few of the tribes have expressed any such desires."

There are, no doubt, several tribes which have been deprived of lands to which they had Indian title and would prefer to have the lands returned to them instead of receiving monetary damages. However, we have not had any requests for legislative action to restore lands determined by the Indian Claims Commission to have had Indian title. Over the years we have had requests from Indian tribes to have returned to them lands that could be returned administratively, some as the result of decisions by the Indian Claims Commission.

Sincerely yours,

HARRY J. HOGAN, *Legislative Counsel.*

Mr. UDALL. You have raised what I think is the crucial policy question here and I don't want to overstress this business of worry about precedent or not precedent.

My primary concern is justice and I think whether it is just and right under special circumstances involving religious considerations to restore land, this is what is compelling to me and if other Indian groups have a similar case, I am more interested in justice than I am as to whether precedent is or is not set.

I want the record to show I am not saying here to just open the door and give this particular Indian group some land. There may be others having a similar argument and if they can make it and persuade the committees of the Congress, I would like to see them get justice if that is justice in the view of the Congress.

Senator HATFIELD. I could not agree more wholeheartedly, Mr. Secretary. As I indicated prior to my series of questions the thing that raised my concern about your testimony was on page 5 in the terms of what you stated about this not being a precedent.

I think this should be a precedent if we state this case in terms of this bill and other tribes qualify. At the same time we should consider once we set this precedent we are doing more than just returning the lands to Indians in a rather restricted instance or under certain criteria.

We, in effect, are changing the whole policy of the Indian Claims Commission that dealt with money in lieu of land. This was a question confronting the Congress many years ago. It involved Warm Springs in my own State of Oregon. That was a case where they talked of a boundary drafted in 1874 and, if you will recall, many of these earlier Indian boundaries were inaccurate and sloppily handled.

What happened in the Warm Springs case was that there was a piece of Indian land that should have been included in the Warm Springs Reservation, but it was not, and was a piece of the national forest when they were trying to deal with it. Congress recognized this problem by alluding to it in the House Report accompanying the legislation which became the Indian Claims Commission Act.

So this question of land in lieu of money has been before us for some time and we are not only setting a precedent with Indians relating to Indian practices but we must deal with the type of claims that will relate to the future Indian Claims Commission.

Let me remind you the Seminole Indians have a claim in that their aboriginal title has been recognized. What could we do to prevent them coming in and asking for a section of the Everglades National Park in lieu of money?

If you study their history you will find their ancestral lands were sacred to them long before the first Spaniard set foot in St. Augustine.

I believe we can go back and resurrect claims of Indians based on religion that are now part of our national parks, part of our national forests. That is why the Secretary of Agriculture's letter dated September 18 takes great exception to our position and represents a view that this does set a very questionable precedent in history, in his view.

As you know, the Bureau of the Budget has raised a question as to our position on this. I am only trying to bring out some of these points. I don't believe we as a committee can just consider this unrelated and isolated to other groups or for claims or possible claims other tribes may have.

I think the committee should have a record made and fully clear on this point if we are to decide favorably. I appreciate your frankness, Mr. Secretary.

Senator METCALF. Mr. Secretary, I also appreciate your appearance here and I think you know that this committee completely concurs with you that it is our desire to do justice to the Indians.

Both as a Member of the House of Representatives and the very distinguished and able Secretary of the Interior, over the years you have shown a constant drive to get land in exchange for land taken by the Federal Government.

That comes up in the Public Works Committee when land is taken for the highways. The distinguished former Congressman from Oregon, Mr. Ellsworth, tried to get a bill through to provide that land would be exchanged for any public works project.

I think that probably the modern defense of the conservation movement emanates from the defeat of that bill. The same is true for damsites and parks.

Every time we have acquiesced in a special situation, of land exchange in lieu of money, we have gotten into trouble. One in Oregon was a very difficult situation to create a park. I think we should be very, very careful when we abandon this principle that we pay for land that is taken. I just can't agree and I know, if I remind you, you will recall many other instances where there are religious shrines in Indian territory.

The very able Secretary was most helpful in creating Yellowtail Dam and the Big Horn National Monument in Montana, and there, too, is an area with religious significance.

Mr. Secretary, how can you justify taking that great 48,000-acre area instead of the area where the monuments and so forth are actually included in Senator Anderson's bill?

Mr. UDALL. Senator, I think you will have to hear the Indian leaders present their own case quite frankly. These are Indians who happen to have the same attitude toward nature that we are coming around to today rather belatedly. The thing that has appealed to them is a watershed in this instance and not simply a lake or a lake as a shrine.

The thing that distinguishes this case from any other—I want to make certain things clear in my own view—is that over a third of the Indian claims cases have been settled. The money has been paid and the Indians have not come in and made claims of this kind. Most of the rest are in preparation and I don't see any great rush for anyone to come in and conjure up a religious significance in a false way.

I would say 80 to 90 percent of the instances here where Indian land was taken, these were lands that were used by tribes which themselves were mobile, where they used them in a nomadic way.

The thing that really distinguishes this case and these particular Indians is that they have been living in the same place for 800 years and you can point to very few Indian tribes in this country where this is the situation, where they have had one habitation, where it has been theirs during all these years, and whether this is a particular tract of land they were using that is unspoiled.

Senator METCALF. They are more fortunate than most Indians. Many have been moved away from the home of their ancestors.

Mr. UDALL. We have moved them and developed this country. This is why I think this case falls in a narrow category.

Senator METCALF. Mr. Secretary, I respect and admire this nature worship that the Indians have, but the Flathead Indians have this same spiritual affinity to the Bitter Root Valley, which is a watershed, and the Crow Indians have this same spiritual affinity to the whole area of the Yellowstone River, and you don't do this when you create a national monument.

When you set aside a battlefield, you set aside the national shrine. You don't give them all of southeastern Montana when you set aside the Custer Battlefield.

The Blackfeet Indians have this same worship in Glacier National Park and I would suggest, if this bill passes in the way it came out of the House, there are Indian tribes all over America just waiting at the barrier to have bills introduced to get thousands of acres of land that they can justifiably claim has a spiritual relationship to their tribe.

Mr. UDALL. I don't share that fear and don't sense that is something that is developing. The Indian people are pretty sophisticated today, their leaders are. They are watching this legislation, it has been kicking around for 4 or 5 years. I was surprised when Senator Hatfield asked me the question, no other Indian group has come to me with a claim such as this.

Maybe some of the others are getting ready to, but I don't know of it and I think most of them realize the Bitter Root Valley and other valleys have been developed and long gone now into private ownership.

I don't think anyone expects this Congress to reach back and take back private land or take land that is developed, cut over with roads, I don't think they expect to be taken and given to Indian tribes. But I think you have a special situation here that you have to evaluate.

Senator METCALF. Senator Anderson.

Senator ANDERSON. You have not had any reports of Indians wanting land in comparable situations?

Mr. UDALL. I say none have come to me. They have not wanted to sit down and talk to me, they have not written letters.

Senator ANDERSON. Isn't the Nambe area tribe the same as this?

Mr. UDALL. They may have some ideas or be doing something.

Senator ANDERSON. Has Cochiti come to you?

Mr. UDALL. I have talked to Cochiti. This is a different matter.

Senator ANDERSON. They want the land.

Mr. UDALL. They talked to me about land near the Cochiti Reservoir. This is another matter. The years I have been in the Secretary's Office and the Congress, we have passed a lot of bills giving leftover lands and adding them to Indian reservations. This did not have to do with Indian religions. You undoubtedly know more than I do about what is in the mind of the Pueblos in New Mexico.

Senator ANDERSON. The Cochiti came before us with the same problem. That was in 1943. I was on the House Indian Affairs Committee and there the problem arose because part of that area was sacred land. John Collier, a very fine man, came and said they should not ask for this and persuaded the Indians to give it up.

There are all kinds of these cases. This is not an isolated case and I believe it sets a very strong precedent.

Mr. UDALL. The only thing I would come back to, that is, I think 3,000 acres sets a precedent just as much as 48,000.

Senator ANDERSON. This is wilderness area and wilderness once locked up should not be unlocked, it should be as God left it. I remember when we introduced the Wilderness Act and I am strongly in favor of it. But this is entirely different. Twice as many people use this watershed who are not Indians as are Indians. If we assign the watershed to the Taos Indians the Spanish American people who have used it a long time will still want to use it.

Mr. UDALL. If we thought for a minute this tribe was not sincere and were not going to leave this land as it is—I believe they will. It is going to remain essentially unspoiled whether it is wilderness in or out of the system. It will remain as wilderness.

Senator ANDERSON. As you recognize, my principal objection is taking 48,000 acres and transferring it to the Interior Department. I think the Forest Service has done a fine job and I will keep on supporting them but there is no basis for this 48,000 acres.

Senator METCALF. If the Senator from New Mexico will yield, I feel that this committee is in complete sympathy with the preservation of religious shrines for Indian tribes and, of course, it will set a precedent if we set aside small areas that have great spiritual and religious significance. But it certainly is a different thing to set aside areas where there are special shrines than to set aside a whole watershed or a whole valley because that entire area is claimed to have spiritual and religious significance.

I would hate to have the Blackfeet go into the sacred mountain in Glacier Park and take that whole watershed away. That is unspoiled, Mr. Secretary, and it is unchanged. I am devoted to, and hope the Blackfeel regard me as a friend. I would hate for the Crow Indians to take over the whole Yellowstone watershed because of a precedent. They have a shrine on the mountain.

Your Department and the Congress have worked together to give respect to that special religious area in the Big Horn Recreation Area. But we don't give them the whole area or the whole watershed. I can see justification for setting out special areas in the watershed as provided for in Senator Anderson's bill. But to say a whole valley is of spiritual and natural and religious significance is something we have never recognized. I can see a great difference.

Mr. UDALL. You will hear them present their case. It is a compelling case and I know you will hear it with an open mind.

Senator ANDERSON. I want to say I am a stanch supporter of the Secretary and this is the only real issue we have ever been divided on.

Senator METCALF. I want to say, in my opinion, this is the greatest Secretary of the Interior who ever served. I hope you are not on your last appearance before this committee, but if you are, you have made significant contributions.

Senator HATFIELD. May I keep this bipartisan? I want to wish the Secretary well in his next assignment.

Senator METCALF. We will now call Mr. Arthur W. Greeley, Department of Agriculture, a longtime friend and a frequent witness before this committee.

Mr. Greeley, we are pleased to have you here this morning.

STATEMENT OF ARTHUR W. GREELEY, ASSOCIATE CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. GREELEY. Thank you, Mr. Chairman.

Mr. Chairman and gentlemen of the committee, I appreciate the opportunity to present this statement for the Department of Agriculture on S. 1624, S.1625, and H.R. 3306. The detailed provisions of these bills are described in our reports to your committee. I will comment on them generally in this statement.

The bills involve an area of wild land which is part of the Carson National Forest, N. Mex. The area described in H.R. 3306 is about 48,000 acres in size.

It is located within the drainages of the Rio Pueblo de Taos and the Rio Lucero, easterly and northerly of the town of Taos, N. Mex., and nearby Taos Pueblo. It lies adjacent to the east side and part of the north side of the 17,000-acre Taos Pueblo Grant.

The northerly boundary of the described area adjoins other lands also owned by the Taos Pueblo. Approximately 41,000 acres are in the watershed of the Rio Lucero. Of the approximately 48,000 acres of national forest land involved about 42,000 acres were reserved in 1906 from the public domain. The remainder has been acquired through exchange since that date.

Certain locations within the area described in H.R. 3306 have entered strongly into the religious life of the Taos Pueblo. In particular, Blue Lake at the headwaters of the Rio Pueblo de Taos, is the scene of annual religious observances of the Indians. The Pueblo spokesman describe Blue Lake and surrounding lands as a shrine or temple. S. 1624 and S. 1625 contain special provisions concerning 3,150 acres in the vicinity of Blue Lake.

The Forest Service for 40 years has actively cooperated with the Pueblo in the conservation of most of these lands under arrangements that protect the points which are of religious significance to the Taos Indians.

In 1927 the Pueblo and the Secretary of Agriculture entered into a cooperative agreement for the purpose of conserving and protecting the water supply of the Pueblo and for protecting the dependency of the Pueblo on the area for wood, timber and forage, and the privacy of the Indians in their religious observances.

This agreement covered some 32,000 acres—an area that comprises the heart of the area described in H.R. 3306 and also includes almost all of the area described in S. 1624 and S. 1625. The area on the map shown in yellow is the area initially covered by this 1927 cooperative agreement.

The principal features of this cooperative agreement were further formalized in a special use permit issued to the Taos Pueblo by the Secretary of Agriculture in October 1940. This permit was issued pursuant to the provisions of section 4 of the act of May 31, 1933 (48 Stat. 108), which authorized and directed the Secretary to grant the Pueblo a permit to occupy the lands and use the resources for the personal use and benefit of the residents of the Pueblo for 50 years.

This section also directed that the lands involved be segregated from any entry under the land laws of the United States. This has been done.

The 1940 special use permit applies to the area described in the 1927 cooperative agreement. It provides, briefly:

For exclusive use and occupancy of this area by the Taos Pueblo for the period in the latter part of August when members of the Pueblo are conducting certain religious ceremonies; non members of the Pueblo may enter the area in other periods only with written permits issued by the Forest Supervisor and concurred in by Tribal officials.

That the timber, wood and forage are reserved for the exclusive use of the Indians of the Taos Pueblo—that which is used for personal or tribal use to be free, but that used for commercial purposes to be paid for under the regulations relating to sale of National Forest timber.

That the Forest Service within financial limitations will extend and improve the forest within the area.

That the Pueblo may with the concurrence of the Forest Supervisor construct and maintain at its own expense such improvements and facilities as it needs.

That the Pueblo shall also when funds are available therefor, construct and maintain such improvements as it and the Forest Service agree are necessary for the protection of the forest and water supply because of the use made of the area by the Pueblo.

That the Pueblo may patrol the area to such extent as may be mutually agreed upon with the Forest Service for the purpose of reporting violations of the terms of the permit or the regulations of the Secretary of Agriculture and for preventing and suppressing forest fires and the maintenance of sanitary conditions.

This special use permit remains in effect today. We believe it adequately protects and provides for the interests of the Indians. To the best of our knowledge the Indians have not been harassed nor interfered with in the practice of their religion by the forest officers or the general public.

The lands are closed to all occupancy except that of members of the Pueblo during the 10 days in August when the special ceremonials take place in the Blue Lake area. Other use and occupancy by non-Indians has been controlled by the Forest Service through issuance of permits for many years.

Non-Indian use has been small and for limited periods. Contrary to some reports we have never nor do we plan to encourage tourist use of the area. In fact for the last 5 years Blue Lake and its immediate environs have been closed to all public use.

Timber on the area has been held and now is held for use of the Indians. Occupants of the Taos Pueblo graze their livestock over these lands without charge. The watershed has been protected from fire and we have continued to give close attention to the use of the lands by livestock in the interest of watershed conservation.

At the same time the permit and the 1933 act which authorized it, allow other public use and benefits consistent with Indian needs. These lands are important watershed lands. The people of the Taos Pueblo depend upon water from the Rio Pueblo de Taos and the Rio Lucero for both domestic and irrigation water.

So also do many other people in towns and villages and on farms to the south and west of the Pueblo. The enhancement and conservation of good watershed conditions in these drainages are of first rate importance to the Pueblo Indians and to many other people, too.

The lands provide forage for domestic livestock and for wild game. About 10,000 acres of the area described in H.R. 3306 are grazed by livestock belonging to non-Indian permittees. The area also has potential for wildlife production and for outdoor recreation in the form of hunting, fishing, and camping, particularly at the higher elevation.

I again would like to point out that public use of the resources and values of the area under permit to the Pueblo is in accord with the 1933 act which directs the Secretary of Agriculture to establish safeguards for supervision and operation of the area for national forest purposes, as well as for Indian needs.

When Congress passed this act it considered the Pueblo's claims and decided conclusively that the area would not be devoted only to Indian use.

The 1940 permit and our subsequent actions are in accord with this congressional decision.

Even though the 1933 act and the 1940 permit provide for some other public use, the Indians have throughout the years insisted that this large public property should be held for their exclusive use and occupancy.

Reconciling this insistence with the interests of non-Indians who share the water from this area and who also desire to enjoy the area's other resource values has presented many problems. We believe that this has been done in ways that have recognized and protected the rights and interests of all concerned parties as Congress set them out in the 1933 act.

On balance we feel our relationship with the Indians has been good. There have been many occasions when the tribe has complemented the work of our local foresters.

Yet we recognize that the Pueblo de Taos is not entirely happy with the current arrangements and with our administration of the permit. H.R. 3306 has been introduced to fulfill the desire of the Pueblo for exclusive rights of use and principal control of the entire watershed of the Rio Pueblo de Taos, based primarily on its native religious significance.

The bill would transfer in trust to the Indians a 48,000-acre tract including this entire watershed. S. 1624 and S. 1625 would transfer in fee or in trust respectively 3,150 acres of the watershed.

In the past, we have recommended strongly that no substantial additional areas of national forest lands be set aside for the Pueblo. Because of the other public values of this area, this continues to be our recommendation.

However, we have examined ways to give the Indians firm assurance that their ceremonial areas will be protected and available to them on a permanent basis. We have studied the area in the vicinity of Blue Lake with a view to defining an area which could be set aside for the exclusive use of the Pueblo. In our reports to your committee we have suggested amendments to direct the Secretary of Agriculture to amend the 1940 permit to provide also for the exclusive use by the Indians of about 3,150 acres in the Blue Lake area. The 3,150 acres we recommend encompasses the area which in our dealing with the Pueblo, we have understood to be of special significance in their ceremonies. It includes Blue Lake and two other lakes which are reported to have particular religious meaning. The area is the same as is described in S. 1624 and S. 1625.

Practically all of it is now covered by the 1940 permit but it includes a small acreage of lands now outside the permit area.

A legislative grant of exclusive use and possession of this tract would assure the Pueblo of perpetual use of Blue Lake; there would

then be no question as to whether a permit might be revoked. The boundary of the tract would generally be prominent ridges which could be easily identified, signed and posted. The area would be large enough to assure privacy and non-Indian use could be kept away throughout the entire year.

Our recommendation also directs the Secretary of Agriculture to make certain clarifying amendments to the existing permit. These could be beneficial in confirming the Secretary's authority for protection and management of the remaining part of the permit area not subject to exclusive use and occupancy by the Indians, and the provisions relating to Indian and non-Indian use of the area.

For example the provisions of the permit relating to livestock grazing by the Indians should be expanded to spell out how the grazing capacity would be determined, and how the range would be managed.

We have attempted to work with the Indians in taking steps to control overuse of drainage bottom areas and other more accessible areas. However, we have had difficulties in this. There is presently overuse of the forage resources where the cattle tend to concentrate, and the watershed and range are being damaged in these areas.

One particular source of conflict has been the extent of non-Indian use of the permit area for hunting, fishing, hiking and the like at times when such use is not prohibited because of the Pueblo's religious ceremonials. This locality could be a very useful area for such recreation use if it were managed under circumstances to permit recreation use rather than to discourage it.

We think that day use permits could be issued by the Forest Supervisor, but that no overnight permits should be issued unless concurred in by a designated Pueblo official. This would allow more people to use the recreation potential of these lands, without interfering with basic Indian needs.

We recommend enactment of this legislation with the amendments we have indicated in our reports. The bills in their present form have several features which give us serious concern.

First.—The bills would compensate the Taos Pueblo with land, rather than with money.

We are familiar with the interlocutory order of the Indian Claims Commission concerning the land. The order provides for determination of the acreage and values of the land.

If the finding of uncompensated appropriation of the land becomes final, compensation will be paid the Pueblo. We believe that this process should be followed through as has been done in other claims of Indian tribes for the taking of land by the United States.

If the Pueblo is granted land rather than cash, this action could well set a far reaching precedent that would extend to other Federal conservation lands.

We have no way of knowing how many other areas in national forests, parks, and other public land units were historically used by Indian tribes for hunting, fishing, and the taking of other natural foods, for timber and water, and for religious ceremonies.

Senator METCALF. Mr. Greeley, I wonder if we may just suspend at this point. Senator Anderson and I have amendments to take to the floor and then I would like to have an executive session and a consultation as to how to proceed.

May I call a recess for at least 10 minutes.

(Whereupon, at 11:30 a.m. the subcommittee proceeded to the consideration of further business in executive session.)

Senator METCALF. Now, Mr. Greeley, you may resume.

Mr. GREELEY. The Indian Claims Commission has told us that virtually all of the national forest system has been involved in claims before or findings by the Indian Claims Commission or the Court of Claims.

We have identified a number of national forest and other Federal areas, particularly in the Southwest, where land or land features play important roles in Indian religious practices. In several cases Indian use of these areas has been continuous for many years. For example, the Cochiti Pueblo practice secret annual rituals in Bandelier National Monument, New Mexico. The Hopi Tribe worship twice each year on the San Francisco Peaks in the Coconino National Forest, Arizona. The Nambe Pueblo are reported to have a shrine in the Santa Fe National Forest. Seven sacred mountains of the Navajo people are located in various Arizona National Forests and public land areas. Of these, Mount Taylor in the Cibola National Forest figures prominently in a 9-day religious ceremony of the Navajos. The Santa Clara Pueblo have indicated that religious shrines are located on Tschicoma Peak in the Santa Fe National Forest.

We have seen or heard reports that these and other tribes are desirous of obtaining the national forest or other public lands on which their shrines are located. In any event we are certain that recognition of the Taos claim will lend great weight to efforts of other tribes to obtain national forest lands, even if the Taos legislation is disclaimed as a precedent.

If then other tribes' desires culminate in action to bring a claim, and if there is a difference between these religious uses and the use by the Taos Pueblo Indians for religious purposes, it would require a determination by Congress or someone as to how to differentiate between degrees of need for religious purposes. Otherwise, the granting of land in this case would be clear precedent for other claimants to claim payment in land only.

Second.—Another undesirable feature of H.R. 3306 is that it would grant to the Pueblo lands for which it should not be entitled to compensation under the Claims Commission Opinion.

The Opinion expressly did not sustain that part of the Pueblo's claim consisting of lands that are part of Spanish Land Grants which have been confirmed by Congress. The 48,000 acres encompassed under H.R. 3306 include the 3,929 acre Will Ed Harris Tract which was acquired for the national forest through exchange. This tract was part of the Antone Leroux Spanish Land Grant, confirmed by Congress in 1869.

Further, H.R. 3306 would grant the Pueblo the 2,340-acre La Junta Tract, acquired through exchange with the State of New Mexico in 1952. When the Carson National Forest was created in 1906 (then the Taos National Forest) this tract could not have been taken from the Pueblo because it was in State ownership at that time. The Claims Commissions' findings are based on the taking of Indian title by establishment of the national forest.

Third.—The provision of H.R. 3306 relating to the acquisition of the non-Indian grazing permits gives us special concern. This pro-

vision would authorize the Pueblo to obtain the relinquishment of these permits under terms agreeable to the permittees. Use of tribal funds to acquire relinquishments would be authorized. 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 provisions of H.R. 3306 would set a precedent that should not be established.

The attorney for the Pueblo de Taos has recently prepared a memorandum in support of H.R. 3306. We have reviewed this document. I would like to comment on it briefly.

The attorney and the Pueblo have assumed that the 1927 cooperative agreement, the act of May 31, 1933, and the 1940 permit grant the Indians rights to exclusive use of all of the area involved. Many of their arguments are based on this assumption.

It should be noted that the act of 1933 contains language dealing with uses by others than Indians, as follows: "Such permit * * * shall define the conditions under which natural resources under the control of the Department of Agriculture not needed by said Indians shall be made available for commercial use by the Indians or others, and shall establish necessary and proper safeguards for the efficient supervision and operation of the area for national forest purposes and for other purposes herein stated. * * *"

This we interpret as a clear decision by Congress that there would be use by others than Indians, recognizing that at the same time there are special circumstances here.

Consequently we do not accept the rather large number of instances recited in the attorney's memorandum which point a finger at the Forest Service and in various ways accuse us of actions subsequent to passage of this act which run counter to the assumption that the intent was for the Indians to have exclusive use of all the area all the time.

It is and has been our understanding that the 1927 cooperative agreement, the act of May 31, 1933, and the 1940 permit identify guidelines as to how the area is to be used. We believe these guidelines set forth a way in which the unique and special interests of the Pueblo de Taos in this national forest land can be recognized and still allow for the public use of the area that can exist consistent with basic Indian needs.

The question of how these lands should be administered has received long and serious consideration by the administration. The Bureau of the Budget has concurred in our recommendation.

Senator METCALF. Thank you, Mr. Greeley. We will now recess until 2 o'clock at which time the members of the committee will do their questioning.

(Whereupon, the subcommittee recessed until 2 p.m.)

AFTER RECESS

(The subcommittee reconvened at 2 p.m., Senator Clinton P. Anderson presiding.)

Senator ANDERSON. Senator Hansen, since none of the other members are here yet, if you have no objection, I will go ahead with a statement which I should like to present.

STATEMENT OF HON. CLINTON P. ANDERSON, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Senator ANDERSON. Many years of public service have enabled me to make many Indian friends. I have listened to their complaints and suggestions. I have studied their problems. Since becoming a Senator in 1949 I have introduced or cosponsored more than 20 bills, now laws, to benefit the New Mexico Indians alone.

This legislation has brought about improvements in education, health care and sanitation facilities, road construction and road maintenance, and transfer of land to the Indians. In these efforts I have tried consistently to weigh legislation against two standards: the good of the Indians and the good of the general public. Rarely has there been a conflict.

I have long been familiar with the importance the Taos Pueblo Indians have given to Blue Lake and other areas for religious reasons. I have been sympathetic with their desires to preserve the privacy and integrity of their religious practices and I have tried to insure this through legislative efforts over the past decade.

In 1957 and again in 1959 I introduced bills to increase the special use permit area which the Indians had been granted in 1940 by 20,000 acres to make a total of 50,000 acres of forest land available to them for their religious and other traditional uses. The Indians rejected this solution and instead insisted upon trust title to 50,000 acres.

In 1956 I introduced by request S. 3085 to grant to the Taos Indians 50,000 acres in trust. In discussions with the Pueblo and the Pueblo's attorney I suggested that they include in this bill everything they wanted to that a full and open hearing could be held on all of their claims. Strong opposition was voiced by the Board of County Commissioners of Taos County, numerous residents of the town of Taos, and elsewhere in New Mexico, various conservation groups, and the U.S. Forest Service.

As S. 3085 in its essential provisions was similar to H.R. 3306, the bill now under consideration, I shall not specify the reasons for the opposition at this time as they will come out, I am sure, in the course of this hearing. What readily became apparent in those earlier hearings was that there was strong conflict between the Indian good and the public good.

To resolve this conflict I attempted compromise. I suggested that the land which the Indians identified as the most sacred—approximately 3,150 acres including Blue Lake, Star Lake, and Waterbird Lake—be granted to the Pueblo in either fee or trust and that the use permit initially granted in 1940 be continued for the balance of 30,000 acres in the Rio Pueblo watershed.

I introduced two bills in 1967 to accomplish this objective, one granting the 3,150 acres in fee and the other in trust. Since the Indians expressed no interest to even discuss these proposals and further indicated their unwillingness to accept less than H.R. 3306, no action has been taken on these bills.

As recently as 2 months ago, I suggested another avenue to explore which would have enlarged the present permit area to 48,000 acres and which would have granted the Indians virtually everything they seek short of ownership. Again the Indians stated their unwillingness

to compromise and insisted on passage of H.R. 3306 without modification.

The major reason presented by the Indians in support of H.R. 3306 is the preservation of their freedom of worship. They claim that their religious rights are limited unless they are granted ownership of the entire Rio Pueblo watershed and portions of the Rio Lucerno watershed.

Since they say that secrecy is an essential part of their religion they are unwilling to identify in specifics all the places or the times or the nature of their religious practices, whether communal or individual, or to produce evidence that their freedom to practice their religion has been violated. We are asked to accept their statements as true without questioning the sources.

The information that is of record does not support the Indians' claim. The U.S. Government has made every effort both before and after the granting of the special use permit to the Blue Lake area, to guarantee the privacy which the Indians require.

I think this is proper. I have stated on many occasions that the Taos Indians should be able to continue the practice of their religion unhampered and in secrecy so long as they wish. I do not think, however, that this requires the conveyance of 48,000 acres of national forest land.

I do not believe that this bill can be weighed against the two standards I mentioned above, the good of the Indians and the good of the general public for the following reasons:

1. Others besides the Indians are dependent upon the Rio Pueblo and Rio Lucero watersheds. Continued ownership by the United States and supervision of the watersheds by the Forest Service are essential so that the rights of downstream users can be fully protected.

2. Despite representations to the contrary, conveyance of this land would most likely set a precedent to be followed in the claims of other Indian tribes and if not would discriminate against the other Indians.

a. If other tribes can substantiate the sacredness of lands no longer theirs, denial of these lands to them would be discriminatory if the Taos claim is granted.

b. If other tribes demand land instead of money for economic rather than religious purposes, denial of their claim, after granting the Taos claim, would be discriminating in favor of a religious group.

3. Without challenging the sincerity of the Taos Indians' religious beliefs it is conceivable that the religious importance they presently place on the land may diminish in succeeding generations. Should this occur the Indians, a sparsely populated group, will own a large area of choice land. Pressures of continued population growth indicate that the public good is better served if ownership of this land is retained in the United States.

4. There is evidence that not all Pueblo residents give the same importance to the traditional religious beliefs and practices. It is conceivable that some would consider economic and social developments more important than the values of their traditional religious beliefs and would prefer a monetary judgment to receipt of land title.

Mr. Chairman, I find no evidence in past testimony that the Taos Indians have been harassed or prevented from engaging in their ceremonies in secret or any evidence of desecration of their shrines except for an occasional trespass which could happen even under Indian ownership. Therefore I believe that the present permit arrangement has provided adequate protection and in recent years has been tightened to provide maximum security to the Indians.

I will place in the record a list of laws sponsored or cosponsored by myself as I mentioned earlier. These are to assist the Indians of New Mexico.

(The document referred to follows:)

LIST OF LAWS SPONSORED OR COSPONSORED BY SENATOR ANDERSON TO ASSIST THE INDIANS OF NEW MEXICO

INDIAN EDUCATION

Public Law 87–273

The amount of funds that could be appropriated under the Indian Vocational Training Act of 1956 was limited to $3.5 million annually with $500,000 for administration. Many adult Indians seeking training for employment could not get into the program because of these limitations.

Senator Anderson met this need by getting passed authorization for increases in these limits from $3.5 million to $7.5 million and from $500,000 to $1 million.

HEALTH CARE INDIANS

Public Law 81–483

In the late 1940's a general hospital was needed in New Mexico to provide for the treatment of Indians. Albuquerque had become the medical center of the State and Bernalillo County had provided funds toward this end. The State of New Mexico had complied with the provisions of the Hill-Burton Act and had become eligible to receive a substantial contribution from the Federal Government under its hospital construction program.

Senator Anderson cosponsored legislation to authorize the appropriation of $1,500,000 to be used toward the construction of a joint County-Indian hospital in Bernalillo County which could provide 100 beds for the use of New Mexico's Indians. The bill became law on October 31, 1949 and the end result was the construction of the Bernalillo County-Indian Hospital in Albuquerque.

LEGAL ASSISTANCE TO INDIAN TRIBES

Public Law 88–163

In the prosecution of claims before the Indian Claims Commission there was a need for the various Indian tribes to have expert witnesses to testify in their behalf. The tribes, for the most part, were financially unable to bear the cost of such assistance. Senator Anderson and Senator Church sponsored legislation to provide this assistance.

WATER AND SANITATION FACILITIES FOR INDIANS

Public Law 86–121

When the duties of the Department of the Interior relating to the maintenance and operation of health facilities for Indians were transferred to the Public Health Service in 1954, powers concerning sewage disposal, water supplies, and other sanitation facilities became uncertain.

Senator Anderson cosponsored legislation expanding the powers of the Surgeon General under the 1954 Act to permit the construction of sanitation facilities and safe water supplies on Indian reservations. This legislation became law on July 31, 1959.

HIGHWAY MAINTENANCE ASSISTANCE TO NAVAJO INDIANS

Public Law 84–568

The Act of June 7, 1924 authorized an annual appropriation of $20,000 to be used for maintenance of a portion of the Gallup-Durango Highway across the Navajo Reservation. These funds were to be reimbursed from tribal funds of the Navajo Indians. The Gallup-Durango Highway is a part of the New Mexico Highway system and the Indians should not be required to finance maintenance from tribal funds. Senator Anderson sponsored legislation to repeal this law and relieve the Indians of this financial obligation.

TRANSFER OF IRRIGATION FACILITIES—NAVAJO TRIBE

Public Law 86–636

By 1960, there were 67 irrigation units located on the Navajo Reservation costing the Federal Government approximately $200,000 annually to operate and maintain. The Navajo Tribe offered to take over this operation and maintenance.

Senator Anderson introduced legislation authorizing the transfer to the Navajo Tribe of title to these irrigation project works together with equipment usable for the operation and maintenance of the works. In addition, provision was made for the Department of the Interior to train Indians to take over and operate the project facilities. This legislation became law on July 12, 1960.

UNDERGROUND STORAGE OF OIL ON NAVAJO INDIAN LANDS

Public Law 84–857

Under existing law, subsurface storage of oil or gas on Indian land was prohibited except during the term of a lease in actual production. Underground storage was needed for conservation of oil and gas. This is permitted on Federally-owned land. The same authority on Indian land would afford the Indian land owners an income from the grant of storage rights, conserve valuable natural resources, and increase the available supply of oil and gas in the proximity of the storage project. This would be good for the economy of the Tribe. Senator Anderson sponsored legislation to repeal existing law.

REHABILITATION OF NAVAJO-HOPI INDIANS

Public Law 81–474

The Navajo and Hopi Indians had for some time desired that a long-range program be initiated for improving education, health, and the economy of these Indians. Senator Anderson immediately began conferring with the Department of the Interior when elected to the Senate, and as a result legislation was submitted to Congress to accomplish this. Senator Anderson joined with Senators O'Mahoney, Chavez, Hayden, and McFarland in sponsoring the Navajo-Hopi Rehabilitation Act.

The Act provided for a program to improve education and provide new facilities, improve health programs and facilities, improve irrigation systems, provide new water supplies, new roads, improvement of old roads, communication facilities, and housing. A total of $108,570,000 has been authorized for this work. This Act has benefited these tribes probably more than any other single piece of legislation.

NAVAJO-HOPI REHABILITATION ACT AMENDED TO HELP GET NAVAJO HOUSING

Public Law 86–505

It became necessary to amend the Navajo-Hopi Rehabilitation Act of 1950 to allow the Tribes to lease land for more than 25 years so that they would be eligible for Federal housing in 1960.

Senator Anderson introduced legislation which provided for the issuance of 99-year leases by the Tribes so that lenders wishing to make loans to Indians for housing or for business purposes would consider reservation realty. Under this legislation the Federal Housing Administration would be able to lend or guarantee loans for housing located on reservation property. This bill ultimately became law on June 11, 1960.

INDIAN ROADS AND HIGHWAYS

Public Law 85–740

One of the most critical needs on the Reservation to bring about economic improvement and to provide mobility to the Indians on the Reservation was roads. Senator Anderson stressed this need in passage of the Navajo-Hopi Rehabilitation Act.

In 1958 Senator Anderson joined with the Arizona Senators in passage of a special road bill that authorized $20 million for construction of roads on the Navajo Reservation in addition to that provided under the Navajo-Hopi Act.

The result has been construction to State standards of Route 3, 168 miles long, from Gallup across the southern part of the Reservation to Tuba City, Arizona; and 200 miles of road from Shiprock, New Mexico across the Reservation to Tuba City to U.S. 89 near Cameron, Arizona.

TRANSFER OF LAND TO INDIANS

Public Law 86–421

In 1960, the Navajo Tribe needed an 81-acre tract of land located near Crownpoint, New Mexico. The land had been used in connection with an Indian school by the Bureau of Indian Affairs and was desired by the Tribe as a location for overnight accommodations and recreational facilities. Senator Anderson introduced legislation to grant this property to the Navajo Indians. This legislation became law on April 9, 1960.

Public Law 88–303

The Bureau of Indian Affairs had acquired 80 acres of land from the Alamo Band of Puertocito Navajo Indians for administrative purposes. The uses for which the land was acquired no longer existed and the land became surplus to the Government. Senator Anderson sponsored legislation to transfer the land back to the Indians.

Public Law 87–288

The Jicarilla Indians had a problem in developing and maintaining water facilities to serve the Indian Agency, the boarding school, and their health center because 341.43 acres of land were not owned by the Tribe. They could not very well finance these facilities unless they owned the land and watershed. Senator Anderson introduced legislation which transferred this land to the Jicarilla Indians.

Public Law 87–696

In 1931 the United States purchased seven acres of land in the Jicarilla Indian Reservation for administrative uses. In 1953 the improvements on the land were transferred back to the Indians for use in forest fire protection. The Government had no need for the land and desired to transfer the title back to the Tribe. Senator Anderson sponsored legislation to accomplish this.

Public Law 89–445

The Government had acquired 99.84 acres of land from a private owner who had settled on this tract prior to creation of the Mescalero Reservation. The land was purchased for $10,000 and was used as an Indian agency. It was desired to turn this over to the Tribe, and Senator Anderson sponsored legislation to accomplish this. The value of land and improvements was offset against the Mescalero claim.

Public Law 81–226

The need existed to adjust a long-standing unsettled condition in the use of 612,000 acres of land by the following eight Indian tribes in New Mexico: Zuni, Acoma, Laguna, Isleta, Zia, San Ildefonso and Jemez Pueblos and the Canoncito Navajo group.

The lands were purchased by the United States Government under various emergency relief rehabilitation acts for use of Indians and had been used by the Indian tribes to such an extent that they had become an integral part of the livestock operations and the economic lives of the Indians. Senator Anderson introduced legislation transferring these lands to the tribes in trust. The bill became law on August 13, 1949.

Public Law 84–926

The Federal Government had purchased the Ojo del Espiritu Santo grant under authority of the National Recovery Act and this land had been used exclusively for the Indians of Zia and Jemez. The Secretary of Agriculture desired to dispose of the land under the submarginal program. The transfer of the land to the two Indian tribes would give them greater economic security. This was recommended by the Department of Agriculture and the Administration. The transfer was for 41,216 acres to the Pueblo of Zia and 36,352 to the Pueblo of Jemez. Senator Anderson sponsored legislation to transfer this land.

Public Law 86–13

In 1959, a meeting place was desired for the All-Indian Pueblo Council within the Santo Domingo Indian Reservation in New Mexico. Senator Anderson introduced legislation to authorize the conveyance, in trust, of 4.45 acres of surplus Federal land and improvements valued at $35,000 to the Santo Domingo Pueblo. This legislation became law on April 22, 1959.

Public Law 86–19

The Isleta Indians needed a community meeting place within their reservation. Senator Anderson introduced legislation granting to the Tribe, in trust, 1.34 acres of land and buildings—surplus to the Government—located on the Isleta Reservation valued at $12,600. This legislation became law on May 13, 1959.

Public Law 86–549

The Zia and Jemez Indian tribes needed 640 acres of Federally-owned land located within their reservations for grazing and livestock control purposes. The U.S. Forest Service had been using the land for administrative purposes and in 1960 its use was abandoned and it became surplus to the Government. Senator Anderson introduced legislation to transfer the land to the two tribes. This bill became law on June 29, 1960.

Public Law 87–416

Legislation which Senator Anderson sponsored transferred 610 acres of land to the Zuni Tribe. The land is within the Zuni Reservation and had been held by the Federal Government for administrative purposes. It was no longer needed by the Government and since the Indians were the only people who had access to it, Senator Anderson introduced a bill to have this land transferred for their use.

Public Law 87–231

The Pueblos of Santa Ana, Zia, San Felipe, Santo Domingo, Jemez, Cochiti, Isleta and San Ildefonso had been using certain isolated tracts of public land under the jurisdiction of the Department of the Interior for more than 20 years. These lands were used for grazing of livestock and were important to the economy of these pueblos.

There was a need for fencing, soil conservation work, and development of stock water, but the Indians could not finance this unless they owned the land. The land was also a burden on the Bureau of Land Management and was difficult for them to manage. Senator Anderson introduced legislation which transferred these lands to the pueblos in trust.

Public Law 87–363

Approximately 435 acres of land had been acquired by the United States for school buildings and other purposes for the benefit of the Pueblos of Acoma, Sandia, Santa Ana and Zia. The Government no longer had a need for the land and improvements. Senator Anderson sponsored legislation to return this to the various Pueblos for tribal uses.

Senator ANDERSON. We have received a great many letters on this legislation. A representative group, both pro and con, will be printed at the proper place in the hearing record.

Now, Mr. Greeley, do your records show whether any study was made of the area before it was included in the bill? Had the Taos Pueblo Indians land been studied prior to that time? What has been the history so far as you are concerned with the Taos Pueblo Indians? What is shown in the record?

Would you also point out on the map the private tracts acquired by the Government?

STATEMENT OF ARTHUR W. GREELEY, ASSOCIATE CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE—Resumed

Mr. GREELEY. Let me step over to the map. The map shows with the green boundary the area that is included in H.R. 3306 and it shows this main area in yellow as being the area that is covered by the present special use permit which was issued in 1940 and which was issued in accordance with the authority of the 1933 act. That is the area that is shown in yellow here.

Senator, you asked, what do the Forest Service records show about the use of this area? Our records show that this land which is in blue

was in private ownership or at last in non-Federal ownership at the time the then Taos, now Carson National Forest, was established in 1906.

This area which is down in the southeast corner is known as the La Junta tract. It was at the time the national forest was established in the ownership of New Mexico, having been selected under authority of law which authorized the then territory of New Mexico to select lands for school purposes.

Senator ANDERSON. Was there a reason for the transfer of this land?

Mr. GREELEY. This land came into national forest ownership in early 1950's as a result of land exchange in which the State of New Mexico obtained other land. As I recall there had been timber harvest operations on this land under contracts made by the State. Subsequent to the letting of the contract for the timber harvesting operations and while they were still underway the State of New Mexico and the Forest Service entered into agreement for exchange of this land to be managed by the Forest Service for watershed purposes along with the rest of the watershed of the Rio Taos.

Senator ANDERSON. Was it Indian land?

Mr. GREELEY. We don't have any indication that it specifically was used as Indian land. How far back into the record one goes, I don't know. Our information is that at the time the national forest was created in 1906 this land was owned by New Mexico.

There is another piece of land shown in blue on the map which is referred to as the Leroux tract. This is a tract of land which also was in non-Federal ownership at the time the Carson National Forest was withdrawn and set up. It was land which was part of a Spanish land grant and was in private ownership at the time when the Carson Forest was established in 1906.

It is the type of land which the Indian Claims Commission in its finding in connection with the Taos Pueblo claim held the Pueblo was not entitled to be compensated for because it was in a Spanish land grant.

There is an area that is shown in white referred to as the Lucero tract which was withdrawn from the public domain as part of the Carson National Forest at the same time the rest of the Carson National Forest was set aside.

The area to the east of the yellow shown in white, between the yellow and the green line is the portion that lies beyond a boundary that is half a mile east of the Pueblo Taos and was not included in the area covered by the 1940 special use permit.

The description in the special use permit reads just that way. The special use permit includes lands that are up to half a mile east of the river, and this white is land that was more than half a mile to the east of the river.

The Witt Park area, and the Apache Springs area are covered by these designations. This was also public domain land. It was included in the Carson National Forest in 1906 when the national forest was set aside.

To explain the rest of what is on the map, Senator, the area shown in red is the wilderness area. You will recall at one time the provision of H.R. 3306 included 2,000 acres of the wilderness area.

This is shown by this dotted line so the whole area of the formally classified wilderness has now been excluded and is not included in H.R. 3306.

Then this dark dashed line which is in the vicinity of the Blue Lake area identifies the 3,150 acres which is described in S. 1624 and in S. 1625 and also is the 3,150 acres that is included in the Department of Agriculture proposed amendment to these bills.

Senator ANDERSON. There are lands in there which at no time were owned by the Indians.

Mr. GREELEY. In answering this question, I would refer to the finding of the Indian Claims Commission which was that there was Indian title to the drainage of the Rio Pueblo de Taos. The question of what constitutes ownership, I think, is probably one of the points at issue here, but we have accepted as being relevant for our decisionmaking processes the finding of the Indian Claims Commission with regard to Indian title but without attempting to go beyond what are the areas that the Commission found had Indian title.

Senator ANDERSON. Have there been problems in connection with fire control?

Mr. GREELEY. Senator, any mountain area has fire problems and this is a part of the country which has lighting problems and there are lightning fires and occasionally, as in almost all areas of human use, there are man-caused fires. There is a history of older fires. There have been no exceptionally large fires since 1939. We have had I think 10 fires in the period since 1949 of which six were lightning fires and four were man-caused fires.

This, of course, is the sort of thing if you stay on top of it, it does not become a problem. There are forces there in place available to handle the suppression when a fire starts through lightning or any other cause. They can generally be controlled while they are small.

I think I should comment, Senator, that we have worked with the Indians to develop a cooperative agreement for fire control activities in the special use area. We developed one which we have proposed to the Indians for their consideration. To date this has not been agreed to by the Indians.

We continue to handle the fire protection there as we have been doing right along.

Senator ANDERSON. Has there been any lack of cooperation?

Mr. GREELEY. I would be hesitant to say there has been a lack of cooperation. We have been able to get help from the Indians when we needed firefighting people. We have employed some of the Indians from the Pueblo for some of our seasonal jobs.

We have paid for the fire suppression work that the Indians have done. I would not want to give the impression that there has been lack of cooperation. The people who have the job of emergency fire-fighting face problems they would like to get solved in a hurry and sometimes it has been a little difficult to get problems solved in a hurry.

Senator ANDERSON. What is the situation in regard to pest and bug infestation?

Mr. GREELEY. The timber in these areas is subject to disease and insect attacks. We have had some minor bark beetle infestations in that timber but the most serious was by spruce budworms in 1962 and 1966.

Senator ANDERSON. You had lots of trouble in 1966, did you not?

Mr. GREELEY. Yes; we needed to spray in 1966 and it took quite a good deal of time and persuasion and negotiation to achieve understanding with the Indians about their agreement to go ahead and do that spray job in 1966.

Senator ANDERSON. I was involved in that a little bit.

Mr. GREELEY. Yes, sir; I am sure you know about that.

Senator ANDERSON. Do the Forest Service records show any complaints from the Indians with respect to Forest Service personnel in harassing Indians or anything of that type?

Mr. GREELEY. Senator, this is a statement that is inferred in the criticisms that are made of Forest Service administration of this area. I have talked with our people about this. I am told, and our people from the regional office and from the forest have verified this to me, that our files do not contain records of complaints to us from the Indians that Forest Service personnel have harassed or intimidated or interfered with Indian religious ceremonies.

We know from reactions from the Pueblo in 1961 and in 1966 that there was dissatisfaction on the part of the Indians having to do with their belief that there was Forest Service personnel that must be responsible for something. The Governor in both of those years told our people that he would prevent Forest Service personnel from coming on to the special use area and that he had questions about Forest Service activities there but we were never able to find out on what this was based.

It was not a specific complaint. It was really just a statement by the Governor in which he said, "I am going to prevent Forest Service people from coming in during the time that there are religious activities in the area."

I would like to say, Senator Anderson and members of the committee, we have no desire to interfere in any way with the exercise of the religious freedom of these people. We have no reason to do anything except to completely respect thir religious practices, and to be willing, and I think we have tried to bend over backward to cooperate, to do the things that are appropriate to do both to stay out of the way, and try to keep other people out of there during the time that these religious ceremonies are taking place.

It is a disappointment to me, Senator, if there is complaint about something that is a specific incident. We do not know what it is, and I really don't think there has been harassment during the time of religious observances on the part of the Forest Service people.

Senator ANDERSON. At least your files don't show it.

Mr. GREELEY. That is right.

Senator ANDERSON. Do you have any record of complaints from the Indians that they were being interfered with in their religious services?

Mr. GREELEY. Again the Indians have not made complaints to us about this. We have read allegations in the newspapers that there were swarms of people coming in during the period of religious observances and our records show this is not the case.

Senator ANDERSON. Wasn't there something about 37 people?

Mr. GREELEY. We have been very careful, sir. During the period when their religious observances are taking place nobody goes in

there. We don't let the other Forest Service people go in there. I don't know that this has happened, but if it would be necessary to have a crew in there for firefighting purposes we would send a crew in for a specific reason like that. That would be the only set of circumstances under which we would permit Forest Service personnel to go in during the period of their religious services. We do not issue permits and we do not think anyone should go to the Indians and ask for permits during the religious ceremonies.

Senator ANDERSON. When Secretary Udall was testifying, I believe Senator Hatfield questioned him about desecration of shrines.

Mr. GREELEY. We do not know of any shrines which have been desecrated by anyone.

Senator ANDERSON. So far as you know, the record is clear.

Mr. GREELEY. I would like to make this comment, Senator, and again this is based on what we have read in the newspapers about complaints that are made about Forest Service activities. There has been complaint written in the newspapers, but it has not come to us about litter and cans and other debris, either being in Blue Lake or being in the Blue Lake vicinity. We have sent crews in to do policing and clean up and this was subsequent to the time of the religious ceremony. There has usually been one day, or a day and a half of work.

I can see how people might feel this constitutes desecration. There have been no Forest Service people in the area during the ceremonial time.

Senator ANDERSON. There was an editorial in the newspaper a while back saying that, although the Indians have a Forest Service permit for special use for the area, they are not satisfied. Others are allowed to use the area for recreation purposes and the Indians consider this an encroachment upon their privacy.

Mr. GREELEY. My testimony is during the time of the religious observances in August there are not other groups in the Blue Lake area, not anywhere in the permit area.

Senator ANDERSON. I have heard this charge many times. Have you examined personally what the records show?

Mr. GREELEY. Senator, I have examined what records I could get here without going out personally to the forest to do this.

Senator ANDERSON. If there were some complaints or troubles the Taos have not made these complaints to you?

Mr. GREELEY. They have not made the complaint to us.

Senator ANDERSON. That includes the whole Forest Service, does it not?

Mr. GREELEY. That is right.

Senator ANDERSON. Do the Indians have to sign these permits?

Mr. GREELEY. There has been a provision since about 1961 that the permits were to be countersigned by the designated officer or official of the Pueblo.

This has usually been the war chief. There were periods before 1961 starting in 1940 and intermittent since then that the permits had to be countersigned by a designated representative of the Indians.

I know from personal verification this has been true since 1961.

Senator ANDERSON. Does the Forest Service have any desire to abandon this group and turn its lands over to the Interior Department?

Mr. GREELEY. Senator, if the Congress should decide to do this, we

would know the Congress was operating on the basis of general policy with respect to some of the things that Secretary Udall talked about this morning, justice in dealings with the Indians and the general problem of what is the right treatment for Indians in a set of circumstances like this. If the Congress were to decide to do this, we would accept the decision of the Congress.

But as our report to the committee indicates we feel that not only should the land not be turned over but that the proposed legislation should be amended to provide that the land would remain in U.S. ownership but subject to the provision that the area indicated in the dashed line be exclusive use by the Indians for the entire year.

I would like to say here, Senator, that as I have reviewed this record and as I have tried to view this problem from the viewpoint of the Indians and also of other people out there in the State, it seems to me that an important point at issue between the Indians and the Forest Service and probably the Congress, too, is the question of whether the 1927 agreement and the 1933 act and the 1940 permit called for exclusive use of the entire permit area by the Indians, or whether they provided for use by others than the Indians.

I think on this point has turned much of the controversy that has taken place. The viewpoint expressed by the Indians, and it certainly has been expressed since the efforts to obtain legislation starting in the 1950's and continuing up to now, is that they feel they are entitled to the exclusive use of this whole area with no one else to have an opportunity to use it. We in the Forest Service have felt that the 1933 act of Congress did not provide for exclusive use.

So I do want to make this point, that I think one of the purposes that should be served by any future legislation on this subject should be to go to this point of exclusive use versus use by others either on a small area like this 3,150 acres or if the Congress should decide on a larger area, this would be a matter of the considered judgment.

Senator ANDERSON. Apparently I asked my question poorly because that is not exactly what I had in mind.

Sometime ago someone said the Forest Service did not want this land at all, to give it to the Interior Department.

Mr. GREELEY. We feel the area should be continued in the administration of the Forest Service.

Senator ANDERSON. Senator Hansen.

Senator HANSEN. Thank you, Mr. Chairman. I do have some questions.

If I may, Mr. Greeley, let me refer to the 1933 law to which you have referred. I have examined some of the sections of that law and I would refer you to section 4 which I think you made reference to already and also call attention to the fact that in 1933 John Collier, then Commissioner of Indian Affairs, described the bill as providing a 50-year lease contract under which the Pueblo would have the exclusive use of an area of about 30,000 acres of canyon land, high in the Rockies, at the top of which is situated Blue Lake, which is the shrine of the pre-Colombian religion of the Taos Tribe.

It is sacred and taboo. The contract which is provided for in the act would insure the exclusive use of the areas by the tribe subject to reasonable regulations by the Department of Agriculture.

I suspect that our friends the Taos have relied as much on this letter from the Commissioner of Indian Affairs and his interpretation of what that bill meant as any other one letter that they may have had.

In your judgment, Mr. Greeley, has there been reason for the Taos Indians to attach the importance to the statement by the then Commissioner of Indian Affairs that seemingly has been the case.

Mr. GREELEY. Senator Hansen, I think the statement you have just made and the question you have raised is a valid one.

It is apparent that the Taos people have thought that the 1933 act and the 1940 permit gave more of a degree of exclusion in use than the Forest Service people thought.

As to how this came about and what they relied on for their use I would not want to try to say. The letter which you just quoted could be one of the reasons for this.

This is why I just made the point now, Senator, that I am satisfied that a good deal of the differences of opinion about how this land should be treated and whether the Forest Service was interfering with things that the Indians thought we should not interfere with, turns on this question of whether Congress intended by the 1933 act to provide that there would be exclusive use with no other use for any other purpose by anybody at any time or whether it was more limited.

Senator HANSEN. A few years ago, when I was Governor of Wyoming, I had the privilege of being host, along with Mrs. Hansen, to Wahleah Lujan, Miss Indian America.

This was the first time I came across the problem and developed an awareness of the various interests that are in such conflict in your State, Senator Anderson; and I will not soon forget the very earnest plea that this very talented and attractive young Indian maiden made for her people, expressing the hope that Congress, before too long, might recognize the validity of the Indians' claim and keep that promise that she felt had been made to them to restore to them these lands which loom so large in their religion.

I would ask you, Mr. Greeley—I am not a lawyer and I suspect a great many people who are not lawyers may read a particular statute and then the next thing they will do is turn to an attorney or someone and say, What does this mean?

I have seen this happen a number of times. It seems not at all unreasonable to me that the Indian people might look upon the interpretation that John Collier, who I would suppose spoke with some degree of authority for the U.S. Government, serving as Commissioner of Indian Affairs, made in interpreting for the Indian people what the law meant.

I appreciate this may be somewhat repetitious, but don't you think it would not be unreasonable for the Indians to assume that what Mr. Collier, their representative, said the statute meant could very well have been taken by them as spelling out what it did mean?

Mr. GREELEY. Mr. Collier was a man in whom a great many people had confidence and I am sure his words carried a great deal of weight; but I also have to point out, Senator, certainly as far as Forest Service people and Forest Service administrators—looking at the language of the act and responsible for administration of this area—could certainly reach no other conclusion than that Congress did intend that, recognizing the special sets of circumstances here, natural resources

not needed by the Indians could be made available for commercial use, by the Indians or others.

Further this is all from section 4, that there should be necessary and proper safeguards for the efficient supervision and operation of the area for national forest purpose and all other purposes herein stated.

At this point all I am trying to do is point out that I think one of the reasons there has been the problem of complaints which seem to be made to others than the Forest Service and disagreements between the advisers and spokesmen for the Indians and the Indians and the Forest Service about what were proper uses here go to the very point we are talking about here.

We feel that the directive that Congress gave about how this should be managed was pretty specific about this and the Indians and those who have been advising the Indians have not interpreted it the same way we would.

Senator HANSEN. If I understood you, I think you read part of the last paragraph or the last sentence of section 4.

I would call your attention to some of the other provisions in section 4 and see what interpretation you think might reasonably be made on these. The section starts out:

> For the purpose of safeguarding the interests and welfare of the tribe of Indians knows as the Pueblo de Taos of New Mexico in the certain lands hereinafter described, upon which lands said Indians depend for water supply, forage, for their domestic livestock, wood and timber for their personal use and as the scene of certain of their religious ceremonials, the Secretary of Agriculture may and he hereby is authorized and directed to designate and segregate said lands which shall not thereafter be the subject of entry under the land laws of the United States and to thereafter grant to said Pueblo de Taos upon application of the Governor and Council thereof, a permit to occupy said lands and use the resources thereof for the personal use and benefit of said tribe of Indians for a period of fifty years * * *.

If I may stop here, the language up to this point seems to me to be very specific in that the Secretary of Agriculture is authorized and directed to issue a permit to the Indians to occupy these lands and use the resources for the personal use and benefit of the Indians for a period of 50 years.

There does not seem to be much doubt about that; is that right?

Mr. GREELEY. That is right.

Senator HANSEN. Continuing with the quote:

> * * * with provision for subsequent renewals if the use and occupancy by said tribe of Indians shall continue, the provisions of the permit are met and the continued protection of the watershed is required by public interest. Such permit shall specifically provide for and safeguard all rights and equities hithetro established and enjoyed by said tribe of Indians under any contracts or agreements hitherto existing * * *.

Does this language not imply a rather clear delegation of authority to the Secretary of Agriculture to see that any rights or equities hitherto established or enjoyed by the tribe under any contracts or agreements here to existing shall continue for this 50-year period?

Mr. GREELEY. Yes; and we think we have done this.

Senator HANSEN. Apparently this is part of the argument and I gather your feeling is not shared by the Taos, or at least some of them?

Mr. GREELEY. We feel that provision of the act can be complied with without eliminating all of the uses.

Senator HANSEN. Let me ask you what uses, other than uses by the Indians, are being made in this 48,000-acre area at the present time?

Mr. GREELEY. In the 48,000-acre area, Senator Hansen, there is some grazing by non-Indian-owned livestock on the area which is shown in white on the map at the east end. Under the permit entry system, there is some recreation use primarily for fishing along the river, and that is about it.

Senator HANSEN. Some grazing and some fishing and recreational use?

Mr. GREELEY. Yes, sir.

Senator HANSEN. Does the Forest Service plan to develop further uses in the future?

Mr. GREELEY. Our main concern about what should happen here in the future is that we think some things could be done to improve range management, to improve the grazing administration, and we do think that this is an area that could be a useful area for more day recreation use.

We do not have any specific plans to do this. I am responding to you in terms of what it seems to us would be the right kind of use of this land.

The portion of the area that is shown in white to the right there outside of the present permit area but which is included under the House bill is an area in which the right kind of land use should permit some timber cutting.

We do not now have plans for timber cutting but the right kind of land use looking ahead into the future should permit some commercial timber harvest.

Senator HANSEN. Do you have any misgivings about the compatibility or the conformity of timber cutting in an area that is regarded by the Indians as having very significant religious significance?

Mr. GREELEY. Senator, again I would say I am talking in terms of what should be done on into the future. I don't think we should undertake any commercial timber harvest operations or any other kind of a commercial operation except on the basis of a very careful plan and probably over a long period of time.

Senator HANSEN. You are talking about a commercial operation here, Mr. Greeley?

Mr. GREELEY. No, at the moment I am saying there would need to be a degree of understanding on the part of both the Forest Service and the Indian people about what we have in mind to do and about how it would be done and about what safeguards would be for both watershed protection and for areas that are of significance.

I do not know, sir, whether if the Indian people were to identify the specific localities where there are shrines or where there are other points of specific religious significance, they may be scattered all through there and if so it would not be feasible to do any timber cutting.

Senator HANSEN. Is it your contention that the Indians should be called upon to identify and to make a public declaration of the precise points that hold significance insofar as their religious beliefs are concerned throughout this area?

I gather from the testimony that they have been asked in the past and the responses they have given have not been completely satisfactory

or completely illuminating, at least to the Forest Service; is this right?

Mr. GREELEY. Senator, we have not wanted to poke into things that people did not want to tell us. We have gone for many years in the belief that the area that is shown in white there did not contain points that are of particular religious significance. On the basis of the testimony given in the hearings 2 years ago, that belief may not be correct. We may have been wrong in that assumption and this is what I am trying basically to get at.

We don't want to know precisely but we would like to know in general. I should also comment that there is a community to the east of this area and there is a timber sawmill operator who is not even getting timber to operate his mill and maintain the community. If all other things were equal, if there were an area of national forest lands being managed under multiple-use principles, we would be conducting a carefully done timber harvest operation in there. I think this is not an area which would be treated under conventional forest service multiple-use plans and standards for the very reasons that we are here talking about.

The point I would like to make here on this record is that we do not think we should impose our fixed, rigid ideas about how we would manage timber in this area over what I am assuming would probably be some quite valid objections on the part of the Indians. If there are some parts where there would not be objections then we think over the long period of time we should have some timber harvest operations there.

Senator HANSEN. You spoke about the possibility of developing an increasing visitor-day use, or did you mean daytime use?

Mr. GREELEY. Yes, in and out in a day.

Senator HANSEN. Would this sort of development, which I assume is being contemplated by the Forest Service, be a valid reason for fear among the Indians that the privacy of the area, insofar as their religious activities are concerned, might be damaged or invaded?

Mr. GREELEY. When we were first dealing under the permit, we were given to understand and we had the impression that there was a period during August which was a time, which was a critical time, when the whole area should be left vacant and there was not the same degree of criticalness as far as the need for privacy is so concerned at other times of the year.

Again, in recent years, we have been told mostly through criticisms of things people did not like that maybe we did not have the right interpretation of this. Again we have been going kind of blind because we have purposely not been trying to find out what their religious ceremonials are and we don't want to find out about them.

If there could be agreement, in our thinking in the amended legislation we propose is that the area that is outlined in the dashed line there should be for the exclusive use of the Indians and nobody else go in there at any time of year. As we have been given to understand over a period of time, this does include the principal areas that we have been told about as having religious significance.

Now if there are other areas that could be treated the same way, I think the same arrangement could be worked out. That is the way we would prefer to do it.

Senator HANSEN. I gather that the thrust of your observation is that, while initially it was your belief and understanding that the area included within the dotted line staked out all of the area of particular religious significance to the Indians, nevertheless you do not argue that other areas might be included upon a reasonable presentation of a case?

Mr. GREELEY. Let me be specific. The Blue Lake area and its immediate environs were the principal source of concern. At the hearings 2 years ago there were references to Star Lake and Waterbird Lake.

We made efforts to find out additional information. Since Waterbird Lake and Star Lake area were testified to as important areas, this was the purpose of delineating the areas shown there on the map.

Senator HANSEN. What would be the attitude of the Forest Service, Mr. Greeley, with regard to keeping this entire 48,000-acre area in a primitive state, which I understand is essentially the status it now has, maybe not official status but insofar as reflecting the uses to which it has been put?

I gather there has not been any commercial sawmilling activity within the area, there have not been those developments taking place which would tend to destroy the primitive, pristine character of the area. What would be the attitude of the Department insofar as maintaining the primitive character of the whole area?

Mr. GREELEY. Senator Hansen, there are probably only a couple of reasons for us to have very specific reaction to this. We think there could be more livestock raised up there if there were some range improvements and range management practices which would be difficult to put into effect and carry out, and be consistent with the maintenance of a wilderness condition.

As I have indicated, there is some timber which we think would be useful. It is not vital. There is not a community life which depends upon it now but over the long pull we have thought that it would be desirable to harvest that timber that is located on the east side.

Over the long pull it is my belief that there are going to have to be more watershed improvement practices on some of these high water yielding areas in the southwest which would require some manipulation of vegetation that would not be done in a wilderness area. This is a high water yielding area. There is a yield of 100 acre-feet per section of land that comes off the area here. These are long-term considerations. The area is pretty much in a wilderness state now. To keep it in the wilderness state would not make an awful lot of difference except these possible future uses would then be foregone.

Senator HANSEN. Do I understand you to suggest, Mr. Greeley, that, appreciating the importance of this area as a watershed, it is your thinking that watershed improvement work within the watershed area would include the removal of timber.

Mr. GREELEY. The removal of timber can be done consistent with good watershed practices.

Senator HANSEN. If your prime concern is watershed management, are you suggesting that timber removal be part of such a program?

Mr. GREELEY. No. When I talk about programs for improving water yield, I am not talking about primarily timber removal. Senator, I am talking more about manipulation of brush type vegetation and cutting patterns when timber is to be harvested.

Senator HANSEN. I am a little confused about the management of a watershed. Frankly, I have been exposed more, I should think—and maybe I am misreading your statement—to just the other approach. In some of the redwood areas which we were discussing not too long ago, where I think some competent timber management has been employed, seemed to bring forth great cries of anguish from a number of people who feel that precisely the wrong approach was taken down there. There was comment in one of the magazines, the Sierra Club's magazine, I think, about the first evidence of a little cloudiness in the water as being a threat to the watershed. I recognize that if our concern is only to try to see how much water we can get off an area and give no concern about erosion or anything else, I suppose you can't argue with the idea that if you take every living thing off the land you will get the water. If you have some way of catching the water and regulating it from that point on, maybe that is a good practice. But you are not suggesting commercial timber cutting as part of a watershed improvement program, are you?

Mr. GREELEY. I don't want to link the timber harvesting that I talked about to the need in the future to do work like this in watersheds. I am arguing here this afternoon, sir, that in the future we should look forward to managing this area for production of water.

Over in the adjoining State of Arizona we have a number of projects going on which have been going on for 8 or 10 years now to establish principles of vegetative manipulation in locations which are intended, on a planwide basis, to reduce the amount of moisture that is lost through transpiration through the brush and the other is to have patterns that affect the way the snowfall is caught so that the amount of streamflow is increased.

Maybe I should back off and say that is an important consideration here because I am testifying here today, attempting to respond to your question about what we should be doing in the future in this kind of area. I don't want to say to you that we should be planning the managing of the Pueblo de Taos drainage and no other watershed improvement. This is going to become important in the future such as we are doing on the Beaver Creek and we want to work out ways of applying those principles and they will be most important in the high producing watersheds and this is a high producing watershed.

Senator HANSEN. You spoke about the possibility of more livestock being run in this area. Is this area unique among most forest areas insofar as the livestock that are grazing on it are concerned?

Mr. GREELEY. There has been relatively little in the way of planned range management. There has not been the construction of pastures and cross fences and the division of the whole area into subunits which permits manipulation of the stock in the summertime with the kind of planned range management that you are familiar with, Senator Hansen. This has not been done. It would be a long-term effort, one which I think it would be well to be undertaken here. We have not started on this here in this particular area as much as anything else because of the special circumstances surrounding it.

Senator HANSEN. Do you suspect the construction of cross fences and separating the areas into pastures might do some violence to the religious contribution insofar as the Indians are concerned?

Mr. GREELEY. I must admit, Senator, I don't know how to answer that question.

Senator HANSEN. I want to thank you very much. I don't think I have further questions. I am trying to learn as much as I can and you have been most helpful.

Senator ANDERSON. Thank you very much for your testimony.

Our next witness is William Schaab.

Mr. SCHAAB. With your permission, I would like to ask if some of the people who have flown in from out of town to testify in favor of the bill might give their statement now.

Mr. Hobert, who comes from New Mexico, has an appointment there tomorrow, and Mr. Phipps, of Philadelphia, is due back there tomorrow.

Senator ANDERSON. That will be all right.

Mr. SCHAAB. We will proceed with Mr. Hobert, Mr. Phipps, and then Mr. Belindo.

STATEMENT OF REV. LEE G. HOBERT, PRESIDENT, NEW MEXICO COUNCIL OF CHURCHES, LAS CRUCES, N. MEX.

Reverend HOBERT. Mr. Chairman and members of the committee, my name is Rev. Lee G. Hobert. I am president of the New Mexico Council of Churches. I speak representing the council and Archbishop James Peter Davis, archdiocese of Santa Fe, in behalf of the Indians of Taos Pueblo and to support their claim as set forth in H.R. 3306.

For over 600 years the Indians of the Taos Pueblo maintained the integrity and dignity of their heritage.

Respect for the things of nature was an inbred part of their character.

When asked by the first European missionaries about the nature of their religion—did they believe in God—they replied, "What do you believe when you see fresh turkey tracks in the first snows of autumn?"

Nevertheless, by the standards of our ancestors these people were considered cultureless, uneducated and, therefore, savages. Thus the perhaps well-intentioned but mistaken decision to take their lands and make them a part of the Carson National Forest may have seemed right at the time.

However, the years have made reality indelibly clear. They have shown that they know by instinct, as it were, what we have to learn. Their respect for water, timber, and all of the natural resources is a part of their very being.

Our air and water pollution problems make clear the lack of the kind of value systems possessed by the Indians of the Taos Pueblo.

Our survival as a nation may well depend upon first honoring the integrity and rights of people such as those of the Taos Pueblo, and then learning from them that sense of nature's eternal worth that may turn the value systems of our land right side up again.

As president of the New Mexico Council of Churches I was invited to participate in a trip to the heart of the Blue Lake area. I took pictures of the trespasses by the lumber industry. If it is needed for the record, I have such with me. Having been raised in the Weyerhauser reforestation lands in the State of Washington, I was sickened by the apparent total disregard of the stewardship and conservation laws that must be followed by the lumber industry if we are to avoid a rape of the land.

I worshiped at Blue Lake in the sanctuary of the Taos Pueblo Indians. May I suggest I use the word "sanctuary" in that frame of reference that we do, and that the sanctuary includes more than just the altar. If the Blue Lake is thought to be the altar, then certainly the region surrounding it becomes the sanctuary. The representatives of the Indian souncil shared with us songs and an interpretation of the meaning of their religious beliefs. Their understanding of the psalmist's "The heavens declare the glory of God, and the firmament showeth His handiwork," is so far beyond the comprehension of most of us that even the most sensitive would be pushed to fathom it. We who have shut out the heavens with our skyscrapers and smog, and covered the earth with cement, act as though we had all but forgotten God.

The opportunity that is before this Senate committee is a unique one. You cannot only rectify the major injustice borne by the Taos Pueblo for these many years, and thus redeem all who have been a party to this mistake; but you can also lift up the immeasurable worth of the values they attach to the resources of nature, values that our Nation appears to have all but lost.

At this time in our Nations' history, when young people rebel because they have no values challenging them; when desecrating the land, water, and air resources seems to be a major activity of our population; when cultural integrity seems perilously close to vanishing; we need not only to restore the 48,000 acres of the Blue Lake area to the Taos Pueblo Indians, but we need to focus the attention of our Nation on the strength of character, the perseverence, the fortitude, the responsible methods demonstrated by these people who genuinely deserve our thanks.

Thank you for the opportunity to appear and to testify in behalf of the Taos Pueblo. We trust that the bill before you will be reported favorably by this committee and enacted by the Senate so that the faith of the petitioners may be justified and the values that can result both to the Indians of the Taos Pueblo and to our Nation may be realized.

Senator ANDERSON. I worry a little bit about the statement:

> Nevertheless, by the standards of our ancestors these people were considered cultureless, uneducated, and, therefore, savages. Thus the perhaps well-intentioned but mistaken decision to take their lands and make them a part of the Carson National Forest may have seemed right at the time.

What sort of point are you making here?

Reverend HOBERT. I don't think the burden of concern is the two areas that are in blue on the map. I am aware of the technicality of those two but in terms of my experience in the attitude of we Europeans in treating the American Indian—and I am not referring to the legislation you have enacted but I am referring to the attitude of we Europeans generally toward the American Indian. Because we had the background of so-called culture, historic education, et cetera, we judged these native Americans by our standards and because they didn't measure up we considered them uneducated and therefore we called them savages. Our attitude is demonstrated in terms of Indian wars. When we killed the Indians it was a victory and when they killed us it was a massacre.

The point I am making is, in light of that attitude, perhaps we felt ourselves to be justified in expropriating a portion of their lands that had a value which we did not recognize, because their value systems and ours did not compare. I think the testimony of the Secretary earlier

today about the haste in which a significant effort was made allowing for the possibility of overlooking the importance of these particular lands to these people fits the point I am trying to make, Senator.

Senator ANDERSON. Thank you very much for your appearance here today.

STATEMENT OF JOE K. PHIPPS, DIRECTOR OF PUBLIC AFFAIRS FOR WFIL RADIO AND TELEVISION, PHILADELPHIA, PA.

Mr. PHIPPS. Mr. Chairman and members of the committee: My name is Joe K. Phipps. I live in Philadelphia where I am director of public affairs for WFIL radio and television. I appear here today as a member of the National Committee for Restoration of the Blue Lake Lands to the Taos Indians, a volunteer group of citizens chaired by Mrs. Oliver La Farge of Santa Fe, N. Mex.

The cause of justice for the Taos Pueblo Indians was a major concern of the late Oliver La Farge for more than 20 years. Mrs. La Farge, who is prevented from being here by illness, has asked me to read the following statement in behalf of the national committee.

Senator ANDERSON. Would you further identify this organization?

Mr. PHIPPS. Yes, this is a group of individuals from across the country. I have a list of them.

Senator ANDERSON. Would you supply them for the record, please.

(The information requested is as follows:)

NATIONAL COMMITTEE FOR RESTORATION OF THE BLUE LAKE LANDS TO THE TAOS INDIANS

Mrs. Oliver La Farge, widow of noted author and Indian authority.
Rev. E. Russell Arter, National Council of Churches, New York City.
John Collier, Sr., former Commissioner of Indian Affairs, Taos, New Mexico.
Archbishop James P. Davis, Catholic Archdiocese of Santa Fe, New Mexico.
Mrs. Marshall Field IV, Libertyville, Illinois.
Rev. Lee Hobert, President, New Mexico Council of Churches, Las Cruces, New Mexico.
Rev. Dean M. Kelley, National Council of Churches, New York City.
Daniel T. Kelly, New Mexico businessman, Santa Fe, New Mexico.
William Mauldin, political cartoonist, Chicago, Illinois.
Thomas V. O'Leary, Vice President, Philadelphia Suburban Water Company, Bryn Mawr, Pennsylvania.
Joe K. Phipps, Director of Public Affairs for WFIL Radio and Television, Philadelphia, Pennsylvania.
Rufus G. Poole, attorney, Albuquerque, New Mexico.
Mrs. Rufus G. Poole, concert artist, Albuquerque, New Mexico.
Eliot Porter, conservationist, member, National Board of the Sierra Club, Santa Fe, New Mexico.
Mrs. Edgar L. Rossin, civic leader, Santa Fe, New Mexico.
S. P. Schwartz, New Mexico business executive, Albuquerque, New Mexico, former President of Sandia Corporation.
Howard M. Squadron, American Jewish Congress, New York City.
John S. Stillman, attorney, New York City.
Dr. Edward H. Spicer, Department of Anthropology, University of Arizona, Tucson, Arizona.
John H. Wanamaker, Department store executive, Philadelphia, Pennsylvania.
James E. Wood, Jr., Editor, Journal of Church and State, Baylor University.
James Webb Young, retired executive, J. Walter Thompson Agency, Santa Fe, New Mexico.
V. L. Verdiani, President, Sun Oil International, Philadelphia, Pennsylvania.

Mr. PHIPPS. Mrs. La Farge's remarks are as follows:

For more than 60 years the Taos Indians have struggled to have restored to them sacred lands leading to, and surrounding Blue Lake

in the Sangre de Cristo Mountains of northern New Mexico. The history of the taking of this land, the incorporation of it into the national forest preserve, is well known.

For many years, the Taos Indians struggled almost alone to secure the sanctity of these lands, their sacred trails, their natural shrines.

Over the past 20 years, more and more of their fellow Americans—Indian and non-Indian—have joined them in their struggle to secure justice.

From the practical standpoint—aside from the matter of simple fairness to a spiritual, peaceful people who regarded these lands as holy long before the white man came—we of the national committee can see no reason to delay any longer the vesting of this land with the Indians to whom it rightfully belongs.

It has been argued by some that this small area should not be returned nor preserved as a wilderness and religious sanctuary, because it has commercial potential for the personal profit of non-Indian. It has been proposed that substitute lands having no value for others would be good enough for the Indians.

We have long been familiar—painfully familiar—with statements like these. They belong to the days of intolerance and discrimination when Indian lands were raided and stolen to satisfy the white man's greed. Such statements have no place in this country today.

We appeal to this Senate committee to affirm our Nation's honor and sense of justice by approving H.R. 3306 in this session of Congress and returning the Blue Lake area to its rightful Indian owners.

Senator ANDERSON. Thank you very much, Mr. Phipps. I have no questions.

Our next witness is Mr. Belindo.

STATEMENT OF JOHN BELINDO, EXECUTIVE DIRECTOR, THE NATIONAL CONGRESS OF AMERICAN INDIANS, WASHINGTON, D.C.

Mr. BELINDO. Mr. Chairman, it is my privilege and honor to appear before you and testify in behalf of my brothers, the Taos Pueblo Indians.

My name is John Belindo, Kowa-Navajo, executive director of the National Congress of American Indians, which represents 105 American Indian tribes including Alaskan native villages.

Mr. Chairman, as you well know, the Indian is not a demanding individual. The American Indian, for the most part, has enjoyed the special relationship that he has had with his fellow countrymen and his government. And throughout the years, in his dealings with his government, the Indian has been honest, his requests were never presented in a demanding way; they were always presented in a humble, fair, and just manner.

For many years the Indians wandered over the great mountains and plains and made this land their land. They found minerals and crops and trails that have helped to create a vast, rich nation. They are content with the resources that they had here and lived on them for many years. But when the ships came from across the ocean, the Indian land was quickly lost. The Indians were placed on small plots called reservations. And even now sometimes the lands left for them are taken away.

Although there is a great need for the development of Indian resources, the cherished desires of the Indians seem to be forgotten or ignored. This is one of the concerns that the Taos Indians have. And this is one of the concerns that the All-Pueblo Indian Council has supported at the Pueblo of Taos, N. Mex., where the Blue Lake area is fought for by the people of that pueblo. The sacred lakes and lands of the Blue Lake area are the source of religion, and life itself for these people.

This area contains the watershed of the Rio Pueblo de Taos and the central shrines and sanctuaries of the Indian religion. Since 1906, when Blue Lake area was confiscated by the Government, the Taos people have struggled to have this "holy" land returned and have fought to preserve its sanctity. In 1965, the Indian Claims Commission made a binding court decision against the U.S. Government, upholding the claim of Taos Pueblo to the Blue Lake area and affirming its religious significance.

This bill, H.R. 3306, would forever end the threat of desecration and violation of the sacred shrines by restoring ownership of the Blue Lake area to the people of the Taos Pueblo. This bill also contains provisions which insure continued conservation management of the land. These provisions answer the objections, raised by some interests, that the forests might not receive adequate protection under Indian ownership and Federal trusteeship. Even without such provisions, forests on Indian trust lands are subject to highly skilled administration and protection by the Bureau of Indian Affairs' Branch of Forestry, by the Forest Service under an interdepartmental agreement, and by trained Indian firefighters.

These Indians do not seek economic benefits and this is established by their consistent assertion of the religious significance of the land, their refusal to develop commercially the timber available in the permit area, and their renunciation for monetary compensation for the areas.

Before the Pueblo Lands Board in 1927, the Taos Pueblo Indians were willing to relinquish $297,684.67 as the purchase price for the lots in the town of Taos in exchange for the Blue Lake area of 50,000 acres. Doesn't this prove that the Taos Indians are not out for monetary gain? Doesn't this act prove to non-Indians that the Indian is willing to forego money to retain a sacred ground? Because of the essential secrecy of its religion, it has been difficult for the people of this pueblo to explain in terms satisfactory to the American mind why it must own and control the entire watershed for the Rio Pueblo. To insist that these people disclose more is to ask them to profane their holy mysteries.

If the power of the Indians' ancient religion is weakened, the bonds between the pueblo and its people will weaken. The authority of the Pueblo Council will be impaired, and there will be no system of effective leadership of the people. Maintenance of complete privacy in the Blue Lake area is the most important factor in preservation of the ancient shrines. Domination of the Blue Lake area by tourists, campers, sportsmen, and loggers will destroy the sacred secrecy and the natural environment of the area and with them the power of religion in the lives of the people.

This is a question more of religion than anything else, and we cannot emphasize it much more. The Taos Pueblo Indians like the rest

of the Indian people, are concerned about the freedom of religion guaranteed every U.S. citizen by the Constitution of this Nation. The National Congress of American Indians has advocated many times their stand in the protection and maintenance of Indian lands and resources. This organization along with the New Mexico All-Indian Pueblo Council has constantly supported the Taos Pueblo's concern through adopted resolutions. They still stand in support of immediate passage of H.R. 3306, which would transfer to Taos Pueblo by trust patent the entire watershed of the Rio Pueblo de Taos and about 7,200 acres in drainage of the Rio Lucero to the northwest as shown on the map. These two organizations are in further support of Taos Pueblo's concern in asking Congress for the return of the land itself for the following reasons:

(1) Preservations of religious privacy.
(2) Preservation of natural ecology.
(3) Community progress.
(4) Freedom of worship.

Although the Government originally intended to preserve the land for these Indians and Congress in 1933 directed that the land be held "for (their) personal use and benefit," the permit system has not secured for the Indians the rights of exclusive control and use which are very important for their religious purposes.

It is now time for their wishes to be fulfilled and their rights under the Constitution to be guaranteed. Therefore, Mr. Chairman and distinguished gentlemen, the NCAI strongly urges the Congress to take action on the passage of H.R. 3306.

Attached to this tesitmony are two resolutions passed by the national congress, the latest resolution having been passed by the executive committee at a meeting in July of this year, and a resolution passed last year in Portland, Oreg. at the 24th annual convention.

(The resolutions referred to follow:)

RESOLUTION

Whereas H.R. 3306, a bill to restore the sacred Blue Lake lands to the rightful ownership of the Taos Pueblo Indians has passed the House of Representatives by unanimous vote and is now pending before the Senate Subcommittee on Indian Affairs; and

Whereas the National Congress of American Indians believes that this measure, by recognizing the religious rights and freedom of the Taos Pueblo Indians, is vitally important to all Indian tribes as well as to all American citizens; and

Whereas there is danger that the bill will die in this session of Congress unless hearings are held shortly: Now, therefore, be it

Resolved, That the Executive Committee of the National Congress of American Indians hereby urges early favorable action during this session by the Senate Subcommittee on Indian Affairs and the Senate Committee on Interior and Insular Affairs on H.R. 3306; and be it further

Resolved, That copies of this resolution be conveyed to the Chairman and membership of the Senate Subcommittee on Indian Affairs, as follows: Hon. George McGovern, Hon. Henry M. Jackson, Hon. Clinton P. Anderson, Hon. Paul J. Fannin, Hon. Clifford P. Hansen, Hon. Mark O. Hatfield.

Adopted this 17th day of July, 1968, by the Executive Committee, National Congress of American Indians, Washington, D.C.

WENDELL CHINO, *President.*

RESOLUTION

BLUE LAKE LAND CLAIM—TAOS PUEBLO

Whereas Congressman James A. Haley has introduced in the House of Representatives H.R. 3306 (90th Congress, 1st Session to restore to the Pueblo of Taos its religious sanctuary consisting of 50,000 acres of land in the Carson National Forest; and

Whereas in Docket No. 357 on September 8, 1965, the Indian Claims Commission affirmed that the United States Government took the Blue Lake Area unjustly and without compensation, and incorporated it into the national forests; and

Whereas as long as the Federal Government holds title to the Area, the right of these American citizens to practice their religion depends upon the sufferance of the Government, in violation of the United States Constitution; and

Whereas at the meeting at Santa Fe, New Mexico, on April 13, 1966, by Resolution 2, the NCAI endorsed S. 3085 (89th Congress) similar to H.R. 3306; however, S. 3085 was not enacted by the Congress: Now, therefore, be it

Resolved, That the NCAI, in convention assembled at Portland, Oregon, October 2–6, 1967, does hereby endorse and unanimously urge the passage of H.R. 3306, which would, in effect, make the Blue Lake Area a part of the Pueblo of Taos Reservation, to be administered the same as the other trust or restricted Indian land, subject, nevertheless to the exclusive use and benefit of the Pueblo of Taos, and that the United States Congress is strongly urged to support the passage of this bill.

WENDELL CHINO, *President.*

Senator ANDERSON. Do you think this bill in anyway would set a precedent?

Mr. BELINDO. I think a precedent would probably be set either way with respect to land ownership.

Senator ANDERSON. What sort of defense would the Government have if all of these bills were passed?

Mr. BELINDO. Do you mean if Indians wanted to claim some of the great historical places of our Nation?

Senator ANDERSON. Yes.

Mr. BELINDO. I don't believe a precedent would be set if I can rely upon the legal counsel for the Pueblo Tribe. I am not sure I know exactly what you mean in terms of the law but the central point here is, I believe, that Indians in this particular part of the country have always owned that land and are traditionally bound to the land and have stayed there and maintained a home and an environment which they have become accustomed to. What they are asking for is not relief.

Right now I think they are praying for a miracle and that would be a precedent, a miracle that would restore 48,000 acres of land to them for their use and ownership.

Senator ANDERSON. You have heard testimony that some ot those areas have never been owned by the Indians. Do you think that land should be given to the Indians?

Mr. BELINDO. I am sorry, sir; I couldn't hear you.

Senator ANDERSON. The two green plots on the map are lands which have never been in Indian ownership except the aboriginal title. Do you think those lands should be given to the Indians also?

Mr. BELINDO. Absolutely, definitely.

Senator ANDERSON. Why?

Mr. BELINDO. Aboriginal title, means a lot and I think this point of law will be delineated more carefully as tribal groups begin to get their own legal education and defense programs. The aboriginal right

to claim land is an inherent right of the native population of any nation.

If you look at it in other terms, yes, they do not have a right because they are what anthropologists call a subculture but they are very live and human and I would say the aboriginal title to land is very acceptable.

Senator ANDERSON. How far would you go on that aboriginal title? Would you say the city of Chicago?

Mr. BELINDO. At one time we owned 95 percent of the land and now we have only 3 percent left. We would like to keep the remaining 3 percent. If we could go to Chicago or the Great Lakes, naturally we would make that great surge.

Senator ANDERSON. Thank you very much, for your testimony.

The committee will reconvene at 10 o'clock tomorrow morning.

(Whereupon, at 4:05 p.m. the committee was recessed, to be reconvened at 10 a.m. Friday, September 20, 1968.)

TAOS INDIANS—BLUE LAKE

FRIDAY, SEPTEMBER 20, 1968

U.S. SENATE,
SUBCOMMITTEE ON INDIAN AFFAIRS OF THE
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to recess, at 10 a.m., in room 3110, Senate Office Building, Senator Lee Metcalf presiding.

Present: Senators Lee Metcalf of Montana, Clinton P. Anderson of New Mexico, and Clifford P. Hansen of Wyoming.

Also present: Jerry T. Verkler, staff director; James H. Gamble, professional staff member; and E. Lewis Reid, minority counsel.

Senator METCALF. The subcommittee will be in order.

This is a resumption of the hearings on H.R. 3306, S. 1624, and S. 1625. Our first witness this morning is Mr. William C. Schaab, an attorney from Albuquerque, N. Mex. Mr. Schaab, we are pleased to have you with us. You go right ahead in your own manner.

STATEMENT OF WILLIAM C. SCHAAB, ATTORNEY AT LAW, ALBUQUERQUE, N. MEX.

Mr. SCHAAB. Thank you very much, Mr. Chairman. I certainly appreciate the opportunity to appear before the committee this morning. When I was in Albuquerque I prepared a statement that I had intended to deliver and I filed it with the clerk of the committee.

However, I think it would be more responsive to the needs of the committee, as the evidence indicated yesterday, if I did not read the statement but simply leave it as part of the record and give an extemporaneous summary of the rather lengthy statement that as attorney I have prepared on behalf of the Pueblo.

It consists of a memorandum of approximately 50 pages, a copy of which has been made available to each member of the committee, and the various supporting documents, more than 100 exhibits, which I believe contain all of the principal documentation of the long history of the claim.

Senator METCALF. Thank you very much. Your statement will be incorporated in the record at this point and then we are delighted that you are going to answer some of the questions that have come up in the hearing and you go ahead in your own manner.

The committee desires your help and your assistance.

Mr. SCHAAB. Thank you very much, Mr. Chairman.

(The statement referred to follows:)

STATEMENT OF WILLIAM C. SCHAAB, SPECIAL COUNSEL FOR TAOS PUEBLO

Mr. Chairman and Members of the Committee, as Special Counsel for Taos Pueblo I have prepared at the direction and under the guidance and control of the Pueblo Council a Memorandum describing the provisions of H.R. 3306 and setting forth in detail the long struggle of the Pueblo to recover the sacred watershed of the Rio Pueblo de Taos. That Memorandum, with more than 100 supporting documents, has been filed as the official statement of the Pueblo in support of the Bill.

Because of the length of that statement I would like to summarize briefly the Pueblo's position. The Indians seek a trust title to the 48,000 acres of land embracing the sacred watershed because the land is the essential part of the practice of the ancient, naturalistic religion that infuses all areas of Pueblo life. Only by acquiring a trust title to the land can the Pueblo be sure of the control needed to preserve the privacy of their religious practices. As Rep. Saylor stated on the House floor (Cong. Rec. June 18, 1968, H. 5057) :

"The need for privacy to practice their religion is at the center of the conflict between the Pueblo de Taos Indians and the Forest Service. In the early days when the Forest Service emphasis was on preservation of the resource, the conflicts were few. In recent years, however, when greater emphasis has been placed on multiple use and on recreational use, the Indian use and the Indian values have been placed in jeopardy. It is the intrusion into the area by non-Indians, principally interested in camping and recreation, that causes the trouble. The presence of the non-Indians threatens destruction of the Indian religious life."

Similar views were there expressed by Chairman Aspinall (H. 5056) :

"The controversy centers around the need of the Indians to have exclusive use of the area in order to protect their Indian religion. Their religion is based on nature, is secret, and demands complete privacy. For that reason the Indians have insisted that the Forest Service issue no permit to enter the area unless the permit is countersigned by the Pueblo chief. The Forest Service objected and has insisted on permitting recreational use of the area by the public. It is this recreational use of the area by the public that threatens the interest of the Indians."

Representative Haley also stated (H. 5058) :

"The Blue Lake area is the most holy symbol of their ancient religion, and the symbolism attaches to the entire watershed. The watershed is the source of their life. Although the nature of their religion is secret, it is clear that if the area were extensively used for recreation by the public, it would be desecrated in the eyes of the Indians."

If the sacred watershed remains under the control of the Forest Service, the Pueblo fears a continuation of the conflict over use of the area by recreationalists. As Representative Haley stated on the House floor (H. 5058) :

"The admission of non-Indians for recreational use, however, has been a constant source of conflict between the Indians and the Forest Service. The Forest Service administration of the Blue Lake area has exerted a continuing pressure on the religious use of the land of the Pueblo. Religious privacy has been constantly jeopardized."

The Indians also fear future pressure from timber interests which may seek stumpage contracts within the sacred area.

On the House floor Representative Saylor characterized Forest Service opposition to the Bill as involving the twin claims (H. 5057) :

"* * * that the national forest must remain inviolate, and that only they can be trusted to protect the natural resource."

Those same contentions have been made before this Committee. The answers to those arguments were well expressed on the House floor by Mr. Saylor and Chairman Aspinall. Representative Saylor stated (H. 5057) :

"I also want to reject the idea that the enactment of this legislation would in some way be regarded as a threat to the integrity of the national forest system. National forest lands are disposed of every year when the disposition is in furtherance of the conservation program. A transfer of the Blue Lake area from a national forest reserve to an Indian reserve, with explicit provisions for conservation management, is in furtherance of the conservation program and at the same time a belated amends for a wrong committed 60 years ago."

Mr.Aspinall pointed out (H. 5056) :

"The Forest Service itself disposes of national forest lands by exchange whenever the disposition is desirable in order to acquire other lands which it prefers to have. These dispositions are made every year. But more importantly, no

program should be regarded as immune from change, and if the United States unjustly took land from the Indians, it should not say that it will keep its ill-gotten gains solely because the lands are now in a national forest. This contention ignores the real question, which is: Is the Indian need for the land greater than the need of the Forest Service, particularly when conservation of the land and protection of the watershed by the Secretary of the Interior is assured?"

With respect to the Forest Service's claim that only it can protect the resources of the watershed, the Pueblo concurs with Representative Saylor's statements on the House floor (H. 5057):

"This is a case where bureaucratic desires have been allowed to interfere with equitable values. Continued inclusion of the Blue Lake area in the national forest is not necessary for the protection of the watershed and the natural resources of the area. The Pueblo de Taos Indians want to preserve these values more than the Forest Service does. Preservation of the land in its natural state is essential to the Pueblo de Taos Indian religion.

"* * * Conveyance of the land in trust to the Pueblo de Taos Indians and administration as a part of the Indian reservation would further the cause of conservation. If the bureaucratic issue is removed, the equities are all on the side of the Indians."

On the House floor Representative Aspinall observed that the Forest Service's claim had not been substantiated (H. 5056):

"The Forest Service has identified no Federal need that would be prejudiced by the enactment of the bill. From the standpoint of the Government and the public interest, the conservation values of the area can be fully protected by the Secretary of the Interior under Indian ownership, and the bill requires such protection to be maintained.

"* * * [T]he Forest Service has not claimed that the land resource will be protected inadequately by the Secretary of the Interior if the land is conveyed to the Indians as proposed."

Chairman Aspinall went on to observe that the Bill provides greater protection of conservation values than the present status of the land (H. 5056):

"* * * Administration of the land for purpose of watershed protection and conservation will be continued by the Secretary of the Interior instead of by the Secretary of Agriculture. The bill expressly so provides. In fact, the bill provides even greater protection of natural values than is required under present law by requiring the lands to be administered as a wilderness."

The wilderness status of the land was also recognized by Representative Haley as protecting conservation values (H. 5058):

"* * * Except for traditional Indian uses such as religious ceremonials, hunting, fishing, forage, and wood for personal use, the land must be maintained as a wilderness. This is a limitation which the Indians sought because it reflects their intended use and because it should dispel any idea that they want to exploit the natural resources for purposes of private gain. Moreover, the bill requires the land to be administered in accordance with sound conservation practices, and the Secretary of the Interior may enter into an agreement with the Secretary of Agriculture providing for the services of the Forest Service in this respect. The interest of the United States in the conservation of the resource is therefore fully protected."

Apart from the continued inclusion of the land in the National Forest, the argument has been made that the Bill will set an undesirable precedent. The Forest Service has not presented any facts to support its argument that transfer of the Blue Lake Area will give rise to additional claims by Indian tribes. Secretary Udall has testified that in the judgment of the Department of the Interior the Bill creates no precedent. The same views were stated on the House floor by Representative Saylor (H. 5057):

"There is no other claims case like the Taos-Blue Lake case. These Indians have never wanted to be compensated for these lands. They have been trying to regain title to this particular portion of their land, which has great religious significance to them, long before the Indian Claims Commission Act was enacted. They filed a claim before the Indian Claims Commission reluctantly and only as a precautionary measure to safeguard their interest. This was only prudent. The significant facts in this case are that the lands are adjacent to the Pueblo, that the Indians have been using them for 500 years and are still using them, that the Indian use is compatible with good conservation management, and that no other Indian tribe is in a similar position."

Chairman Aspinall there expressed similar sentiments (H. 5056):

"The second argument is that conveyance of the land to the Indians, rather than payment of money under the Indian Claims Commission award, would establish an undesirable precedent of giving Indians national forest lands instead of money. I am convinced that it would not establish any precedent. The report of the Interior and Insular Affairs Committee, at the top of page 4, specifically states that the enactment of the bill will not be considered as a precedent and gives the reasons for that conclusion. The land is immediately adjacent to the existing Pueblo. The Indians have continuously used the land since the year 1400, despite the government taking in 1906. The land is vital to the continued welfare of the Indians, particularly the protection of their religion. After careful search, our committee staff has found no other case like this one. The enactment of the bill will be a recognition of the unique interests of this one Indian group, and would in no way be a recognition of any obligation on the part of the government to return land to other Indian tribes who have claims which blanket the entire United States."

The Pueblo believes, with Representative Aspinall (H. 5056) that:

"The issue before us is simple: Do the Indians or the Forest Service have the greater need for this land?"

That issue should be resolved as Representative Saylor resolved it (H. 5056):

"* * * The Pueblo de Taos Indians need this land more than the Forest Service needs it."

He pointed out (H. 5057) that a maximum of 90 non-Indians have in recent years been allowed to enter the area "for camping and recreational purposes," and that in at least one year no non-Indians were admitted. Surely such limited recreational use does not outweigh the needs of 1,500 Taos Indians for control over their religion's sanctuary, for if these sacred lands cannot be held in their natural state for the Indians' religious purposes the ancient culture of the Pueblo will disintegrate. Destruction of the Indians' culture is too great a price to pay for the convenience of a few sportsmen.

Mr. SCHAAB. I would like to touch on three things. First, I would like to describe the religion of the Taos Pueblo Indians. I would then like to summarize as briefly as I can the history of their claim relating to the Blue Lake area, the watershed of the Rio Pueblo de Taos and finally, I would like to touch on the questions relating to whether or not approval of H.R. 3306 might be deemed to create an unfavorable precedent.

With respect to the religion of the Taos Indians, I believe the religious theology and practices, although they are secret, can, in broad terms, be described in relation to the traditional practice of Americans as Christians.

The Christian religion is, of course, concerned with man's relationship to God, the individual's relationship to his family and to the church, the body of Christ on earth.

The Indian's religion is concerned with the individual's relationship to his community, the Taos Pueblo, and to the natural environment, which is principally the watershed of the Rio Pueblo de Taos, and in which the Indian and his community exist.

As Christianity has its symbols, the cross, the altar, the chalice, the wafer, so also do the Taos Pueblo Indians have their symbols, their holy sacred symbols. The most sacred are the river, the Rio Pueblo de Taos, and the source of that river, the Blue Lake.

The importance of those symbols to the Indians is certainly comparable in every way to the importance of the principle of Christian symbols to American Christians. The river is perhaps the most significant of the Indian symbols. It flows perennially and eternally. The flow of the river certainly is symbolic of the passage of time, the fact that people exist in history, that the community of the Pueblo has existed through time.

You might recall Thomas Wolfe's novel of "Time and the River." Rivers and times go together. By drinking from the river, and the Pueblos for years have not permitted wells to be drilled at the site of the Pueblo—they take their water directly from the river—the Indians symbolically partake of the symbol of life in the watershed. This is not unlike the Christian Eucharist and most communicants partake of the symbolic blood of Jesus as a method of identifying with God.

The river to the Indians has much the same spiritual significance. The river nourishes the watershed. It nourishes the people who dwell in the watershed. The people take care of the trees, and animals, and other life in the watershed. The river is the unifying symbol of that life.

The source of the river is the Blue Lake and as the source of life, symbolically the source of life, it is also symbolic of the source of the life of the Pueblo. It is the source of the spirit of man at his birth. It is the home of ancestors after one's death.

The religion as practiced in the Pueblo is conducted by religious societies called kivas. There are three kivas in the north house on the north side of the river, three kivas in the south house on the south side of the river.

The river divides the Pueblo in half. Thus it affects the physical dimensions of the Pueblo. It also affects the religious and social and political structure of the Pueblo.

Senator METCALF. Why don't you tell us more about the kivas.

Mr. SCHAAB. More about what a kiva is?

Senator METCALF. I don't quite understand.

Mr. SCHAAB. The Pueblo Indians generally have kivas. Each of the Pueblos I believe maintains kivas.

Senator METCALF. I know the Senator from New Mexico is thoroughly familiar, but I am not.

Mr. SCHAAB. I will do the best I can, Senator.

A kiva physically is an underground room, has no windows. Its access is by ladder, both up and down. In the underground room the members of the kiva meet and practice whatever they do. Nobody knows.

Senator ANDERSON. Underground?

Mr. SCHAAB. Underground, right. When people come out of the kiva it is a symbolic reenactment of the emergence of life from under the ground. Seeds take root in the ground and spring to life.

Senator METCALF. The old Ishtar.

Mr. SCHAAB. Yes, right. You can find religious parallels I think in many instances. The kiva physically is an underground room, but it is also an organization. In some of the Pueblos the kivas are basically family structures. In the Taos Pueblo they are social, not necesarily family, that is, the father, when the son reaches about 12 years old, can assign his son to a particular kiva. The son then becomes a member, at least a novitiate, of that particular kiva.

Each of the kivas has several subgroups within it. These again are secret. I think no anthropologist has yet identified the various subgroups within the kivas but they are numerous. They each have special religious responsibilities.

At the time that the young boys are assigned to the kivas for their training, the training lasts for 18 months and it is during that period

that they are informed of the sacred traditions of the people of the community. They also perfect their knowledge of Tiwa, the unwritten Indian language.

At the end of the 18-month period there is kind of graduation ceremony a bar mitzvah, in August. This is really what Secretary Udall spoke about yesterday. The entire Pueblo, or substantially everybody, is able to make the arduous trip, make the pilgrimage, from the Pueblo up to the Blue Lake. The purpose of the pilgrimage apparently is to enact the initiation of these young men who have completed their kiva training into the tribe and they thereafter become full fledged members of the Pueblo community.

Apparently there are two kivas that graduate their boys in that fashion each year. I say apparently because again I am relying on the anthropological record and it is rather obscure. The Indians will not freely talk about these things. The ceremony at Blue Lake is at the locus of the source of the river, the home of the continuing life of the Pueblo. The boys are introduced to the living members of the community in the presence, spiritually, of the ancestors, the previous members of the community. The community is like the river, an eternal on-going thing. The Blue Lake is the appropriate place where the young men should become members of the Pueblo community.

The kivas also function importantly not only in social and religious ways, but also politically. The Pueblo Council, which is one of the world's oldest democratic institutions, is selected mainly by the kiva organizations. The importance of the religion in the life of the Indian community is such that if the religion should die, if it should cease to be practiced, not only would the family and social and religious structure of the community be undercut but also its political structure. The sense of cohesiveness within the community would be undercut. The Indians would undoubtedly be demoralized and therefore less able to cope with the challenges of the American world around them, the different culture that the American world presents to them.

It is for this reason that the Blue Lake area has become so terribly important to the Indians and why they, for 60 years now, have repeatedly demanded that the control and ownership of the area be returned to them so that they may enjoy the exclusive possession of this area in which to carry out their religious ceremonies and rituals.

The ceremonies and rituals are carried out by the subgroups within the kivas. They occur throughout the area on every day of the year, although the religious calendar is one of their most carefully kept secrets. We do not know which groups go where and do what, when, and my belief is that it is really no one's business.

The Indians are clearly in good faith when they speak of their religion and the importance that it has in their lives and the importance that that watershed has in their lives as a means of identifying the individual with his community and with his natural environment. It is not correct that the most sacred areas are the Blue Lake and Star Lake or Waterbird Lake. The 3,150 acres described in Senator Anderson's bills which Mr. Greeley has indicated on the Forest Service map in the hashed area are simply the source of the river and the location of some shrines, but it is the river itself that is equally important and the watershed through which the river runs.

If the Indians were deprived of the possession of the entire watershed, if it were open to recreationists and commercial timber opera-

tions or if other intrusions were permitted under the multiple-use policies of the Forest Service, the Indians would simply cease to practice their religion. They will not practice the ceremonies and rituals, that is, the every day part of their religion, if the area can be opened to outsiders.

The religion is a private matter. It is secret. Some of its religious power derives from the fact that it is personal and secret to the Indians who practice it. They will not practice it in public.

Senator METCALF. If you will pardon the interruption, Mr. Schaab, you are setting up a strawman. No one is contemplating opening up this area to the outsiders and this is not a multiple-use proposition we are thinking about. It is to be maintained as a wild area or wilderness area and to make a permanent agreement with the Agriculture Department so that there will be a limited use here and the Indians will have it.

I would like to have you suggest maybe an amendment so that these underground kivas and such other areas as are pertinent would be included as shrines. I would also like to have you address yourself as to why we should have 48,000 acres to take care of a few underground shrines.

Mr. SCHAAB. The kivas are physically located at the Pueblo itself. They are not within this area. The underground rooms are really not in issue. They are within the Pueblo grant which is held already by the Indians. The thing that is in issue is the religious ceremonies and rituals, the secret practices which the members of kivas engage in in the watershed.

The members of the kivas go into the watershed every day. They perform different things at different places. There are different groups that do the things. Where they go is their secret. What they do is their secret. Who goes there is their secret.

But to restrict them to the 3,000 acres in the hashed area would be, I think, by analogy to Christianity to take someone who all his life has gone to church twice on Sunday and once on Wednesday night and says, "From now on you can only go to church on Easter."

The August pilgrimage to Blue Lake is sort of like a Christian Easter service, a most important Christian festival. Everybody goes to church on Easter except me. I don't go to church on Easter, but most Christians do.

The Indians practice their religion daily throughout the watershed. It is not confined to particular shrines. I think the idea that Blue Lake is more important as a shrine because of the large pilgrimage in August is factually incorrect. I think that the daily religious life of the Indians is the most important thing to focus on and this daily religious life is practiced throughout the watershed. We do not know of any area within the watershed which could be identified, segregated, and set aside for the Indians.

The Indian religious identification is with the watershed as a whole. It is not with particular shrines. In fact, the word "shrine" or "church" is probably not a correct translation of the Indian idea. I think the Indians identify with the river, the source of the river and the lake, and the watershed through which the river flows.

Although they go to particular places to do particular things, these are the ceremonies that carry religion into effect. The essence of the

religion is the identification with the total natural environment and then the watershed. This is why they have asked for the watershed itself.

Now, 48,000 acres includes some land in blue on the other Forest Service map and the white area and the Rio Lucero Valley, and perhaps if the committee would look at this plastic relief map you might have a more convenient feeling for the area.

Senator METCALF. Show it to Senator Anderson.

Senator ANDERSON. I know it very well.

Mr. SCHAAB. I think Senator Anderson is certainly familiar with the area. This is the Rio Lucero. This area from here up is in the wilderness area. By looking at this and checking against the Forest Service maps you can see what they are. Rio Lucero is in a separate watershed. It is a very high ridge along this line. The Rio Pueblo flows through the Pueblo here and down through Blue Lake and this is the boundary of the Rio Pueblo watershed.

This is the area, this principal segment. There are shrines here along Taos Peak, a holy mountain near the Pueblo, but over the Dio Lucero area, as you can see, it is extremely steep. There is no timber in this area.

Senator METCALF. This map will be a part of the files for the record of the committee. We can't print that in our record.

Mr. SCHAAB. Now, if I may, let me proceed briefly to a summary of the history of this long claim, and for purposes of making a convenient record I will read a couple of documents to the reporter.

Senator HANSEN. Mr. Chairman, if I might interrupt——

Senator METCALF. Do you mind being interrupted?

Mr. SCHAAB. No, not at all.

Senator METCALF. Go right ahead.

Senator HANSEN. If I may, Mr. Chairman, I would just like to make an observation. Yesterday afternoon I think perhaps only Senator Anderson and I were present when Mr. Greeley concluded his testimony before the committee. I know how interested the chairman is in all of this testimony and in the bills presently before the committee and it is in that spirit that I would like to observe that Mr. Greeley of the Forest Service did talk about some other uses to which he felt part of the area proposed for inclusion under H.R. 3306 might be put.

I would hope that my distingiushed colleague from New Mexico will set me straight if I mistake myself, but as I recall Mr. Greeley's testimony I think he spoke about the possibility of the development of some commercial timber cutting along the eastern side of this tract. That would be along—what is the range of mountains on the east?

Mr. SCHAAB. It is the county line really.

Senator HANSEN. Yes, right in through there. He spoke also about the possibility of better range management practices which would include fencing and cross fencing to create some pastures, the opportunity that the Forest Service might have to increase the grazing in this area. He also spoke about what could be done to increase the visitor use dates of the area.

I say that, Mr. Chairman, because I don't believe you were here. I wanted to make that observation because I felt what you were saying was relevant and pertinent to that testimony and I didn't want to have the opportunity pass without my making that observation.

Mr. SCHAAB. Thank you, Senator.

Senator METCALF. I had a very abortive amendment on the floor.

Senator HANSEN. I know how busy you were yesterday.

Senator METCALF. It would have been better for me to have been here.

Mr. SCHAAB. As I understood Mr. Greeley, the Forest Service view is that if the land remains as part of the national forest it should be developed as national forest land in accordance with the multiple use policy which would involve timber cutting and so forth.

The history of the Blue Lake problem or claim or controversy goes back to 1903. I would like to first read a statement that was given in 1948 by Bert Phillips to William A. Brophy, who was then the special attorney for the Pueblos in New Mexico, and Mr. Brophy at that time was a former Commissioner of Indians, having served in 1946. The statement is not notarized. It is exhibit 8 to the memorandum that you have. It is dated November 12, 1948. It reads:

My name is Bert Phillips, my residence Taos, N. Mex. My knowledge of matters concerning which I here testify, will appear.

In 1898, my first year at Taos, Manuel Mondragon, a member of the Pueblo now still alive, talked to me of the Indians' fear that non-Indians would move up the Rio Pueblo canyon and settle above Taos Pueblo, thus contaminating Pueblo water and taking over lands used only by the Pueblo as far back as any man knows. I myself observed on a number of occasions how the Indians successfully kept all non-Indians out of the entire watershed.

In 1904, Mr. Vernon Bailey, in charge of Geographic Distribution for the Bureau of Biological Survey, U.S. Department of Agriculture, came out from Washington with his wife and stopped with me.

I recommended that he employ Manuel Mondragon as guide. Mr. Bailey was very much pleased with Manuel's knowledge of local flora and fauna, and equally pleased with the natural primitive condition in which the Taos Indians had kept their watershed.

So when Mr. Bailey asked me what he could do for Manuel and the Indians, I reminded him of the Indians' fear that they might lose this land and asked him whether it could not be made into a National Forest. Mr. Bailey was very much in favor of this idea, saying that he recognized there was Indian use as far back as was known; he told me he would take the matter up with Theodore Roosevelt personally, and that he was sure the President would share his enthusiasm for the idea of protecting this area for continued exclusive Indian use in its natural condition.

While around Taos, Mr. Bailey and also Mr. C. Hart Merriam, biologist and Chief of the Bureau of Biological Survey, told Manual Mondragon and the other Taos Indians about the idea of a National Forest, assuring them that the purpose of such a forest reserve including the watershed would be to protect the entire watershed for the exclusive Indian use as always in the past.

Later Mr. Bailey wrote back to me from Washington, telling me that the land would be so reserved, with the entire watershed for exclusive Indian use, and President Roosevelt did actually make it a National Forest.

The Taos Indians were very pleased with the whole plan, and in the years of which I testify they did actually recieve the exclusive use of the whole watershed which was promised.

In 1906 I was employed as the first ranger in the new Forest. I went into the watershed surrounding country regularly. I saw that there were good homestead sites in the Forest, but because of the Indians' prior use and the whole intention of setting this area aside, I refused to give any permits to applicants anywhere in the watershed.

At the time I was working in the Forest, 1906–1910——

Senator ANDERSON. Who is this author?

Mr. SCHAAB. Bert Phillips. He was the first forest supervisor for the Carson Forest. It was then called the Taos Forest Reserve. [Continues reading:]

there were no permits for non-Indians and no non-Indian livestock anywhere in that Rio Pueblo watershed, because I knew the Indians' use rights and

President Roosevelt's purpose in establishing this forest reserve. Any permitting came after my time and I believe considerably after my time.

Then after a lengthy search in the archives I found Vernon Bailey's report. It is called "Memorandum Respecting Taos Forest Reservation." It has a handwritten date on it, September 1903. That may have been added by an archivist since Bert Phillips' date was in 1904, but it is signed by Vernon Bailey. It is exhibit No. 7 to the memorandum. It is only two pages and I would like to read it:

While the boundaries of the Taos Forest Reservation are being decided, I should like to keep before you the importance of this reservation to the Taos Indians.

The Pueblo of Taos is at the base of the mountains where Pueblo and Lacerro creeks join on the edge of the plain. For unknown ages the Indians have used the water of these two creeks for irrigation, raising hay for their stock, and grain, vegetables and fruit in abundance for their needs. At the present time they are an industrious, self-supporting people.

A generous land grant from the Spanish crown to the Taos Indians was confirmed by the United States under President Lincoln, but from time to time parts of this land have been taken from the Indians by fraudulent means, until now they have barely enough to support the four or five hundred members of the tribe.

Last fall Mr. Crandall, agent for the Rio Grande pueblos, told me that they held undisputed title to not more than half of the six mile square section of which the pueblo is the centre. A large share of this remnant lies on steep mountain slopes so that only a camparatively small area of valley land can be cultivated.

Still the Indians can make a living on what land they have as long as there is a supply of water for irrigation, but at present there is nothing to prevent outsiders from taking up the land east of them and diverting the water from their creeks to other parts of the valley.

They are in constant dread of this and said to me, "If they take away the water we cannot live."

This would be literally true, for they depend entirely on their crops for a living in a region where nothing can be raised without irrigation.

To ensure the Indians right to the water from their creeks, the line of the forest reservation should be made to join the Indian grant along its east side and as far west along its north and south sides as the unoccupied land extends—as shown by the land office map. It is important that no gap be left where a white man or Mexican can get a foothold between the Indians and the forest reservation.

The Taos Indians are sun worshippers. With their deeply earnest and emotional natures, their religion is an essential part of their life and happiness. A well worn trail leads from the pueblo to the top of Taos Peak (alt. 13,145 feet), where every year they go to worship.

This trail passes their sacred lake at the head of their creek near timberline on the southwest slope of the mountain. Their mountain and lake are not on their own land and could have been taken from them at any time.

Understanding what this would mean to them, you will be glad to know that both their sacred lake and mountain will be in and have the protection of the forest reservation.

Senator ANDERSON. What is that document?

Mr. SCHAAB. This document is a report by Vernon Bailey of the Bureau of Biological Survey of the U.S. Department of Agriculture that bears the date September 1903.

Senator ANDERSON. Have you read his book?

Mr. SCHAAB. No; I haven't read his book.

Senator ANDERSON. It is very interesting. I don't think you can find anywhere in the whole book where in regard to these lands he favors the Department of the Interior against the Forest Service. If you find such a report bring it in, would you please?

Mr. SCHAAB. I would be very interested to read his book.

Senator ANDERSON. He was chasing butterflies, very talented in chasing butterflies and birds.

This bill transfers all land to the Interior Department really; and I think the Forest Service has done a good job and if you find somewhere Bailey admits the Forest Service does a bad job I wish you would bring it in because I haven't found it. I am not talking about a little pamphlet, but a big green book. I think it would be very interesting to you.

Mr. SCHAAB. My purpose in reading Mr. Bailey's report, Senator, was simply to show the apparent original intention in taking this particular watershed and placing it in the forest reservation.

Senator ANDERSON. That is not the position of the Government, is it?

Mr. SCHAAB. Well, I don't know what position the Government takes. I think this is something that the documentary record indicates.

Senator ANDERSON. When was this period—1933?

Mr. SCHAAB. This is 1903 and 1904 before the land was actually taken.

Senator ANDERSON. We passed a law then in 1933, didn't we?

Mr. SCHAAB. Yes, right.

Senator ANDERSON. To secure it, make it possible that these people were not threatened with their land being taken away. They haven't had a threat from that time on.

Mr. SCHAAB. I think the 1933 act is of crucial importance here, Senator. I will come to it in a minute if I may continue with the historic summary.

Senator ANDERSON. You are reading 1903 and 1904. At that time we didn't have the same problem we now have. If you have ever ridden over roads in Taos Pueblo they were quite different at that time.

Mr. SCHAAB. I am sure they were.

From 1906 when the land was taken by President Roosevelt by proclamation until, as the record indicates, the summer of 1918 the Indians did have exclusive use of the entire watershed. Whether or not the La Junta Canyon area was then in Federal ownership or in State ownership the Indians exercised the possession of that area.

They also maintained their possession of the area long the Rio Lucero, which is the other area about which some question was raised yesterday. If it was in private ownership at that time there was no access to it from privately owned land and the Indians apparently retained their possession of it.

From 1918 on grazing permits were issued by the Forest Service for the Witt Park and Apache Springs area along the east side of the watershed, east of the green line on the Forest Service map.

In 1924 Congress established the Pueblo Lands Board to investigate and determine the amount of compensation which should be received by the Pueblo Indians for land taken from them by white men and others and that board sat in Taos in 1926 to determine the amount of land which had been lost by the Pueblo Indians. Because I believe an issue will be mentioned in this regard by Mr. Pomeroy, at least in subsequent testimony, I would like to read into the record the findings of the Indian Claims Commission, finding No. 22, and this is exhibit 1 to Pueblo's memorandum. That finding reads:

The Pueblo Lands Board held hearings to determine whether the non-Indian claims of adverse possession within the Taos Pueblo grant were to be recognized, and, if so, to determine the value of the land in order that the Pueblo could be compensated. The board found that a sizable portion of the Pueblo grant—

And bear in mind that the grant is the square, the grant from Charles the Fifth of Spain—

sizable portion of the Pueblo grant had been encroached upon by non-Indians and under the standards of the Pueblo Lands Act, confirmed the acquisition of this land in non-Indian ownership.

The total value of the Pueblo grant lands to which title of the Pueblo of Taos was extinguished was, according to the Board's own appraisers, $458,520.61. However, the Pueblo Lands Board awarded the Pueblo only $76,128.85.

Senator ANDERSON. Mr. Chairman, may I interrupt at this time?

Senator METCALF. Surely.

Senator ANDERSON. I don't know if you plan to explain this land-grant situation at all, but do you recall or have you seen studies where Senator Bursum introduced a bill?

Mr. SCHAAB. I believe that is correct, Senator, yes.

Senator ANDERSON. I was a newspaper reporter about that same time, but it was done in order to guarantee what their rights should be. It was done because the Indians were claiming certain encroachments on their land because of the Spanish-American people who were residents of it.

Mr. SCHAAB. Right.

Senator ANDERSON. And he got a bill passed which awarded the land to settlers by setting up a board, a studious group, and the lands were awarded to certain Spanish-American communities and was settled. Cash payment was awarded the Indians.

I think you realize the board at that time tried its best to determine what the title should be and it is a pretty important document. I wrote the first story about Mr. Bursum being appointed as a Senator. He was actually taking a bath when I broke into his room to talk to him about this appointment that the Governor was making and the Governor appointed him. I have had a great deal of admiration for Mr. Bursum from that time on but I know he thought they settled the title to this land very carefully.

The area was set aside for a good purpose and I wish we would receive testimony that this matter was settled by Senator Bursum. He thought it was, at least, and it provided some very fine source of revenue to all the people of our State.

Senator METCALF. Senator, was their title acquiesced in that settlement?

Senator ANDERSON. We thought so. At least I thought so.

Senator METCALF. And he thought so.

Senator ANDERSON. He thought so. I hate to break into this but hadn't title been established by Governor Hagerman of the board? Governor Hagerman was the son of a very able man, a very rich man in the State, and he was appointed Governor for reasons which would be interesting; which had to do with his love life in a short time and he came out to New Mexico and was Governor of that State. He also thought we had compensated the Indians for this land title. I haven't brought his book. I have it at my house, have examined it carefully, and I know he felt there was a settlement at that time and he thought the Indians did pretty well with that settlement.

I just hope that somewhere you encountered that. At least that is in our own period. I am not trying to interrupt, because he is presenting the Indian claims, but at that time at least they thought the settlement was a very fine settlement. It involved all the Spanish-American people living in the Rio Grande Valley from Colorado areas to the Texas area, oil area, was watched carefully, and they tried to bring in central recognition of title at that time.

Senator METCALF. Thank you very much, Senator. That is helpful in my understanding of all this problem. Go ahead, Mr. Schaab.

Mr. SCHAAB. Let me just read one other paragraph in the findings of fact:

The difference between award and appraisal of $382,391.76 can be divided geographically as follows:
"Extinguishment of title in Town of Taos $297,684.67.
"Extinguishment of title outside Town of Taos $160,835.94.

The total of those figures is the $458,000 figure I mentioned earlier.

The significant thing here is the Pueblo Lands Board determined the amount the Taos Pueblo was entitled to as compensation for land within the Pueblo grant that was taken and the award was broken down into two segments, one for land loss within the Town of Taos, which is at the southwest corner of the Pueblo grant. The other was land within the Pueblo grant and outside the Town of Taos.

Of the $458,000 total compensation the Pueblo actually received $160,000 and the Indian Claims Commission has determined that the Pueblo is entitled to the approximately $300,000 difference between the amount determined by the Pueblo Lands Board and the amount it has actually received.

Senator ANDERSON. But the Government doesn't refuse to pay this $300,000, does it?

Mr. SCHAAB. The Government has not refused to pay it.

Senator ANDERSON. It is available, ready, and they wish they would take it. The Indians have said, "We won't take this money. We want the land."

That is true, isn't it?

Mr. SCHAAB. Yes, Senator; that is correct. That is what the Indians said in 1926 or 1927 at the time the Board met in Taos.

Senator ANDERSON. Have they changed their story?

Mr. SCHAAB. Well, I don't really know. The matter now is in the *Indian Claims* case. Back in the 1920's the Indians did say:

We will be willing to waive the compensation for land in the Town of Taos, the $300,000 if the Pueblo * * *

Senator ANDERSON. The Town of Taos is Federal administration land, isn't it?

Mr. SCHAAB. The Town of Taos is the southwest corner of the Pueblo grant down here. It lies within the Pueblo grant.

Senator ANDERSON. That is right.

Senator METCALF. How many miles is it from that other area, that area that we are talking about?

Mr. SCHAAB. This area? These are sections.

Senator ANDERSON. What section?

Mr. SCHAAB. It is about 3 miles from Pueblo to town and then another 3 miles to the border of the watershed and so forth.

Senator ANDERSON. About 20 miles to the Blue Lake?

Mr. SCHAAB. To the Blue Lake, that is correct. The point I wished to make about the Pueblo Lands Board determination of money compensation was that it did not include compensation for any land outside the Pueblo grant that the Indians had lost.

The Indians, after they had offered to give up their compensation for the Town of Taos if the Board could give them the Blue Lake area, discovered that the Board could not give them the Blue Lake area and yet the Board also said, "Well, the Indians have waived their right to compensation for the town of Taos," so the Indians got neither money nor land in the 1920's.

Partly as a result of the unfairness of that treatment Congress concerned itself with proper treatment of Taos Pueblo and passed two statutes, one in 1928 and the other in 1933.

The 1928 act was intended to protect the entire watershed of the Rio Pueblo from entry by miners or others under the public land laws. It authorized the President by proclamation to withdraw any federally owned land within the entire watershed from all forms of entry and President Coolidge withdrew an area described by description furnished by the Forest Service of about 30,000 acres, which is the present permit area. The eastern boundary is one-half mile from the Pueblo Creek.

In 1933, after the Indians had received a favorable Senate report on a bill to give them a trust patent to the watershed area, their representatives were induced to accept the bill that was finally passed providing for a special-use permit.

Mr. John Collier was one of the representatives of the Pueblo at that time and in 1962 Mr. Collier signed an affidavit which is exhibit 36 to the Taos memorandum. I would like to read part of the affidavit.

John Collier, Sr., being first duly sworn, deposes and says:

"My connection with Taos Pueblo's interest in the Blue Lake and the larger Sacred Area of the Pueblo goes back to years before 1926.

"Prior to 1926, and thereafter, the Pueblo was concerned with obtaining, as a minimum, that which it did obtain through the Act of May 31, 1933, and the Permit issued October 24, 1940.

"In the years around 1924, the then Commissioner of Indian Affairs, Charles H. Burke, had directed that propaganda be carried out against the native Indian religions. Part of this propaganda was the quasi-secret circulation to editors, churchmen, members of Congress, etc. of a lengthy photostated document in which it was asserted that the Indian religious observances were sadistic, obscene, etc. A copy of this document reached me and I denounced it in the Christian press. The photostat reached persons in New Mexico, especially the Indian Bureau, and occasioned allegations, entirely indefinite, of obscenities practiced by Taos Pueblo at its yearly Blue Lake ceremonies.

"Thereupon, the Pueblo invited me to go with its members and view the ceremonies. I consented, on the condition that James W. Young, then of the J. Walter Thompson Advertising Agency * * *"—

And Mr. Young is a member of the National Committee for Restoration of the Blue Lake Lands to the Taos Indians—

"be invited to accompany me.

"Young and I did go; and what we witnessed was told in a written report by me to committees of Congress. It is reprinted at the end of the chapter. 'The Indians of the United States' in my 'Indians of the Americas.'

"From 1926 on into 1933 I, as Secretary of The American Indian Defense Association, along with Judge Richard H. Hanna, the Association's (and the Pueblo's) attorney, worked to obtain through Congress what we did obtain May 31, 1933. The Congressmen from New Mexico unreservedly cooperated; and there was full and complete and clear understanding that Taos Pueblo would receive the exclusive use of the Sacred Area, a year-round use, but in cooperation

with the National Forest Service in all matters pertaining to watershed conservation.

"To elaborate this from the printed record, the Pueblo Relief Bill of 1933 (S. 2914, Seventy-second Congress, First Session), as sponsored by the New Mexico delegation in Congress, directed that a patent (trust title) to the Blue Lake or Sacred Area be issued by the President to the Pueblo. (Full text of the bill is to be found in the printed hearings, Part Twenty, of the Senate's Indian Investigation Committee, p. 11086 et seq.)

"The Department of Agriculture informally raised objection to the granting of a patent on the ground that a cooperative agreement between the Department and the Pueblo (presumably if made permanent by statute) could assure to the Pueblo all that a trust patent could assure, while if a trust patent were issued, appropriations for the conservation of the watershed might be more difficult to obtain.

"Thereupon, Judge Richard H. Hanna and I conferred, on behalf of the Pueblo, with the then-acting Chief of the Forest Service, Major Stuart (see p. 11173 of the above-cited hearings); and from this conference there took form the language finally enacted by Congress on May 31, 1933. That language, as understood and endorsed by the Department of Agriculture and the Pueblo, conveyed to the Pueblo equal and identical rights to the Blue Lake area that a grant of trust title would have conveyed."

I repeat: The Bill (S. 2914) was therefore amended, upon the Pueblo's initiative, to direct that a fifty-year, renewable, permit be issued by Agriculture to the Pueblo; the stated, explicit understanding being that the Permit would insure to the Pueblo the exclusive use of the Sacred Area, the year-round exclusive use, identical with that which a trust patent might insure. This legislative record, I believe, positively construes the Act of May 31, 1933, and the Permit issued pursuant to that Act.

The affidavit goes on at some length but I don't think I will read the rest of it. After the Act of of May 1933——

Senator ANDERSON. If I may ask a question, there was at that time a Member of the Senate named Senator Chavez.

Mr. SCHAAB. Yes.

Senator ANDERSON. He was known to be a friend of the Indians.

Mr. SCHAAB. Yes.

Senator ANDERSON. And right up to his death was known to be a friend.

I have here the Survey of Conditions of Indians of the United States, page 18185. Senator Thomas of Utah is speaking.

Senator THOMAS. Is this land public domain or does it belong to the United States or the State of New Mexico?

Mr. MIRABAL. It's forest.

Senator THOMAS. It's forest reservation?

Mr. MIRABAL. Yes, sir.

Senator THOMAS. Then it's public domain and belongs to the United States?

Mr. MIRABAL. Yes, sir.

Senator THOMAS. Your Pueblo is asking that lands be set aside for your exclusive use and to be made part of your reservation?

Mr. MIRABAL. Yes, sir.

Senator THOMAS. Has that matter been presented to the authorities, the Indian agency, or the Commission?

Mr. MIRABAL. No, sir; we haven't.

Senator CHAVEZ. This bill which was passed in 1933 does that very thing. Supposed to be for the exclusive use of the Indians and administered by the Forest Service.

Senator THOMAS. Then Congress has already passed on the matter?

Senator CHAVEZ. It was looked into very carefully by Judge Hanna.

That is the lawyer you referred to a while ago. He collected $150,000, which he thought was a pretty good fee and I thought so also.

Mr. SCHAAB. He is doing much better than I am, Senator.

Senator ANDERSON. He was a very fine man. He was a partner of

Judge Wilson, who passed away a year or two ago. To continue:

> As private attorney for the Indians, Senator Cutting and Senator Bratton, and I were in the House. Mr. Collier at that time was a very fine friend of the Indians and he suggested the same thing, and it was settled to the satisfaction of all.

What was settled to the satisfaction of all? Does that mean all of the people? Is that not your understanding? What did it mean?

Mr. SCHAAB. I think to the extent that the Pueblo Indians were satisfied it was on the assumption that the 1933 act would give them the exclusive use of the total watershed area.

The documentary record as set forth in this memorandum with the exhibits makes clear that Mr. Collier did not have a clear understanding of where the boundaries were for the description of the land covered by the 1933 act.

At the time the language of the act was agreed upon he assumed that the description of the land, which was taken from President Coolidge's proclamation under the 1928 act, covered the entire watershed and all the way out to the Maxwell land grant, county line, but in fact the east boundary is one-half mile east of the Pueblo Creek and excluded Witt Park, Apache Springs, and La Junta Canyon areas and also excluded the Rio Lucero areas.

During the 1920's Commissioner Collier and Secretary of the Interior Ickes made repeated efforts to ask Congress to extend the 1933 act to encompass all of the land within the watershed and the land within the Rio Lucero watershed, precisely the lands covered by H.R. 3306.

The record was quite clear that there had been a misunderstanding about the description of the land in the 1933 act and Congress was asked to correct the misunderstanding but Congress did not take the action.

Senator ANDERSON. Congress refused to take action, didn't they?

Mr. SCHAAB. It did not take it. I don't know that they refused.

Senator ANDERSON. The matter was settled. They thought and all the congressional representatives thought and a great many other people thought it was all settled, and it was settled for 25 years.

Mr. SCHAAB. The attempt to have the description changed accounts for the delay of 7 years, between 1933 when the act was passed, and October 1940 when a permit was finally issued.

Collier was trying to have the description changed to include a larger area of land. Finally the permit was issued in 1940 and the permit, unlike Commissioner Collier's original interpretation of the intention of Congress in the 1933 act, did not give the Indians exclusive use of all of the property and it proved impossible for the Interior Department to negotiate exclusive use of the entire property.

The permit, as issued, provided for exclusive use during the August ceremonies and that was all. After the 1940 permit was issued of course we had the war and after the war during the 1950's the Pueblo was conscious of increasing pressure by recreationists and other pressure that arose because of the multiple-use philosophy in the national forest.

The Forest Service treated the property as being part of the national forest subject to the ordinary principles of governing the national forests and the area should be opened up to recreationists.

The timber that might be merchantable could be cut and other uses consistent with the multiple-use policy should be applicable.

These policies exerted pressure against the Indian uses of the property, their religious uses, and the Indians then in the 1950's began again to ask that Congress go back to the 1933 act and give them greater certainty in their possession of the watershed for the protection of their religion.

Bills to increase the size of the 1933 permit were introduced at the end of the 1950's and then in 1965 Senator Anderson introduced by request S. 3085, which was the same bill as H.R. 3306 before its amendment in the House in the 90th Congress.

That completes the summary of the history of this matter briefly and I would like finally to express a view about this precedent question which came up yesterday morning.

I am sure that this is a very important matter to Congress. Congress, I suppose, hates to take any step that might foreclose its freedom of action in future cases. You do not want to pass a bill that will tie the hands of Congress in dealing with other cases allegedly similar in future years, but I believe that H.R. 3306 does not require any breach of prior congressional policy with respect to this area.

In my own mind, the question of whether approval of H.R. 3306 would create a precedent is answered by looking back to the acts of 1928 and 1933. In those acts those Congresses long ago, 35 and 40 years ago respectively, recognized the direct and immediate interest of the Indians in this watershed area.

Congress took steps to insure that the Indian interest in the area would not be infringed by outsiders, by miners coming in, by other inconsistent uses. Because of a conflict in basic philosophy between the national forest multiple-use concept and the Indians' religious use of the land, the purposes that Congress intended to realize in the 1933 act have not been carried out and what we are asking is for Congress to go back to the 1933 act and to amend it to make clear and to give the Indians the protection that we believe Congress at that time intended to give; that is, the exclusive use and ownership of this land.

Senator METCALF. The 1933 act did not give exclusive use. Let me read you, "Such permit shall specifically provide for and safeguard all rights and equities hitherto established and enjoyed by said tribe of Indians under any contracts or agreements hitherto existing, shall authorize the free use of wood, forage, and land for the personal or tribal benefit, shall define the conditions under which the natural resources under the control of the Department of Agriculture not needed"—not needed—"by said Indians shall be made available for commercial use by the Indians or others and shall establish necessary and proper safeguards."

So we give the Indians the use and we tell them they have an opportunity to have free wood and forage and they are able to have a commercial development of the timber but the area or the resources not needed will be used for others.

Now, what does that "others" mean?

Mr. SCHAAB. Senator, I am not contending that this view you are expressing was not taken by the Forest Service.

Senator METCALF. You said it was the congressional intent that there be exclusive use.

Mr. SCHAAB. That is the way I read it.

Senator METCALF. And the law, as I interpret it, and you have to read it to interpret the congressional intent, says that others shall have some use after the resource needs of the Indians are taken care of.

Mr. SCHAAB. The area of conflict there is really a question of whether or not the rights of the Forest Service to sell the timber to others or to operate the area for national forest purposes should be subordinate to Congress principal intention of setting the area aside for the Indians to occupy said lands, use the resources thereof for the personal use and benefit of said tribe.

The "personal use and benefit" I think would include their religious uses of the land which requires privacy and secrecy and the exclusion of outsiders.

The permit that was issued under the act gave the Pueblo the right to veto entrance into the area by outsiders. It said that entrance shall be on permits concurred in by the Governor. That would be a matter of controversy between the tribe and the Forest Service.

Senator ANDERSON. Isn't the same permit of record signed by the various parties? Don't the Indians sign these permits?

Mr. SCHAAB. They sign some permits, Senator.

Senator ANDERSON. No; they signed them all, didn't they?

Mr. SCHAAB. When?

Senator ANDERSON. If you say they didn't we will put some witnesses on the stand but you must know that they signed them.

Mr. SCHAAB. In 1964 I understand they signed no permits. I think you have to say what time period you are talking about. They have signed some permits certainly.

Senator ANDERSON. Has there been any trouble from 1964 on?

Mr. SCHAAB. About the permits?

Senator ANDERSON. Yes.

Mr. SCHAAB. I think there has been some controversy perhaps with respect to whether the Indians have an unrestricted unqualified right to veto entrance.

Senator ANDERSON. You are speaking here as the attorney for the Indians. Can you cite one case after 1964?

Mr. SCHAAB. Let me refer to the——

Senator ANDERSON. The Governor understands it very well. Has there been trouble, Governor?

Senator METCALF. The Senator is addressing a question to the Governor who is going to be a witness, but would you stand and respond to the question of the Senator from New Mexico. Give your name to the reporter.

STATEMENT OF PAUL J. BERNAL, SECRETARY OF THE PUEBLO COUNCIL

Mr. BERNAL. Mr. Chairman, this is Governor Querino Romero of Taos Pueblo. My name is Paul J. Bernal. I am interpreter for Taos Pueblo and also the Taos Pueblo Council Secretary. I would like to interpret Mr. Romero's statement.

Senator METCALF. I want the Senator from New Mexico to repeat his question and solely for the purpose of answering that question we called you.

Senator ANDERSON. I don't understand how the Governor says he is going to have to have an interpreter. The Governor understands this language very well and speaks English.

Senator METCALF. If he needs an interpretor he shall have it.

Senator ANDERSON. Sure, he shall have it but he doesn't need it though. Go ahead.

Mr. BERNAL. Mr. Chairman, if there is any way I can be useful on this particular hearing I would like the Governor to answer the question, but I would like for him to answer it clearly to satisfy this board.

Senator ANDERSON. We will leave it then.

Senator METCALF. Okay. We will waive the question and will repeat the question when you are on the stand in a few minutes. Thank you very much. Go right ahead.

STATEMENT OF WILLIAM C. SCHAAB, ATTORNEY AT LAW, ALBUQUERQUE, N. MEX.—Resumed

Mr. SCHAAB. As I understood your question, Senator, it was whether or not there has been any controversy with respect to issuance of permits after 1964 and in the records we have some letters in 1964 and 1965 from the district ranger to the Pueblo with respect to the issuance of permits.

The tenor of the correspondence was that the Pueblos' failure to approve enough permits had created a problem, that people who couldn't get permits would then trespass.

Senator ANDERSON. No; that the Indians wouldn't sign these permits. I ask you one time when the Indians would not sign permits, just one time.

Mr. SCHAAB. One time when they did not sign permits?

Senator ANDERSON. Yes. They have been signing permits right straight through, haven't they?

Mr. SCHAAB. In 1964 they did not sign any permits. I think this is clear.

They have also refused to sign permits in particular cases since 1964, although some permits have been signed. We have a table in the memorandum which shows since 1960 the number of permits that have been issued. These are permits cosigned by the Pueblo: In 1960, 11 permits; 1961, four permits; 1962, two permits; 1963, 15 permits; 1964, no permits; 1965, six permits; 1966, three permits; and 1967, 10 permits. I don't know what the figures were for 1968.

Senator METCALF. Mr. Schaab, I know that the Senator from New Mexico and some of the others know a great deal more about it. When the Indian refused to sign the permit did the Department of Agriculture come in and insist upon the use without Indian acquiescence?

Mr. SCHAAB. There were expressions from the Forest Service that if the Indians refused to sign permits, the permits would nevertheless be issued anyway.

Senator METCALF. How many instances of that have you? Do you have that in your memorandum?

Mr. SCHAAB. Yes, this is in the memorandum. The history is broken down by decade.

Senator METCALF. Mr. Greeley, I hope that you will give your attention to this testimony because I will ask you to file a statement in reply. Go ahead.

Mr. SCHAAB. I have copies of the letters as part of the documentary exhibits and since this will be part of the record you are certainly free to look at it if you would like and read the statements but the summary of it and the memorandum itself is, pages, I guess, 42 through 45.

Senator METCALF. That is the briefs that you filed which is a part of the file of the committee?

Mr. SCHAAB. That is correct, Mr. Chairman. The primary question was resolved in 1962. The Department of Agriculture determined in this the rights of the Pueblo to veto the issuance of the permits and by their concurrence the Department acquiesced.

Senator METCALF. After 1962 did the Department of Agriculture overrule the vetoes?

Mr. SCHAAB. Well, there was pressure in that direction.

Senator METCALF. Will you give one instance where after 1962 there has been an overruling of a veto as far as the tribal council is concerned or an issue over permits when acquiescence was refused by the tribe? Just give me one instance.

Mr. SCHAAB. Let me read you a paragraph that deals with this.

Senator METCALF. If the paragraph has one instance I will be delighted to have it.

Mr. SCHAAB. This is on page 44 of the memorandum.

Senator ANDERSON. What is it?

Senator METCALF. The memorandum is a memorandum in chief that he has submitted and is a part of the file of this committee, a very voluminous memorandum that we cannot put in the record.

Mr. SCHAAB. This is a memorandum which is a statement of the Pueblo on the bill, right. Page 44 says this:

> The decision to recognize the Pueblo's right to veto entry into the Blue Lake Area ended the controversy for only a brief period. On August 4, 1964, the Forest Supervisor indicated his approval of the system of granting counter-signed permits to the Blue Lake Area and gave the Pueblo Council his assurance that he did not wish to encourage public travel into the Area.
>
> On October 13, 1964, however, the Forest Supervisor suggested that it would be desirable to have a "formal agreement" with the Pueblo with respect to issuance of permits, pointing out that the Pueblo had not approved any permits during the summer of 1964 and that many people had entered the Area without permits.
>
> On January 15, 1965, the District Ranger advised the Pueblo that as a result of the Pueblo's failure to approve any permits in 1964 "the situation got out of control" and stating "we must establish a system of issuing permits for entry to those who will respect the area."
>
> On March 2, 1965, the Ranger again wrote to the War Chief that "the Forest Service will continue to issue permits to visit the Blue Lake Area," but he agreed that the Service "will discourage all travel" within the Permit Area.
>
> The letter enclosed a form of permit which provided that the Pueblo's reasons for not granting the permit must be stated. On March 15, 1965, The Pueblo rejected the arrangements proposed by the Ranger and notified him that his letter had been referred to its local counsel for review.

Senator METCALF. What happened?

Senator ANDERSON. He hasn't read a single word about it.

Mr. SCHAAB. That is where the matter rests.

Senator METCALF. You rejected it. Has the ranger issued permits then?

Mr. SCHAAB. You asked for one instance.

Senator METCALF. Well, this is not an instance. You say that everybody refused to issue permits and so people went in without a permit.

Mr. SCHAAB. The instance, Mr. Chairman, is that the Forest Service, after the matter supposedly was set at rest in 1962, came back and said, "Now, if you are not going to sign permits you have to state the reasons why." This is not in the 1940 permit. It is not in the 1933 act. It was an additional qualification that they put forward on the Pueblo's right.

Senator METCALF. There would have to be action on the part of either the Forest Service or the tribe. They would have to state their reasons why.

Mr. SCHAAB. There is nothing in the permit that requires them——

Senator METCALF. The law says that they are permitted to give permits for others and if you say, "Well, these resources are necessary for Indian use," that would be a reason why, but if you couldn't justify that under the 1933 act, which permits the use of the resources for others which are not needed for the tribe, then they should certainly be allowed to issue a permit even without your acquiesence.

Mr. SCHAAB. This is the position that the Forest Service took. The basis for the Indian objection to stating its reasons was that it may entail the disclosure of religious secrets, that the Indian might object to an entry into the area at a particular time because of religious ceremonies that were going on then, but they didn't feel they should have to reveal that fact to the Forest Service.

Senator METCALF. I understand. Now I would like to have Mr. Greeley respond to this testimony in a memorandum if you will and give us a little outline for the issuance of permits and the policy of the Forest Service.

STATEMENT OF ARTHUR W. GREELEY, ASSOCIATE CHIEF, FOREST SERVICE—Resumed

Mr. GREELEY. I will be glad to honor your request.

Senator METCALF. Are you prepared to testify to that right now?

Mr. GREELEY. I am not prepared to testify in detail on the questions that have been raised.

Senator METCALF. It would be better to let him have an opportunity to look at this testimony and present us a memorandum.

Senator ANDERSON. All right.

Senator METCALF. This is Mr. Greeley, who was a former witness here. Go ahead.

Mr. GREELEY. I would like to say, Senator Metcalf, that to the best of our knowledge, and I have checked with the Supervisor of the Carson National Forest, who is here today, we have not issued any permits over the veto of the Indian Pueblo.

Senator METCALF. That is a pretty flat and unqualified statement.

(Following the hearing, additional testimony was received as follows:)

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., October 2, 1968.

HON. GEORGE MCGOVERN,
Chairman, Subcommittee on Indian Affairs,
Committee on Interior and Insular Affairs,
U.S. Senate

DEAR MR. MCGOVERN: During recent hearings by your Subcommittee on H.R. 3306, S. 1624, and S. 1625, Senator Metcalf asked me to supply information relating to the issuance of permits to non-Indians for use of the area under permit to the Pueblos de Taos. We are pleased to reply to Senator Metcalf's request.

The following discussion relates to the issuance of permits during periods other than the ceremonial period in August. No permits are issued by the Forest Service to non-Indians during the Pueblo's August ceremonial period.

Prior to 1962, various procedures were used by the Forest Service in issuing permits for non-Indian use of the Pueblo de Taos special use area. For a long period up until 1941, permits were issued without countersignatures of Pueblo officials. In 1941 the permit form was revised to provide for countersignature. However by 1955, permits were being issued without signatures of officials of the Pueblo de Taos. In 1956, copies of all permits were sent to the Pueblo War Chief. In 1960, permits again provided for concurrence by the War Chief.

In 1961 the Taos Pueblo refused to concur in entrance permits issued to non-Indians by the Forest Service. Nonetheless, some Forest Service permittees entered the area. This situation brought on a series of meetings and correspondence between the Pueblo and Forest Service officials. Following these discussions the Forest Service agreed to require that all permits to non-Indians be countersigned by a Pueblo official. Regional Forester Kennedy also agreed, in a January 15, 1963 letter, to close Blue Lake and its vicinity to public use. Copies of correspondence related to these agreements are enclosed.

These agreements and Mr. Kennedy's letter have been the basis of our policy and procedures since 1962. We have required that all permits issued subsequent to that time be countersigned by the Governor or an authorized Pueblo official. If the Pueblo does not concur, non-Indians are not allowed to enter the Indian permit area, unless on official business for the Forest Service. If the Indians do refuse to countersign permits, as they did during all of 1964, we will inquire as to their reasons. We hope that the Pueblo uses reason and good faith in considering whether or not to countersign the permits we propose to issue.

Entry permits for use of the Indian permit area contain a number of provisions related to Blue Lake. Camping is not allowed within 300 yards of the Lake. Fishing, bathing and washing in the Lake are forbidden.

Also, in order to give the Pueblo adequate time to consider the permit, applications for entry are required one week in advance. A copy of a sample 1967 permit is enclosed for your use.

In sum, no entrance to the Pueblo de Taos special use area by the public is authorized during the August Indian ceremonial period. At other times applicants may enter the special use area only if their permit is signed by a Forest Service official and by the Governor of Taos Pueblo or his authorized representative. Use of Blue Lake is restricted as described in the enclosed permit.

Sincerely,

A. W. GREELEY, *Associate Chief.*

Enclosures.

TAOS PUEBLO COUNCIL,
GOVERNOR'S OFFICE,
Taos, N. Mex., March 4, 1963.

EDWARD P. CLIFF,
Chief Forester, U.S. Department of Agriculture,
Washington, D.C.

DEAR MR. CLIFF: At our Taos Pueblo Council meeting on January 18, 1963, final agreement on the Entry Permit to the special use area was reached with the Forest Service. The "no fishing in Blue Lake" provision was agreed to also.

We are profoundly grateful to you for your understanding of our way of life and our religious life, especially, which was so effective on our behalf in bringing

a conclusion and agreement on the matter of the entry of non-Indians into our sacred Blue Lake area.

The words you spoke to us in Washington in June of 1962 have remained true, and we are sincerely appreciative of this, as well as of having been able to work with you and Mr. Fred H. Kennedy on a most cooperative and understanding basis.

With best wishes,

Sincerely yours,

MANUEL LUJAN,
Governor.
ALFRED SUANO,
Secretary.
BOVERINE MARTINEZ,
Council Spokesman.
PAUL BERNAL,
Council Secretary.

JUNE 14, 1962.

Mr. JAMES OFFICER,
Associate Commissioner,
Bureau of Indian Affairs,
Department of the Interior.

DEAR MR. OFFICER: This refers to our discussion in the office of Dr. George Salke on June 6, and subsequent telephone conversations, concerning the understanding between the Forest Service and the Indians of Taos Pueblo about use of the area under special-use permit issued in 1940 to Pueblo de Taos.

The Forest Service is willing to continue following the policy of authorizing non-Indians to go into the permit area only on the basis of the permits issued by the Forest Service and countersigned by the Governor of the Taos Pueblo or his representative authorized to sign for him.

It is our full intention to handle this matter in a spirit of cooperation. We acknowledge that the Governor of the Taos Pueblo has also repeatedly given assurance of intention to be cooperative and practicable in dealings with the Forest Service. We believe that in this spirit an understanding kind of relationship can be maintained.

As a matter of furthering this understanding, we would hope that over a period of perhaps the next few years there might be reduced to writing some guidelines understood by both the Taos Pueblo and the Forest Service about the conditions for agreeing to let non-Indians go into the area under permits. The records show that only a limited number of permits have been issued and we do not have any questions about numbers of permits. We think it would be helpful to us, however, to have, if possible, a written understanding particularly about the times and circumstances when the Taos Publeo would prefer that we not request the Governor, or someone acting for him, to countersign permits.

In the belief that this spirit of cooperation between both groups is real and will continue, we are willing to continue following the policy outlined above.

Sincerely yours,

EDWARD P. CLIFF, *Chief.*

JANUARY 15, 1963.

Hon. MANUEL LUJAN,
Governor of Taos Pueblo,
Taos, N. Mex.

DEAR GOVERNOR LUJAN: This replies to past Governor Trujillo's letter of December 20, 1962, which also transmitted copy of his letter to Forest Supervisor Proctor on the subject of fishing at Blue Lake.

A decision was reached several months ago to prohibit fishing at Blue Lake. I have discussed the matter with Supervisor Proctor and he advises me that he is taking the necessary formal action to close Blue Lake to all public use.

I trust that this action will contribute to our continued close working relationship in finding solutions to our mutual problems.

Sincerely yours,

FRED H. KENNEDY, *Regional Forester.*

SPECIAL USE PERMITS—TAOS INDIAN PUEBLO

(Permit as Proposed by Taos Indian Council for 1963)

Mr. _____ and a party of _____ with _____ horses is hereby authorized to enter the Special Use Area situated in the Carson National Forest within the following dates: _____.

Camping is limited to one day within 1 mile of Blue Lake (not to exceed one twenty-four hour period within 1 mile of Blue Lake).

This permit is issued in accordance with an agreement between the Pueblo of Taos and the Secretary of Agriculture and is subject to the following rules:

1. Camping within 300 yards of Blue Lake is prohibited; camping may be at designated areas only.
2. Fishing in Blue Lake is forbidden to everyone including the Taos Pueblo Indians.
3. Bathing and washing of laundry is strictly forbidden in Blue Lake.
4. Horses shall not be ridden by anyone within 300 yards of Blue Lake and shall be grazed only at designated places selected by the Forest Service.
5. Permittee shall put all cans and refuse in pits provided for them.
6. Permittee shall extinguish all campfires, using both water and dirt, and shall take every precaution to PREVENT FOREST FIRES.
7. Leave a clean camp and a clean record. You may want to come back.
8. Permittee shall furnish this permit for examination upon request by Forest Service Officials and Taos Indian Patrolmen. (Permittee may ask such men for proper identification).
9. Applications must be submitted one week ahead of time. No applications will be taken by telephone or telegraph. Applicants usually must come in person to the Ranger's Office to sign application.

Best wishes are extended to you to have an enjoyable trip into the Carson National Forest.

I have read this Entry Permit and agree to observe the rules set forth above.

Senator ANDERSON. The Indians ought to name the man who received a permit over a veto. You can't find him.

Senator METCALF. Name the man who received a permit over the veto of the tribe. Name one.

STATEMENT OF WILLIAM C. SCHAAB—Resumed

Mr. SCHAAB. I can't do that, Mr. Chairman, but I have pointed out the fact that the Forest Service has asked the Pueblo to qualify what the Pueblo conceives to be its right to veto access by stating its reasons and also why the Indians did not wish to qualify their right in that manner.

Senator METCALF. Will you excuse me just a minute while I step out? The hearing will go on, but I will be right back.

Mr. SCHAAB. Yes. I think this about concludes my statement. The final portion of it was directed to the precedent issue and in summary I think there is no precedent created by H.R. 3306 because no other Indian tribe in the United States has the 1928 act and the 1933 act in its history in which Congress has recognized its interest in a piece of sacred land.

Senator ANDERSON (presiding). When you say no other, no one has the same right or problem, the fact is that we have asked again and again for one example of where you say the Forest Service was trying to override the Indians and issue permits against their will.

Mr. Greeley made the charge. What did you do? You said—this is your own language—"with respect to the Forest Service's claim that only it can protect the resources of the watershed, the Pueblo concurs with Representative Saylor's statements * * *"—not with experience, not with practice, but with Representative Saylor's statement.

Why don't you sometimes show the fact of what Indians have done. The Forest Service says it has not issued these permits. You say it has. What is the ordinary proof to show what is being done? You would show the permit. It isn't there.

Mr. SCHAAB. There are in the memorandum and also in the letters involved in the exhibits here——

Senator ANDERSON. Will the letter show the Forest Service has issued a permit against the rights of the Indians?

Mr. SCHAAB. Before 1962 this was their position: That if the Indians did not concur, they could issue the permit without the Indians' concurrence and they did so. In 1962, as I understand it, the Department of Agriculture concurred with the interpretation of the permit at that time put forth by the Department of Interior that Indian concurrence and issuance permits was required.

Since that date—in April I think it was 1962—the local forest supervisor may not have issued any permits without Pueblo concurrence but there has been pressure on the Pueblo from the Forest Service to induce the Pueblo to concur in the issuance of permits.

Senator ANDERSON. Now, you say there has been pressure. Tell us what the pressure was.

Mr. SCHAAB. The pressure was a letter asking the Pueblo to concur in the issuance of permits and to state its reasons for refusing to concur.

Senator ANDERSON. And who is harmed by that?

Mr. SCHAAB. The Indians construed this as a requirement that they disclose their religious practices and they didn't feel they should be required to do that.

Senator ANDERSON. What Indian thought that?

Mr. SCHAAB. We only have three Indians in the room, but I am sure they would each state that.

Senator ANDERSON. Let's have the Governor say it. Do you want to testify to that, Governor?

What pressure was put on?

Mr. SCHAAB. The question was whether you conceive the Forest Service request that you specify your reasons for refusing to concur in the issuance of a permit as pressure from the Forest Service that you didn't like.

Is that a fair statement of the question?

Senator ANDERSON. Yes, that is a fair statement.

Maybe it would be helpful to have Paul interpret for the Governor.

STATEMENT OF QUERINO ROMERO, GOVERNOR, TAOS PUEBLO, THROUGH INTERPRETER PAUL J. BERNAL, SECRETARY, PUEBLO COUNCIL

Mr. BERNAL. In regard to the question that has been raised about issuing a permit by the Indians, the Governor has stated that these applications are made to the Forest Service in the town of Taos, and these applications are processed and the Forest Service has to take these applications for permit to the Indian tribal authority. Then the Indian tribal authority examines this, and also he would have to look and to study if there was an Indian activity going on in such area as Blue Lake, or through the Pueblo watershed at Canyon.

The Governor or the designated authority is designated to concur in this.

At times when the application is consulted, we and the Forest Service there have always had an understanding that the Forest Service and the Indian delegation should talk about this and make any clarification. At such time, when the permit comes to the attention of the tribal authority, the tribal authority examines this and looks for the period of time. If there is no activity going on in the area, he would concur, but he has done nothing insofar as rejecting—use your word "rejecting"—by the Indians.

They would have a reason to reject this under this condition, that which I have interpreted.

The tribe uses the area in the Pueblo watershed. We are using it for religious purposes only. We allow with permission non-Indians to go in there to observe and ride through.

We also have an understanding with the Forest Service, when the permits are issued to the non-Indians to go into the lake area, they must be properly guided. They must have a guide, either from the Indians or from the Forest Service, to see that these people are taken care of insofar as information of the area, if there happen to be questions, because in the Blue Lake and the Pueblo watershed, both parties have an understanding that this understanding should be carried out, because this is the religious area, and this is the place where we worship for our particular tradition of Indian religions.

We have a right to protect our religion, and this understanding is always clarified in the Forest Service. Without the protection, without an understanding of this, Indians cannot go in there and practice their religion.

Senator ANDERSON. You don't answer the question at all. It doesn't answer the question at all.

We have tried to get evidence of pressures and things of that nature where they stopped it. Here you are admitting that the Forest Service does do that thing.

Do you know of any time when the Forest Service has not done it, when they have not observed your religious restrictions?

Mr. BERNAL. Senator, I could answer that question briefly here, that, as you would know—you and I had a discussion of this particular question many times—and I hope that I will be able to answer that question, because you want me to answer it for you.

Insofar as our understanding of the cooperation with the Forest Service, we try to make an attempt to have our clearance understanding with the Forest Service people.

Insofar as the issuance of the permits, this rests with the Forest Service and the Pueblo authority at Taos Pueblo.

And also there is an understanding in such time when there is something going on in this area, we are making it known to the Forest Service, they should understand we could not allow any one to go in there.

And they have been informed of this, but insofar as the issuance of the permit in this area, we have volunteered, the Indians volunteered, to guide these people if they want to go into the Pueblo watershed through the Pueblo canyon.

We have no control of anybody coming from the other side to the west of Colfax County. We have no control of anybody coming from the Wheeler Peak to the Blue Lake Area, so therefore, we do not know

the activities going on, nor does the Forest Service know anything about that.

That is something, Senator, I could not answer.

Senator ANDERSON. If somebody sneaks in from the back side, you can't control it.

We are talking about the people who are granted permits. That is what your testimony was a while ago, permits.

Name one permittee, will you please, provided it was against the Indians, who was not permitted to come in by the Indians, and was allowed in by the Forest Service. Give us an example of it.

Mr. BERNAL. It seems to me that you are wanting me to name one individual whose permission has been rejected by the tribal authority.

With this understanding, like I indicated, I don't think that there is somebody whose permission has been rejected, because there is a certain understanding that specifies and defines, and this is the procedure that has been followed.

Although there might be some pressure, when we say to the Forest Service why such permission cannot be granted, if such a thing should come up, the understanding is here again that the Forest Service and the Indian people have an opportunity to talk about these matters.

Senator ANDERSON. I just hope to examine the record when he gets through and see if the answer has been given in any way, shape, or form.

Senator METCALF. Go right ahead.

STATEMENT OF WILLIAM C. SCHAAB—Resumed

Mr. SCHAAB. I would like to only add one thing to my statement, and then I will either retire or answer any questions.

With respect to payment of money as compensation for the taking of the land involved here, the Indians have not wanted to recover any money for it, and a payment of money is really not full compensation to them, as the way the Indian Claims Act was set up, to make monetary payment for land taken, because there was more taken here than simply a matter of loss of wealth.

In the ordinary condemnation situation, land is taken, but land has value only because it is a form of wealth, and the payment of money is an adequate remedy, because it restores at least an approximate amount of wealth to the condemnee.

Where the taking of the land also results in a loss of religious or cultural values, this is more than a loss of mere wealth. Therefore, we believe we have equity in asking for a return of the land itself, to prevent the destruction of the religion and the culture of these Indians.

I believe that is all that I have.

Senator METCALF. I will call on the Senator from New Mexico in just a moment.

Again, I want to repeat that the argument that you have made about monetary compensation being inadequate is an argument that is made every day before some committee or before some court, as you know.

Now, if we go into this business of giving away or transferring the public land for taking of highways, dam sites, reclamation areas, park areas, and so forth, we are going to destroy our whole public land system. As I mentioned the other day, any time that we have

deviated from this principle of making monetary compensation, and trying to give land, whether it is on a park appropriation or a highway appropriation or a Bureau of Reclamation or a Corps of Engineer dam, we have gotten ourselves into serious trouble.

Senator Muskie has put through a bill that is trying to give some equity and a recognition of these other spiritual values that we haven't given recognition to in law, but you are talking to a very unobjective Senator, here, because over the years it has been my experience that the best way to get rid of the public land and give away these resources that belong to all the people is this kind of a land exchange, and you will have to have a great deal of justification and present a case for a very unique situation before I would concur in that.

Mr. SCHAAB. Mr. Chairman, we certainly don't consider this a land grab on behalf of the Indians. We think Congress already recognized their interest in the area, back in 1933. We are simply asking for an extension of that act.

Senator METCALF. The Senator from New Mexico.

Senator ANDERSON. I simply say, in his statement, he quotes Representative Haley, who says:

"The admission of non-Indians for recreational use, however, has been a constant source of conflict between the Indians and the Forest Service."

Can you cite some examples of that?

Mr. SCHAAB. I don't know what you mean by example.

Senator ANDERSON. I thought I said it in words we all understand, but you have said in your testimony, quoting Mr. Haley, there has been a constant source of conflict between the Indians and the Forest Service.

Can you cite an example of it? Tell me how it is done.

I can't find the people who say so. I can't even find the Indians who say so.

Mr. SCHAAB. I assume, by your asking for an example, you would like something in the nature of proof of the statement.

Senator ANDERSON. That would be fine.

Mr. SCHAAB. And the kind of proof that occurs to me is the fact that the Indians for over 60 years have been seeking the ownership and control of this watershed for the purpose of protecting their secret religion.

This is not merely the present group in Taos Pueblo who have thought of this idea. It has gone on for at least two generations, and probably three.

Senator ANDERSON. I want to read this statement carefully, and it says:

"As Representative Haley stated on the House floor:

"The admission of non-Indians for recreational use, however, has been a constant source of conflict between the Indians and the Forest Service."

Mr. SCHAAB. That is right.

Senator ANDERSON. If there is a conflict, you must have two sides to the conflict, don't you?

Who of the Indians has been harmed by them? What do they testify about constant source of conflict?

Mr. SCHAAB. The Indians who have sought to perfect their exclusive control of the land for 60 years.

This is the way they feel about it, intrusion of the recreationists and outsiders into the land—it is a source of irritation to them.

Senator ANDERSON. Who are these recreationists that you speak of? Who are they?

Mr. SCHAAB. Campers, fishermen, hunters, people who wish to go into the area for recreational purposes.

I can't give you a list of their names, obviously.

Senator ANDERSON. Have you an example that will show where somebody has been there camping improperly?

Mr. SCHAAB. The fact that they go in at all, I think, is a disagreeable fact to the Indians.

Senator ANDERSON. What person went in there?

You say went in at all. Who went into Taos?

Mr. SCHAAB. Whoever they were.

Senator ANDERSON. Who were they?

Mr. SCHAAB. I don't know what their names are, obviously.

The Forest Service has taken a position that the land should be open to the public at large for recreation purposes.

Senator ANDERSON. I came to the national forest. I didn't say who it was. I didn't say "Mr. X."

Now, who are these people that you say are a constant source of conflict? Do you have a person you can identify?

Mr. SCHAAB. No; I can't identify a physical body in being with a name, no, I can't, but quite obviously there is no controversy about the fact that recreationists have been permitted to enter the area, and the Indians find this objectionable.

Senator METCALF. Will the Senator yield?

Senator ANDERSON. Yes.

Senator METCALF. It seems to me as if you are having a conflict here, because you state in your statement in the record:

*** * * the Forest Service has repeatedly diminished the use of the area by sportsmen: the lakes are no longer stocked with fish, the area is not prime country for hunting, and use by campers has been deliberately discouraged.**

Now, isn't that an effort on the part of the Forest Service to discourage the visitors?

Mr. SCHAAB. Yes.

Senator METCALF. Well, do you approve of that, or do you disapprove of it?

Mr. SCHAAB. We certainly approve.

We think that it undercuts the force of their statement that there are important public uses served by this area, because those uses have in fact been diminishing over the years. That is a step in the right direction.

Senator METCALF. Do you want them to stock the lakes with fish? Do you want to have this a prime country for hunting, or don't you?

Mr. SCHAAB. We do not.

Senator METCALF. Then how can you criticize the Forest Service, when you admit in your own statement that this is what the Forest Service has been doing?

Mr. SCHAAB. This has been a development within the last few years.

Senator METCALF. This is what they are doing now.

Mr. SCHAAB. This is what they are doing now, yes.

Senator METCALF. Haven't they made repeated efforts to accommodate the desires of the Indians in the administration of the land, as we pointed out in these use permits?

Mr. SCHAAB. Off and on, depending on who was involved.

Senator METCALF. Let's say in the last few years, then.

Mr. SCHAAB. In the last few years, I think that they have made an effort.

I think Mr. Greeley's testimony yesterday indicates a very sincere statement on his part, that if he understood the Indians' use of the land properly, that he might indeed approve of something larger than 3,150 acres for their religious uses.

Senator METCALF. I can't see how you criticize the fact that the Forest Service has diminished the use of the land, and at the same time complain about the fact that hunters are coming in, because the Forest Service is cooperating with you in taking every opportunity to enforce the provisions of the 1933 law.

Mr. SCHAAB. The thing that the Indians object to, Mr Chairman, is the fact that the land is treated, this watershed, as ordinary national forest land.

Senator ANDERSON. Wait a minute.

Are you willing to testify to that?

Senator METCALF. No; you don't want that statement to go into the record.

Mr. SCHAAB. I think that they do object to its being treated as ordinary national forest land, open to recreationists, open to stumpage contracts.

They want the land treated as theirs, and as the religious sanctuary that it is, in their lives.

Senator ANDERSON. Is there any stumpage contract now being considered?

Mr. SCHAAB. There is no stumpage contract now being considered, according to Mr. Greeley's testimony yesterday, but a couple of years ago a stumpage contract was being considered on the east side of the watershed.

The fact that stumpage contracts could be considered in the future is a source of concern to the Indians.

Senator METCALF. That is a part of the 1933 law. If these resources are not necessary for Indian uses, then the 1933 law provides that they should be used by others.

Senator ANDERSON. Does he object to that?

Senator METCALF. Yes.

Mr. SCHAAB. My view is that there is an area for disagreement about the meaning of the 1933 act.

Senator METCALF. Well, what does "by others" mean? Congress must have meant something by writing "by others" in that law.

As you know and I know, from an ordinary statutory interpretation, we don't throw those phrases out, and we give meaning to them, if we possibly can.

Mr. SCHAAB. Mr. Chairman, the Forest Service has certainly interpreted the act as you are interpreting it, and it is that interpretation that the Pueblo finds unacceptable, because it results in treating the lands as——

Senator METCALF. It was acceptable in 1933, but it is not acceptable today, so you are coming in and asking us for a new act?

Mr. SCHAAB. I think that the Indians' view of the act of 1933 was as John Collier's affidavit indicated, that it was intended to give exclusive use to the Indians, and you can, I believe, derive that interpretation from the statutory language, by holding that the Indian uses are to be paramount. The national forest uses are to be only to the extent that they are not inconsistent with the Indian uses.

If the Forest Service had taken that intent of the law, I don't think we would have seen the conflict.

Senator METCALF. There hasn't been any testimony here that I have heard, and I haven't heard it all, and I will certainly study the record, that is inconsistent with the statement that the Indian uses are to be paramount, but if those resources are not needed for Indian uses, they will be used by others. That isn't an exclusive right on the Indians. It just gives them, as you say, a paramount use.

Mr. SCHAAB. If it did give them a paramount use, I think there would be no possibility of stumpage, of commercial timber operations, anywhere in the watershed, because this interferes with their religion.

Senator METCALF. It is inconceivable to me that you can say, "Well, the religious life of the Indians is dependent upon not selling merchantable timber to the other outside people."

Mr. SCHAAB. That is correct.

Senator METCALF. Well, if the Indians sell to outsiders, then there must be——

Mr. SCHAAB. The Indians do not sell it to outsiders.

Senator METCALF. Isn't there testimony that they have logged some of this area?

Mr. SCHAAB. They have not logged any of it.

In fact, in their practice, that is a desecration. It is like a sin to cut a living tree. A living tree cannot be cut.

Senator METCALF. I wish these Indians lived in the Redwood area.

Mr. SCHAAB. The Indians there may have a different religion. All I can talk about is the way the Taos people feel about it within this watershed, and all life within this watershed is sacred, and cannot be taken, and when you cut a living tree, you are sinning. They can't do it without ceremony and sanctions. This is their view.

Senator METCALF. I know you are going to be around here, Mr. Schaab, and you have been very helpful, and I want to say as far as the chairman is concerned, I am groping and floundering, and trying to get to the bottom of this.

I know some analogies that perhaps aren't applicable, but thank you very much for your testimony, and we will certainly read your longer prepared statement, and we appreciate having you here.

Mr. SCHAAB. Thank you very much, Mr. Chairman.

Senator METCALF. Out of order, because this hearing has gone on longer than we anticipated, I am going to call Mr. Jon W. Little, president of the New Mexico Wildlife and Conservation Association, Inc. Is Mr. Little here?

STATEMENT OF JON W. LITTLE, PRESIDENT, NEW MEXICO WILDLIFE AND CONSERVATION ASSOCIATION, INC.

Mr. LITTLE. Yes, sir.

Senator METCALF. Staff tells me that Mr. Little does have to get out of town, and so we want to give him an opportunity to testify.

This is a rather lengthy statement. I hope it can be put in the record, and you can summarize it.

Mr. LITTLE. I will do the best I can.

Senator METCALF. We will print the full statement at the end of your remarks.

From now on, many of the statements are bound to be repetitious, and we will put all the statements in the record, but I hope that the witnesses will keep in mind the testimony that has already been given, and not to make it any more repetitious than necessary.

Thank you very much.

Mr. Little, the floor is yours.

Mr. LITTLE Thank you, Mr. Chairman.

I do have some information that has not been heard by the committee, and much of my statement is repetitious, and I think you brought out some of the points I was going to bring out about the Forest Service and their role with the Indians.

I am Jon W. Little, president of the New Mexico Wildlife and Conservation Association, which has its headquarters in Santa Fe, N. Mex.

Ours is a private organization, organized in 1914 to protect and to perpetuate our wildlife and natural resources through educational means. We are the New Mexico affiliate of the National Wildlife Federation.

At the outset, Mr. Chairman, may I say that my association is opposed to the principle expressed in H.R. 3306. May I say further that the members of our association have no monetary interests at stake, other than those which derive to all citizens through sound conservation practices on public lands.

Nor is it expected that failure to enact this bill will result in any early or appreciable increase in the recreational use of the Blue Lake Area by non-Indians.

Our interests are for the wisest and best possible management of the lands in question for the maximum public benefit, including the citizens of Taos Pueblo.

We wish to make it clear that our opposition to the bill in no way should be construed to demean the Indians' native religion, nor to imply that we are opposed to the Indians' continued freedom to practice their religion in privacy.

I would like to partially repeat some of the testimony in one instance, with regard to access.

Contrary to allegations, the Forest Service has sought to discourage travel to the Blue Lake Area by non-Indians. Permits must be requested at least 1 week in advance. It is only the most insistent persons who are granted a permit.

The Forest Service has built a trail to divert the public via a longer route away from Blue Lake. No overnight camping by non-Indians is permitted. No non-Indians may stay in the area more than 24 hours.

The lake is no longer stocked with fish. Brook trout survive in the lake, but the Forest Service closed it to fishing at the request of the Pueblo—perhaps illegally.

The Forest Service has made it known that August is the month of the Pueblo ceremonials at Blue Lake. The effect has been that practically no requests to enter the area are received in August. The area is positively closed the last 10 days in August.

Since 1959, the average number of persons permitted to visit Blue Lake has been 37 yearly.

The statement I am referring to is expressed in the report that comes to the committee from the House.

The statement is in there that the Pueblo Indians desire to limit access by non-Indians, and the Forest Service will not prohibit access.

Mr. Chairman, with only 37 permittees per year on the average since 1959, it is safe to say that access is limited.

I would like to skip, now.

Senator METCALF. I would say that perhaps even during the days of the Mountain Men, in the early pioneer days, as many people as that intruded upon this area.

Mr. LITTLE. I would say probably a little more than that, in the trapping days, the non-Indians came out there.

Senator METCALF. Before the Forest Service took over.

Mr. LITTLE. This was prior to the 1830's, 1840's.

Senator METCALF. Surely.

Mr. LITTLE. Let me start with something I think the committee hasn't heard here.

The proponents of H.R. 3306 have made much about the religious importance of Blue Lake to the Indians of Taos Pueblo. They have misled the Indian Claims Commission on this point, and their erroneous statements have persisted to this time.

In his testimony before the House committee, Secretary Udall quoted from the report of the Indian Claims Commission as follows:

> In August of every year, the entire adult population of the Pueblo goes to Blue Lake for ancient religious ceremonies which have continued uninterrupted for centuries.
>
> This area is used every day by at least a few Taos Pueblo Indians for private religious reflection.

These statements are simply not true. During the first week of September of this year, in the company of two Forest employees and two others, I visited Blue Lake. We were there with the concurrence of the Pueblo.

It was our intention to be the first non-Indians on the scene after the August ceremonials.

Few alpine lakes can compare to Blue Lake in placid natural beauty. It is perfectly round. The alpine spruce forest extends to and shades its banks. Its waters are unbelievably clear and unusually deep, giving the lake a unique rich blue color.

The Indians had left the area in a mess. Only a few new deposits could be found in the trash pit provided by the Forest Service. Papers, bottles, and cans were left where they had dropped.

Green trees had been felled. Only six or seven campfires were counted, but the remains were unburied, and the logs were left to smoulder.

It was saddening and distressing to me to see such a magnificent place being desecrated and abused by the very people who were ostensibly trying to protect it, their church, from such violation. I couldn't help but think and feel that their abuse of the area was no way to treat a church.

Be that as it may, it was suddenly surprising to us the mess did not cover a larger area. I had had the impression that most if not all of the tribe participated in the ceremonials.

It was the opinion of the forest ranger that not more than 40 to 60 Indians had come to Blue Lake. In my opinion, the signs indicated that the ranger was right.

Our stay at Blue Lake did not exceed 1 hour. We departed leaving nothing but our tracks, and proceeded directly to Bear Lake, which is open to fishing and overnight camping.

At Bear Lake, all the trash was in the pit. The campfires were buried, and no green timber had been cut.

My visit to Blue Lake and subsequent inquiries revealed that the Indians are not using the lake to the degree claimed. No Indians visited the lake on the day of our visit. We would have seen them.

It is impossible to visit Blue Lake during winter, because of deep snow aind blizzard conditions. The elevation is near 11,000 feet.

Forest Service employees from the Pueblo reported for duty during every day of the ceremonials, even though time off was permitted to them.

Visitors to the Pueblo notice no apparent change in numbers or activity during the ceremonials. A game department pilot who has flown the area frequently reports that he has never seen any smoke or other signs of activity at Blue Lake.

There are those who welcome this apparent decline in the old order. More liberal members of the tribe view the old religion as a hindrance to economic growth and the well-being of their people. According to some, the tribal council has impeded progress and the personal freedom and civil rights of those within the tribe who would disagree.

Congressman Anthony Fernandez of New Mexico revealed such in his statement on the floor of the House. I am paraphrasing, here.

According to Congressman Fernandez, the individual members of the Taos Pueblo have no protection under our Bill of Rights. They are subject to the arbitrary dictates of the council. They have been denied the right to install modern utilties in their homes.

Their right to vote has been denied, under threat of arrest. They have no right to self-government, since the council picks its own new members. And, "They have no freedom of worship in the religion of their choice."

At this point, Mr. Chairman, I think it would be wise to consider who the proponents of this bill are.

There are a number of sincere individuals who are sympathetic to the cause of the Indians, and who support this bill in the belief that it is in the Indians' best interests.

Many of these people recall injustices done the American Indian in the past. They are unaware of all the facts in the case. They believe what they have been told about the Indians' religious freedoms being impaired.

They are moved by emotion and sympathy for the red man. However, it should be remembered that the Taos Indians have no broken treaties

with the United States. The lands were not taken by miners and settlers, as occurred in the Black Hills and the Cimarron Strip. They were taken during the Spanish-American rule, and free use of other land has been granted.

As for the attorneys representing the Indians in this claim, no elaboration on their motives are necessary.

That leaves the Indians themselves.

Mr. Chairman, I think it is pertinent that the committee recognize the individuals from Taos Pueblo who are pursuing this claim, and who have committed tribal funds belonging to all the Taos Indians. It is principally, if not solely, the members of the council who are the protagonists.

Mr. Chairman, the ceremonials at Blue Lake, while not documented, are not so secret that it is impossible to determine that it is the members of the council who are the principal beneficiaries, if that is the proper word, of the rituals conducted at Blue Lake. They are the principal participants.

It is not denied that grazing of Indian livestock will be increased, if H.R. 3306 is passed. More lands will accrue to the tribe. The restraining influence of the Forest Service against increasing livestock numbers beyond capacity will be seriously weakened, if not removed entirely.

And it would be removed entirely, under Secretary Udall's suggestion that the lands be placed under the Department of the Interior.

All of the Pueblo's livestock are owned by 10 to 15 individuals. The livestock owners must belong to the Tribal Grazing Association in order to graze their livestock on the special permit area. It is the council that determines who may belong to the association.

And, strangely enough, Mr. Chairman, it is the members of the council who own practically all, if not all, of the livestock. Practically all, if not all, of the livestock owners are council members. I'm told that Severino Martinez, the former Governor, and one of the leading principals in this cause, owns the lion's share of all the livestock in the Pueblo.

Since most of the Pueblo does not participate in the ceremonies at Blue Lake, and only 10 to 15 individuals own any livestock, I would venture to say that if the people could be polled, without fear of harassment by the council, the majority would choose the money that is coming to them for loss of their lands in the city of Taos, and for the 130,000 acres of alienated Indian lands.

The majority, in all probability, would endorse the management of the Blue Lake area by the Forest Service.

Senator ANDERSON. May I ask a question?

Senator METCALF. Surely.

You don't mind being interrupted?

Mr. LITTLE. Certainly not.

Senator ANDERSON. In the preceding paragraph you say: "All the Pueblo's livestock are owned by 10 to 15 individuals."

Does the tribe have any livestock?

Mr. LITTLE. I am unaware of that. This is just what I was told, that 10 or 15 individuals, and some people use the figure 10, own all the livestock that is owned in the Pueblo.

Senator ANDERSON. I have had the same story told me about the number of people who own this livestock.

The members of the council are not elected, are they, in the ordinary sense?

Mr. LITTLE. I have conflicting information on that.

I have read one source that said they had a very fine democracy there. However, Congressman Fernandez, in his testimony on the floor of the House, was quoting some Pueblo Indians, who had come to him with this information, that they didn't have a very good democracy there, and it was a fact that the council really, in effect, decided who the new council members were going to be.

Senator ANDERSON. Senator Ervin of North Carolina had a bill a while ago about the Indian council. He had some trouble defining it properly.

But is it true that the Indian council is a self-perpetuating group, and when one passes away, they put another man in?

Mr. LITTLE. This is the allegation that is contained in Congressman Fernandez' statement.

As I say, he received it from members, and apparently these members of the tribe who he received it from were returning veterans, mostly.

I would say these statements are pretty rough, and I don't mean to have implied that we are trying to demean the religious beliefs of the council, or anyone who wants to hold these beliefs.

If just one person wants to go to Blue Lake in the future and hold these old beliefs, we think he should have his religion fully protected, and his privacy respected.

On the part of the precedent, I deal with that somewhat here.

I think you gentlemen did very well indeed with that yesterday.

Senator ANDERSON. You mentioned here Hugh B. Woodward, who died in the last——

Mr. LITTLE. Why don't I read that? Mr. Woodward was a very fine gentleman.

> There has been much effort on the part of Government officials to deny that passage of H.R. 3306 will create a precedent. With the passage of time, these Government officials will have departed, and their denials in the face of new claims will lose their force.
>
> The act of granting title on religious grounds will stand alone, and will be looked upon as a new precedent for future claims, and as a precedent for granting land instead of money.
>
> Mr. Hugh B. Woodward, a highly successful businessman and lawyer who practiced law in New Mexico for over 50 years, advised the Chief of the U.S. Forest Service that if the Blue Lake bill passes:
>
> Your Department and the Department of the Interior are going to be confronting the matter of these largely fallacious claims for additional land or money in lieu thereof as long as some shrewd attorney can get a contract on a contingent basis which will bring him very large fees if he is successful.

There is one other statement in here I will paraphrase.

It comes with the report, this report from the House Interior and Insular Affairs Committee. It says that the Pueblo needs the land more than the public.

In my statement, I say that this statement is refuted by the water needs of the downstream users, alone. Just the water needs refute that statement. This water is vital, not only to these downstream users, but it is vital to the pueblo itself.

And I think we need to recognize that this water is vital not just for the irrigation uses of the pueblo, but the economy of New Mexico, and in particular the Taos area depends on this water. We can't, as you know, have new industry and have growth, without water.

More and more of these Indians are having to seek employment outside the pueblo, and this employment is going to have to be provided by economic growth. The water is going to be the limiting factor on that growth, so we say that this watershed, the need to have it protected, is important to the public, and the public includes the Taos Indians.

We think the Forest Service is the best agency, the best qualified agency, to administer that watershed. They have more experience at this. Their record is better.

We have lands in New Mexico that are a sad sight to see, and these lands are the lands that are trust lands, under the Department of the Interior. This land has been terribly abused.

Senator METCALF. With all due deference to the Department of the Interior——

Mr. LITTLE. They have had difficulties, sir, and we recognize that.

Senator METCALF. And it is probably our fault, because we have failed to give the appropriations for these very fragile Bureau of Land Management lands, and the other lands that the Department of the Interior administers, and over the years, the Forest Service has, by a superb performance, persuaded the Appropriations Committee to do a little better job in getting some help.

So I know that the Department of the Interior is trying very hard to take care of erosion and control of these lands. I can be critical of them, but I see no reason, unless some justification is developed in this hearing, to take land away from the Forest Service, which has done an admirable job of administering it, and carrying out the provisions of the act, and turn it over to the Department of the Interior, where we who are interested in the Interior Department in the West have great difficulties in getting appropriations for their actual needs.

Mr. LITTLE. May I say something about this timber business?

There was a trespass on the Carson Forest 2 years ago. It was alluded to yesterday, and they took pictures of the area. This trespass, this report, will lead you to believe that it was the Indians that pointed this out to the Forest Service, "Look, here, they trespassed on our land."

This trespass was on land outside of the permit area. It was in the forest, but outside the permit area. The Forest Service people were the people that first noticed it. They noticed it in a matter of days. One of the operators had felled a few trees. They charged him for the trees, and let him have them at a penalty rate, I understand, rather than waste them.

Snow came, and he was unable to get in there and clean up his mess during the winter. He was in there the next spring, and that was the spring of 1967, a year ago, and the matter was taken care of.

With regard to the pressure that has been alluded to here, as far as this timber-cutting business, I think what the Forest Service has done, as best as I can determine, is to try to make it clear to the tribe that this timber is available to them, as specified in the 1933 act, and when and if they want to allow the cutting of it, they try to encourage

the tribe to be the ones who benefit financially by it, and perhaps some employment could be provided to the Indians, and the tribe would be the ones to profit.

Incidentally, Mr. Chairman, the Forest Service turned down an offer of 19,000 acres of real prime multiple-use land just east of the forest boundary in exchange for the timber rights within the forest, and I don't know if this came over to the permit area or not, but, anyway, because it was within the 50,000-acre claim, the Forest Service turned this down. This was to the detriment, as far as my organization would be concerned, of the public.

I must point out, Mr. Chairman, it has been said earlier that the Forest Service is pushing this multiple-use business. Well, if my organization weren't cognizant of the religious needs of the Indians in this area, we would be very much critical of the Forest Service for neglecting and doing just the opposite of the multiple use. They didn't take this trade. They discourage recreation. They haven't built any access area or roads. The area is closed. They haven't any timber cutting there. The grazing is only available to a special-interest group, at no cost, on forest land. These policies are definitely opposed to the multiple-use concept.

There are many miles of fishing streams in there that, if we were selfishly pursuing our interest, we would be insisting that the Forest Service go in there and make these things available to the fishermen, to the hunters, and that the trash-catcher dam and stream accouterments and so forth be put in. This we haven't done.

The Forest Service is doing it elsewhere, and the game department is doing it elsewhere, but the recreationists, and I represent the largest and oldest group of recreationists in New Mexico, don't feel this should be done in this area.

At the same time, we think that the conservation needs of the area are so vital that no chance should be taken with them. They should be left in the care of the Forest Service, the best agency to do it, and everything we can do—we have acquiesced in every little petty demand or dispute that the Indians have brought to us. We have given in, and the history is full of it, when there are disputes. The Forest Service has acquiesced, short of giving them title.

I think the public interest is not in giving them everything, but we should continue to do everything, as we have done for 60 years. We have bent and yielded and done everything, and I think that is correct, as far as their religious needs are concerned.

I hope the Forest Service is left with the administration, even to the denial of the recreational use of the area, but that their religious freedom be protected, and their privacy protected.

Senator METCALF. Senator Anderson.

Senator ANDERSON. Nothing.

I appreciate his testimony. It is a very fine organization that, to my knowledge, at least, has done a good job.

Senator METCALF. Thank you, Senator Anderson.

Mr. Little, I also appreciate your testimony.

I do want to suggest that as far as the lawyers that are here, and as far as the Indians that are here, and as far as the Secretary of the Interior is concerned, they have demonstrated the highest possible purposes, and integrity in carrying out a belief that they want.

Now, I have felt, as far as I am concerned, I have been helped very much by the testimony that has been presented, both ably and well, by counsel, and by the Secretary of the Interior, but I want to compliment you on just the last statement you made, that you would be very critical of the Forest Service for not stocking the streams, grazing the area, and taking care of the ordinary resource development that we have almost everywhere on the national forests in America, if it were not for the religious significance of this area.

Do you know of any actual invasion of the privacy of the religious rites by the members of your organization, or hunters or fishermen?

Mr. LITTLE. None. I have contacted all the oldtimers I could find around this area. I was able to find one intrusion that occurred in 1922, and this individual was a foreigner, a German by birth, very new in this country, and the Forest Service warned him.

This man was supervisor in those days, and he warned this individual, "Don't go in there. That's a private ceremony, and if you do, you are going to be in trouble"—1922 was still pretty wild days.

The individual says, "Well, I am going up there." He went up there, and was incarcerated by the Indians. They kept him in a tepee or hut all during the ceremonies. This forest ranger saw the individual a week or two later. He was rather badly bruised, and in broken English, he said, "They kicked me," and quite a story, but that is the only one I could find, and this fellow did go in there against advice. I think he got what he deserved.

One thing I would like to say is, the people that I have talked to around the area respect the Indians' privacy. They don't want to know what goes on up there. It has not been documented. We searched the records to see if we could find some old, old document that described the situation.

People don't ask the questions, and they don't want to know, and they respect the Indians in this matter.

Senator METCALF. I want to concur with your statement that if one person has a religious belief for worship at Blue Lake, then those special shrines should be preserved for that one person.

The other day we passed a gun-control bill, and we have taken ammunition and guns away from people. We haven't taken the bows and arrows away, so we will give the Indians an opportunity to enforce their own regulations.

Well, I am very pleased with your testimony. You have been helpful, Mr. Little. Your pictures are significant.

Thank you for appearing.

Mr. LITTLE. Thank you.

(The prepared statement referred to follows:)

STATEMENT OF JON W. LITTLE ON BEHALF OF THE NEW MEXICO WILDLIFE & CONSERVATION ASSOCIATION

I am Jon W. Little, President of the New Mexico Wildlife and Conservation Association which has its headquarters in Santa Fe, New Mexico. Ours is a private organization, organized in 1914 to protect and to perpetuate our wildlife and natural resources through educational means. We are the New Mexico Affiliate of the National Wildlife Federation.

At the outset, Mr. Chairman, may I say that my Association is opposed to the principle expressed in H.R. 3306. May I say further that the members of our Association have no monetary interests at stake other than those which derive to all citizens through sound conservation practices on public lands. Nor

is it expected that failure to enact this bill will result in any early or appreciable increase in the recreational use of the Blue Lake Area by non-Indians. Our interests are for the wisest and best possible management of the lands in question for the maximum public benefit including the citizens of Taos Pueblo.

We wish to make it clear that our opposition to the bill in no way should be construed to demean the Indians' native religion nor to imply that we are opposed to the Indians' continued freedom to practice their religion in privacy.

During the course of deliberations upon this claim to what has become known as the "Blue Lake Area," many misstatements of facts concerning the claim have been recorded. These misstatements have led to erroneous conclusions and impressions. These errors began with the statements prepared by the attorneys for the Taos Pueblo. These errors and the resulting false impressions and conclusions have been repeated and carried through to the present, beginning with testimony before the Indians Claims Commission, the Indians Claims Commissions' published report, the testimony before the House Committee on Interior and Insular Affairs by Interior Secretary Udall and others, and in the subsequent report of that committee to the whole House. I cannot hope to deal with all of these errors here. I will, however, try to point out some of the more important ones.

It has been often repeated that the lands in question were *taken* from the Indians by the Forest Service or by the Government in 1906. This infers that the Indians had title prior to 1906. The Taos Pueblo has never had a recognized title to the lands in question other than aboriginal title which wasn't verified until 1965. The lands accrued to the United States from Mexico via the Treaty of Guadalupe Hidalgo in 1848. Mexico had previously acquired the lands from Spain after a successful revolution in 1822.

In 1906 the land, because it was forested, was placed under the jurisdiction of a newly created agency which was given administrative authority over the Government's forested lands—the U.S. Forest Service. Even in the earliest days after 1906 the Indians were not denied access nor use of their religious shrines—the land was public.

As it has turned out, the Taos Pueblo has gained greater assurance that its access to its ancient shrines would be protected. Forest Service ownership has prevented further occupation of their aboriginal lands by private ownership. The Spanish and Mexican governments never recognized the Taos Pueblo's claim or rights to the 300,000 acres described in their aboriginal claim. This is borne out by the fact that the Spanish and Mexican governments granted more than half of it away—the largest grant being the Maxwell Land Grant in 1844.

Contrary to the policies of the two previous governments, the U.S. Government has prevented alienation of public ownership by withdrawing the area from entry by settlers or by mining interests. Loss of public title could have resulted in blocked access to the Indian shrines and loss of water rights.

Before continuing with the role of the Forest Service in the administration of the Blue Lake Area, we need to be reminded of the reasons stated for pressing the Taos Pueblo's request for title to the area. Two allegations appear in the report prepared by the House Committee on Interior and Insular Affairs, which I think accurately summarize the controversy.

"By the 1960's Forest Service pressure threatened the destruction of the Indian's religion."

"The controversy centers around the desire of the Pueblo to preserve the area in its natural state, and to limit access to, and use of, the area by non-Indians. The Forest Service, on the other hand, wants to administer the land for multiple-use purposes, including recreation by the general public."

The justification for granting the Pueblo's request depends almost entirely on the validity of these two statements.

Actions are said to speak louder than words. We can judge better the intent of the Forest Service (i.e., the U.S. Government) by its deeds rather than by what someone says the Forest Service wants to do. Let's review these actions and policies keeping in mind how much they conflict with the multiple use policies of the Forest Service on its other lands.

1. At the outset, the Department of Agriculture recognized the religious and economic importance the Pueblo placed on these lands.

2. The Indians have grazed most of the area and have taken timber at no cost to them since the earliest days of Forest administration.

3. The lands have been withdrawn from entry. No title has passed into private hands. On the contrary, private and state owned lands have been acquired by exchange and made available to the Taos Pueblo.

4. Only three years after the Forest Service was given responsibility for the area, the Indians were given assurances that their water and irrigation interests would be protected. This policy is in force today.

5. Exclusive grazing and timber rights and exclusive rights to Blue Lake during their ceremonial were formalized by written agreement in 1927. The Special Use Permit currently in force evolved from this agreement.

6. Contrary to allegations, the Forest Service has sought to discourage travel to the Blue Lake Area by non-Indians. Permits must be requested at least one week in advance. It is only the most insistent persons who are granted a permit. The Forest Service has built a trail to divert the public via a longer route away from Blue Lake. No overnight camping by non-Indians is permitted.

No non-Indian may stay in the area more than 24 hours. The Lake is no longer stocked with fish. Brook Trout survive in the Lake, but the Forest Service closed it to fishing at the request of the Pueblo—perhaps illegally. The Forest Service has made it known that August is the month of the Pueblo ceremonials at Blue Lake. The effect has been that practically no requests to enter the area are received in August. The area is positively closed the last ten days in August. Since 1959, the average number of persons permitted to visit Blue Lake has been 37. As expressed in the second statement, quoted above, the Pueblo's desire is to limit access by non-Indians. The words are not prohibit access. With only 37 permittees per year, it is safe to say that access *is* limited. Removal of the power of the U.S. Government to deny access would lessen the force behind the denial of access. More intrusions, not less, would result.

7. The Indians hunt and fish in the area without regard for state game laws.

8. No outside timber interests have been allowed in the Special Use Area. Timber operations in the La Junta Canyon area to which the Indians objected were stopped. This timber permit was granted by the state before acquisition by the Forest Service in 1950. The Forest Service turned down an offer of 19,000 acres of good multiple-use lands in exchange for timber rights because it might upset the Indians.

9. The Forest Service has not built any recreational roads, picnic areas, or developed campsites, nor have they proposed any. They have not advertised nor promoted the area to recreationists.

10. The Forest Service has tolerated a certain amount of overgrazing on the Special Permit lands. The situation has been relieved somewhat by the reseeding of 3,426 acres of Indian-owned land outside the Forest in cooperation with the Bureau of Indian Affairs. The Service has continually worked to keep out trespass stock.

It seems incongruous to me how these actions could possibly be construed as working against the interests of the Indians and the free practice of their religion. These actions are definitely not in harmony with multiple-use concepts.

Disputes cited in the Historical Summary of the previously-mentioned report seem minor in nature and can and have been resolved. The most serious of these seems to be over entry permits to Blue Lake, the average annual number of which since 1959 has been only six. The other disputes listed in recent years are: In 1965 the Indians objected to development of tourist facilities at Bear Lake. It should be pointed out that this development consisted only of improving the trail and making it safe. Some fallen timber was cleared and made available for firewood. A trash pit was dug. This hardly amounts to development of tourist facilities.

The Indians have complained about having to ear tag their livestock. This procedure is required on all forests. It is in the best interest of the Indians that this be done. First, it serves to prevent overgrazing. Second, trespass stock about which the Indians have complained are easily identified and removed. Finally, in 1966 the report tells how the Indians complained of logging activities on lands just east of their permit boundary. The Forest Service agreed that the logging company was improperly trespassing on Forest lands. With some difficulty, the Forest Service evicted the trespasser and undertook restoration efforts.

A review of the history of the Blue Lake Area reveals that when a dispute has arisen, it has been the Forest Service who has capitulated, very often readily and willingly so. None of these disputes are so irreconcilable that the extreme measure of granting title to the lands in question is warranted. The facts just don't substantiate the Indian's claim that their Indian religion is being threatened by the Forest Service. On the contrary, the facts positively indicate that the opposite is true. The Forest Service has historically and is

currently doing all that is possible to protect the sacred lands and insure freedom of the Indians to practice their religion in privacy.

The part of the two statements quoted above remaining to be discussed is the desire of the Taos Pueblo to preserve the area in its natural state. If the Pueblo could demonstrate that this is not being done by the Forest Service or that passage of H.R. 3306 is the best and only assurance that the natural ecology will be preserved, then perhaps there might be some justification for the Pueblo's case. But these facts simply cannot be demonstrated.

The ten points listed above are overwhelming evidence of the Forest Service's and the Government's intentions with regard to exclusion of non-Indian recreational and commercial activities in the Blue Lake Area. Conservationists have long agreed that the Forest Service is the best equipped agency to manage forest lands. Their knowledge and experience best equips them to manage the Blue Lake Area so as to maintain the high watershed yield and preserve the ecology which the Indians claim they desire. H.R. 3306, by giving responsibility for conservation to the Secretary of Interior with authorization to contract with the Forest Service as needed, is insufficient assurance that the lands in question will be managed properly. With few exceptions, the BIA has been unable to effect sound conservation practices on Indian Trust Lands. The lands on the Taos Pueblo grant and the lands acquired by the Pueblo are a case in point. More important, the Forest Service if employed by contract cannot manage the area properly since it will lack authority to enforce conservation practices. Also under H.R. 3306 there is no assurance that funds will be appropriated for conservation purposes. As it now stands, the Forest Service has the responsibility and the authority to manage the Blue Lake Area and is compelled to provide for management of the area from its annual budget whatever the amounts appropriated.

The vital necessity for sound conservation practices to continue in the Blue Lake Area cannot be overstressed. The person who drafted the report for the House Committee on Interior and Insular Affairs composed an erroneous conclusion, "The Indians have a greater need for the land than does the public." The public water needs alone refute that conclusion. There are far more people dependent on the Blue Lake Area for water than the 1200 Taos Indians. In the Southwest, water is our life's blood. That Congress recognizes our need for water is attested to by passage of the billion dollar Central Arizona Project.

Water is vital to the prosperity and economic growth of the Taos area. In turn the economic development of the Taos community is necessary to the welfare of the Taos Pueblo. The old agricultural ways of the Tribe are insufficient to meet the economic needs of the Indians. More Indians are becoming dependent on outside employment for their livelihood.

The per acre yield of water from the Blue Lake Area is the highest per section of any lands in the state. Given the dependence of the Taos and downstream communities on the watershed, no risk is justified with regard to the proper management of that watershed.

The proponents of H.R. 3306 have made much about the religious importance of Blue Lake to the Indians of Taos Pueblo. They have misled the Indian Claims Commission on this point and their erroneous statements have persisted to this time. In his testimony before the House Committee, Secretary Udall quoted from the report of the Indian Claims Commission as follows: "In August of every year, the entire adult population of the Pueblo goes to Blue Lake for ancient religious ceremonies which have continued uninterrupted for centuries." "This area is used every day by at least a few Taos Pueblo Indians for private religious reflection."

These statements are simply not true. During the first week of September of this year, in the company of two Forest employees and two others, I visited Blue Lake. It was our intention to be the first non-Indians on the scene after the August ceremonials.

Few alpine lakes can compare to Blue Lake in placid natural beauty. It is perfectly round. The alpine spruce forest extends to and shades its banks. Its waters are unbelievably clear and unsually deep giving the lake a unique, rich blue color. The Indians had left the area in a mess. Only a few new deposits could be found in the trash pit provided by the Forest Service. Papers, bottles, and cans were left where they had dropped. Green trees had been felled. Only six or seven campfires were counted; but the remains were unburied and the logs were left to smoulder.

It was saddening and distressing to me to see such a magnificent place being desecrated and abused by the very people who were ostensibly trying to protect

it, their church, from such violation. I couldn't help but think and feel that their abuse of the area was no way to treat a church. Be that as it may, it was suddenly surprising to us that the mess did not cover a larger area. I had had the impression that most if not all of the tribe participated in the ceremonials. It was the opinion of the Forest Ranger that not more than 40 to 60 Indians had come to Blue Lake. In my opinion the signs indicated that the Ranger was right.

Our stay at Blue Lake did not exceed one hour. We departed, leaving nothing but our tracks, and proceeded directly to Bear Lake, which is open to fishing and overnight camping. At Bear Lake, all the trash was in the pit. The campfires were buried and no green timber had been cut.

My visit to Blue Lake and subsequent inquiries revealed that the Indians are not using the lake to the degree claimed. No Indians visited the lake on the day of our visit. We would have seen them. It is impossible to visit Blue Lake during winter because of deep snow and blizzard conditions. The elevation is near 11,000 feet. Forest Service employees from the Pueblo reported for duty during every day of the ceremonials even though time off was permitted to them. Visitors to the Pueblo notice no apparent change in numbers or activity during the ceremonials. A Game Department pilot who has flown the area frequently reports that he has never seen any smoke or other signs of activity at Blue Lake.

There are those who welcome this apparent decline in the old order. More liberal members of the tribe view the old religion as a hindance to economic growth and the well-being of their people. According to some, the tribal council has impeded progress and the personal freedom and civil rights of those within the tribe who would disagree. Congressman Anthony Fernandez of New Mexico revealed such in his statement on the floor of the House (see Congressional Record, May 18, 1950). According to Congressman Fernandez, the individual members of the Taos Pueblo have no protection under our Bill of Rights. They are subject to the arbitrary dictates of the council. They have been denied the right to install modern utilities in their homes. Their right to vote has been denied under threat of arrest. They have no right to self-government since the council picks its own new members. And "They have no freedom of worship in the religion of their choice."

At this point, Mr. Chairman, I think it would be wise to consider who the proponents of this bill are. There are a number of sincere individuals who are sympathetic to the cause of the Indians and who support this bill in the belief that it is in the Indians' best interests. Many of these people recall injustices done the American Indian in the past. They are unaware of all the facts in the case. They believe what they have been told about the Indians' religious freedoms being impaired. They are moved by emotion and sympathy for the red man. However, it should be remembered that the Taos Indians have no broken treaties with the United States. The lands were not taken by miners and settlers as occurred in the Black Hills and the Cimmarron Strip. The opposite is true. Lands have been restored to the Pueblo and free use of other land has been granted. And they have not been mistreated as were the Navajos during their confinement at Fort Sumner.

As for the attorneys representing the Indians in this claim, no elaboration on their motives are necessary.

That leaves the Indians themselves. Mr. Chairman, I think it is pertinent that the Committee recognize the individuals from Taos Pueblo who are pursuing this claim and who have committed tribal funds belonging to all the Taos Indians. It is principally, if not solely, the members of the council who are the protagonists.

Mr. Chairman, the ceremonials at Blue Lake, while not documented are not so secret that it is impossible to determine that it is the members of the council who are the principle beneficiaries, if that is the proper word, of the rituals conducted at Blue Lake. They are the principal participants.

It is not denied that grazing of Indian livestock will be increased if H.R. 3306 is passed. More lands will accrue to the tribe. The restraining influence of the Forest Service against increasing livestock numbers beyond capacity will be seriously weakened if not removed entirely.

All of the Pueblo's livestock are owned by ten to fifteen individuals. The livestock owners must belong to the Tribal Grazing Association in order to graze their livestock on the Special Permit Area. It is the council that determines who may belong to the Association. And, strangely enough, Mr. Chairman, it is the members of the council who own practically all, if not all, of the livestock. Practically all, if not all, of the livestock owners are council members. I'm told that Severino Martinez, the former Governor and one of the leading principals in this cause owns the lion's share of all the livestock in the Pueblo.

Since most of the Pueblo does not participate in the ceremonies at Blue Lake, and only ten to fifteen individuals own any livestock, I would venture to say that if the people could be polled without fear of harrassment by the council, the majority would choose the money that is coming to them for loss of their lands in the city of Taos and for the 130,000 acres of alienated Indian lands. The majority, in all probability, would endorse the management of the Blue Lake Area by the Forest Service.

There has been much effort on the part of Government officials to deny that passage of H.R. 3306 will create a precedent. With the passage of time, these Government officials will have departed and their denials in the face of new claims will lose their force. The act of granting title on religious grounds will stand alone and will be looked upon as a new precedent for future claims and as a precedent for granting land instead of money. Mr. Hugh B. Woodward, a highly successful businessman and lawyer who practiced law in New Mexico for over fifty years, advised the Chief of the U. S. Forest Service that if the Blue Lake bill passes, "Your Department and the Department of the Interior are going to be confronting the matter of these largely fallacious claims for additional land or money in lieu thereof as long as some shrewd attorney can get a contract on a contingent basis which will bring him very large fees if he is successful."

Mr. Chairman, I'm sure this Committee will not be kept in ignorance of the many other Indian claims that parallel the Taos claim or that are similar to it. The House Interior Committee did not have the benefit of such disclosures. I am aware of two such claims alleging religious ties to the land. One is the claim of the San Juan Pueblo to parts of Rio Arriba County and Expanola, New Mexico. The other is the Santa Clara Pueblo's claim to 30,000 acres of national forest around their religious shrines on Tschicoma Peak. It is pure naivete to believe that claims will not be constructed around the three criteria provided by the House Committee on page 4 of its report.

Should H.R. 3306 become law, an important precedent will be broken. That is, the precedent that no award of Indian claims to Spanish or Mexican land grants if recognized by the United States can be granted. H.R. 3306 would convey 3,929 acres of such grant lands to the Indians.

Mr. Chairman, for the many reasons stated, it is the hope of my Association that this legislation does not pass. Also, because of the precedents involved, it is our hope that no compromise legislation is passed such as that proposed to convey title to 3,150 acres in the shrine area. We are not opposed to giving exclusive use of the shrine area to the Pueblo if Forest Service authority is retained.

We sincerely hope that the Forest Service will be allowed to continue to have responsibility and authority for maintaining sound conservation practices on the vital Rio Pueblo watershed and that the Forest Service will continue to protect the Indians' free practice and privacy of their religion.

Throughout the records of this dispute, the Indians' attitude is one that distinguishes and separates themselves from the public. It is the tribe against all others. It is our hope that it will be recognized that passage of this bill will serve only to drive the Indians deeper into their shell—further away from the acceptance of their role in American Society. Passage of the bill will serve only to perpetuate their segregation.

One essential and glaring fact has been ignored throughout all the testimony and all the records. That fact is that the Indians already own the land. It is public land and they are the public. We pray that they will someday be able to accept it.

Thank you, Mr. Chairman, for allotting me time to appear before this Committee.

Senator METCALF. We have 15 minutes.

Is there somebody on the witness list that we can hear?

Senator ANDERSON. Is Mr. Gunter here?

Senator METCALF. Mr. Gunter, would you like to follow Mr. Little?

Mr. Gunter, again we are calling out of order, and we are trying to accommodate this hearing to the very complex things that are taking place on the floor of the Senate. Senator Anderson has an amendment that I want to support, so we are both going to have to be over there soon. I hope you can get through with your testimony by 12:30.

Mr. GUNTER. I would like to hope that we can, also.

Senator METCALF. Thank you very much, Mr. Gunter.

STATEMENT OF N. PRESTON GUNTER, SPORTSMEN'S LEGISLATIVE ACTION COMMITTEE OF NEW MEXICO

Mr. GUNTER. My name is N. Preston Gunter, of Albuquerque, N. Mex. I am an air-conditioning engineer.

I welcome the opportunity to serve the people of New Mexico by presenting my views on H.R. 3306 and stating why I firmly believe this bill should not pass.

I have been a resident of New Mexico since 1940. I was born and raised in Colorado and have been an avid fisherman and hunter all my life. I was taught these skills and appreciation for the wild Rocky Mountains by my father, who once held the Colorado State fly casting championship, and in Colorado that is a mark of distinction among all sportsmen.

Over the past 4 years, I have made a detailed study of the questions surrounding Blue Lake. I feel there are many points surrounding this controversy that have been accepted as fact by the Indian Claims Commission, and other study groups, that simply are not true.

There are other points raised in strong fashion by the groups favoring giving this area to the Taos Tribe that just are not borne out by any historical evidence. Certain people assert that, in their opinion, this proposed legislation will not be precedent setting, or not seriously so. Others claim that religion is the only reason the Taos Tribe wants this land.

In the beginning, I would like to state that this Blue Lake is beauty beyond description. It is undoubtedly the crown jewel of the entire Rocky Mountains.

I will skip, here.

You have seen a lot of the Rocky Mountains, and I don't want to duplicate too much.

Senator METCALF. Your entire statement will be incorporated in the record at the end of your remarks.

Mr. GUNTER. I realize that. I am going to take the things that I consider to be different in any respect in my testimony, and try to eliminate the repetitious pieces.

I make the statement in reference to the pieces of legislation that were passed in 1924 and in 1933; that, in essence, the reason we have the 1933 legislation was to go back and sort of do over the 1924 legislation to correct the inequities that were complained about, insofar as the amount of the award.

We must realize that there are 10 other pueblos who were included in the 1924 and 1933 legislation, all of whom have certain areas they claim have religious significance. Many of these pueblos have already raised the issue and are looking eagerly to the results of these hearings.

I submit that the Santa Clara Indians have stated they should have 30,000 acres of national forest land adjacent to this reservation in exchange for rights-of-way through this reservation. The land claimed includes Tachicoma Peak, which is claimed to have religious significance, and I underscore "religious"—30,000 acres for one road? Is this a fair exchange? I think not.

The Havasupai Indians have been covered by Senator Anderson.

The Sandia Indians near Albuquerque have various claims and desires involving 200,000 acres, some of which would involve parts of the

city of Albuquerque. The Sandia Mountains on the edge of Albuquerque's city limits have "religious significance" to this tribe.

The Navajo and Hopi Tribes both claim San Francisco Peak, the Mescaleros claim Fort Stanton, and most of the Santa Teresa grant is claimed by the San Carlos Apache.

All of this is contrary to Bureau of Indian Affairs general policy, which hopes to see the day they can abolish reservations.

Precedent cannot be denied. No argument to the contrary can hold up in the face of the regard our courts put upon precedent. Our whole system of jurisprudence is based upon precedents.

It would unquestionably be opening the floodgates to a myriad of claims from other Indian tribes and other special interest groups, and I point out that the land claimed by the militant land-grant leader Ries Tijerina is in this same Carson National Forest.

The San Juan Pueblo has already made clear its intention to secure vast acreages it claims on almost identical grounds. They also don't want money. They want the land.

Sandia Pueblo, near Albuquerque, claims 200,000 acres, including most of the city. These tribes are just laying in wait. I could go on at length.

I have some newspaper clippings I am going to enter, to show the past history of these various other Indians.

Senator METCALF. Thank you very much, and without objection, these clippings will be incorporated in your statement at the conclusion. Go right ahead.

Mr. GUNTER. Mr. Little covered in his statement the area use by the Indians. This was one further thing that I might point out.

In researching some of the historical evidence, we find that the early settlers were encouraged by the Taos Indians to settle close to them, for the protection that it gave the Taos Indians from the marauding tribes; and that these early settlers used the Indians as guides and scouts to determine the whereabouts of the Apaches, who were the pests of the caravans, and the Taos Indians were principally the type of Indians who seldom ventured out of this protective shield.

Elliott Barker, whom we all know well in New Mexico—

Senator METCALF. We know him well, too, on this committee, and have a great regard for his background.

Mr. GUNTER. He is a distinguished and honored citizen of New Mexico, the man who built the first trail into some of this area. He testifies that the Indians did not and could not go into the area. Mr. Barker testifies the Indians did not show any interest when fire threatened the area. No worse threat to a watershed exists than fire.

The Indians state this water is the source of their life. I submit that they still don't show proper interest in the area where they contest with the Forest Service over whether or not the area should be sprayed at a time, 2 years ago, when spruce bud worm was killing many of the trees.

I personally observed what I would estimate to be 7 percent of the trees dead in this area now, due to the bad infestation, and the delayed treatment.

This area we are dealing with is one of the highest yielding watersheds in the State of New Mexico. It annually yields—and I corrected my statement to say a hundred acre-feet of water per section

of land, in view of what Mr. Greeley said yesterday. This water is important to all the people of New Mexico. Many thousands more people than the Taos Indians will be affected by the way these 48,000 acres are cared for.

Gentlemen, in New Mexico, you can actually see an area as large as 48,000 acres.

Senator METCALF. I have to interrupt you.

Come up to the "Big Sky" country.

Mr. GUNTER. OK.

And this will affect the farming area downstream on an area many times the size, and it could affect the economy of an entire State.

And I actually paraphrase Will Rogers here in this last statement. One time when he visited Denver, he said the road through Denver was so rough that if you smoothed it out, it would take you the rest of the way to Pueblo.

So in this area, we have an area that is so up and down that if it was smoothed out, it would be 100,000 acres.

The proposed legislation would have the Indians own the land, and the poor old taxpayer take care of it for them, without the privilege of setting foot on it to see what he was paying for, if his skin was white instead of red.

The Haley committee report states that this land could be transferred without cost to the Government. I ask what about the money already paid, which was supposed to settle the issue before, and I ask about all the provision that might come in the future. I think the details of the money, the payment, and so forth, have been sufficiently covered. I am going to skip on down.

I think that we do have some indication here that the Indians Claims Commission didn't do a very good job in 1965, when they did the investigation. They did not thoroughly investigate the old records. They did not investigate the intention of the legislation, as to just what it was supposed to accomplish. They simply did not put their investigation into the proper perspective, and most important of all, they took the Indians' word for things that don't check out.

Just because the Indians said they had not been paid for this land, and just because they said they used this land, they took their word for it. They did not look at the records, nor did they study the writings of early historians in the area, and, worse yet, they did take as uncontestable the words of self-styled authorities whose position has long been known to be completely biased on the Indian side of many controversies.

Where there are so many writers on the subject, I see no reason to accept the word of one particular individual, without checking and comparing.

The records indicate that one person practically singlehandedly swayed the whole investigation to favor the Indian side. Other qualified witnesses were not give the opportunity to testify, or their testimony, when in conflict with the so-called expert, was not verified. And I am referring to the 1965 Indian Claims Commission hearings.

I submit that the Indian of today has learned well the ways of the white men, and with a few white men standing to gain personally from such claims guiding them, the Indians are no different than any other special interest group striving for a particular end.

I would point specifically to the agreement last year between the Taos Town Council and the Taos pueblo over land on which to build a flood control dam. The Pueblo would not yield the easement until the town council agreed to make a statement in writing supporting the Blue Lake claim.

The Pueblo was interested in buying the written statement, not the lives and welfare of the Taos residents in the path of potential floodwaters.

I bring these points out to support another statement I wish to counter, the statement that the Indians are trying to accomplish behind a religious facade what they could not possibly accomplish by other means.

In his prepared statement, Stewart Udall covers this point, and he says we reject this argument because it reflects on the integrity of the Pueblo.

I suppose this is true, and the integrity of the Pueblo is intact, but certainly the integrity of their advisers, the integrity of the investigators, and the integrity of their clever writers, and all the collection of "do-gooders" involved in this issue is so clouded that it takes X-ray vision to see the narrow thread of truth running through the whole controversy.

The secrecy factor in the Indian religion is very convenient. It may be true, but nonetheless, convenient, to support their claim.

The whole thing then boils down to the fact that if you accept this explanation, you don't really know.

In the beginning, the Indian told the white man about his ways, but, because he was laughed at and ridiculed, he quit letting anybody know about his religion. The Taos Indians, the same as others, did in the beginning tell the early white visitors to the area, whom they considered to be friends, about these various religious rites.

Many volumes have been written about the various pueblo religions, including the Taos Pueblo. Strangely, though, almost all of the books on the shelves of the various libraries around the State have disappeared. A few in locked cases still survive, and to read them does not leave any doubt in a reader's mind why the Indian tribe wants to keep his religion from the public eye.

It is an established fact that the Taos religion is a peyote cult, originating in 1890, and learned from the Plains Indians. This peyote cult is referred to as the Native American Church in the book "Cycles of Conquest" by Edward H. Spicer, of the University of Arizona Press.

Incidentally, he is one of the members I see listed on this list of members of the National Committee for the Restoration of the Blue Lake lands to the Taos Indians.

Mr. Spicer explains that the Taos was the first tribe in New Mexico to show interest in peyote. The use of peyote has caused division in the tribe for years.

The Native American Church has continued to grow and spread the use of peyote, but the main cult was in the Taos Tribe.

I am still quoting Mr. Spicer.

A declining cult is referred to in the book "Cycles of Conquest," and this fits with the declining use of Blue Lake.

The early religion of the Pueblos was considered immoral and obscene by the officials of that day. The Taos Council was arrested at

one time for violations under the Indian Bureau's religious crimes code.

The general shock and disapproval of the Indians by the early missionaries caused them to hide their religion, and is the basis of the secrecy today.

Mr. Little indicated in his statement the fact that the Indians do not use this area as they claim they do, and that the whole tribe does not go up there, and I was one of the other people who was on that trip that he referred to.

Senator METCALF. How many of you were on that trip?

Mr. GUNTER. We had three civilians and two Forest Service people. There were five of us, altogether.

Senator METCALF. You and Mr. Little, and one other?

Mr. GUNTER. Yes, and a professional photographer.

Senator METCALF. I see.

Mr. GUNTER. And then the other two, to make up the full party of five were two Forest Service men.

Senator METCALF. And you went in with a permit from the tribe?

Mr. GUNTER. Yes, and I might say in this connection that inasmuch as I have been quite vocal about this issue for some 4 years, my name was not listed on the permit as an individual, and it wasn't necessary, because I have the feeling that had the Taos Indians known who was going, they might not have issued the permit to me, and I probably will never get another one. I will leave it to the attorney.

Senator METCALF. That was under false pretenses.

Mr. GUNTER. Anyway, the fact is that we were going there to seek facts, and we had indications over the past several years that the Indians themselves did desecrate the area the very way that they complain about outsiders doing, so we wanted to be the first people on the scene, to find out, and we did find out, and I believe the photographs that Mr. Little has submitted will bear out this proof.

Now, Mr. Schaab referred in his testimony to Vernon Bailey, and said that the trail to Pueblo Peak passed by Blue Lake. It doesn't go anywhere near it. Pueblo Peak is much closer to the Indian Pueblo than Blue Lake, and I would enter that to back up the testimony of Mr. Barker.

I do state that the area was full of trash. Wine bottles, whiskey bottles, were also found there. We did find a preponderance of olive bottles. I don't know what the olives have to do with it.

Senator METCALF. You didn't talk about gin or martinis.

Mr. GUNTER. I don't know the brand that they use. I am not familiar with that.

In conclusion, I would like to summarize the three main precedents that will be broken by this bill.

First, always Spanish land grants have taken precedence over Indian land claims. This principle was established by the King of Spain, and recognized by our treaties when we acquired the land from Spain.

About one-quarter of the land claimed by the Taos Pueblo was Spanish grant before being acquired by the Forest Service. The land-grant areas in conflict here definitely will set a reverse precedent.

Second, Indians have been paid for land in the past, but never given title to it. This is most serious, in view of the other Indian tribe claims all over the State of New Mexico and the United States.

Third, never before has a land claim been recognized on a religious basis. This is the most dangerous of all precedents, because all land is considered sacred by Indians, and there are many highly sacred areas much more entwined in our secular society.

The statement by the Committee on Interior and Insular Affairs, that the Indians have greater need than the public, and therefore should be given the land, is a peculiar statement.

Senator METCALF. That is the House committee?

Mr. GUNTER. That is the House committee, in the report that accompanied the bill.

Since when does need justify right of ownership?

In any event, the citizens of this country stand to lose far more than this Blue Lake area, if they do not awaken to the dangers inherent in the present bill, and prevent not only this area but other equally important choice areas from being lost when they pass into private ownership.

To give the Indians this land will only perpetuate the Indian ghetto that now exists at Taos. It is high time that we who pose as guardians of the Indians of this land stop looking at them as a curiosity and something to be preserved in their natural state.

It is time we see to it that the Indian is helped in a way that will help him assume his rightful place in our society. It is high time we stop holding him back, under the guise of preserving his culture, when that very thing makes him a second-class citizen.

If we ever hope to achieve the equality of the races that we are all so stirred up about in our country at this time, we should be very careful to extend these rights to all our citizens, and not do things now which are exactly opposite to the general welfare of a small group of our first citizens.

That concludes my formal statement.

Senator METCALF. Do you have something to add?

Mr. GUNTER. I have those newspaper clippings.

Senator METCALF. You give them to the staff, and they will be incorporated in the record.

Mr. GUNTER. All right.

Senator METCALF. Thank you, Mr. Gunter, for your testimony. It has been very forceful.

Mr. GUNTER. I took the position that as an individual, and really not representing any particular group. I could afford to be a little bit off to one side than some of the people who are representing public groups, and so I hope that the testimony that I enter will be considered in the spirit in which it was given, and that I won't be considered too detrimental and derogatory to the Indians.

But we do have these facts that I wanted to bring out, and and I am afraid that some people, like a Government employee, who might know them, might feel in the position that he could not do the job that I have tried to do here.

Senator METCALF. Mr. Gunter, these hearings are not necessarily adversary proceedings, such as we have in a court, but we always welcome someone who has a very forceful point of view. It is helpful in the consideration of the committee of the whole issue involved, and you have been helpful. Your whole statement will be examined.

I wish that I could have met your father, who was fly-casting champion of Colorado, because my fly casting has deteriorated in recent years, since long sessions have set in.

Mr. GUNTER. There are a few of us purists left, who wouldn't so much as put a worm on a hook.

Senator METCALF. I am afraid that I haven't even had a chance to throw a fly into some of those waters of Montana.

In any event, we are pleased with your testimony, and thank you for coming and appearing.

Mr. GUNTER. Thank you very much.

(The prepared statement referred to follows:)

STATEMENT OF N. PRESTON GUNTER, ALBUQUERQUE, N. MEX.

Mr. Chairman: I am N. Preston Gunter of Albuquerque, New Mexico. I am an Air Conditioning Engineer.

I welcome the opportunity to serve the people of New Mexico by presenting my views on H.R. 3306 and stating why I firmly believe this bill should not pass.

I have been a resident of New Mexico since 1940. I was born and raised in Colorado and have been an avid fisherman and hunter all my life. I was taught these skills and appreciation for the wild rocky mountains by my father who once held the Colorado State Fly Casting Championship, and in Colorado, that is a mark of distinction among all sportsmen.

Over the past four years I have made a detailed study of the question surrounding Blue Lake. I feel there are many points surrounding this controversy that have been accepted as fact by the Indian Claims Board, the Indian Claims Commission, and other study groups that simply are not true. There are other points raised in strong fashion by the groups favoring giving this area to the Taos Tribe that just are not borne out by any historical evidence.

Certain people assert that in their opinion this proposed legislation will not be precedent setting, or not seriously so.

Others claim that religion is the only reason the Taos Tribe wants this land.

In beginning, I would like to state that this Blue Lake is beauty beyond description. It is undoubtedly the crown jewel of the entire Rocky Mountains. All of which is fresh in my memory because of my most recent visit to this majestic spot a few days. Why should such beauty be the exclusive possession of a small minority group, many of whom have never seen it.

The Taos Tribe would have you believe they need this land for economic reasons, while in fact, they already own thousands and thousands of acres of much more usable land than the area now under discussion. They have been paid for many thousands more as is outlined in the Interior Department report. In fact, it is just these payment records that bring to light strong reasons why these Indians are not entitled to any of this land.

Two pieces of legislaion, one passed in 1924 and the other in 1933, were designed to compensate the Indians (all 11 Pueblos including Taos) for any and all lands lost by them either to Spanish American settlers living on their land or by confiscation by the government.

The first time Taos tried to claim the Blue Lake Area was in 1933 when Taos was the only Pueblo to decline to sign the agreement to accept the monies appropriated. Prior to 1933, the issue of these lands was not mentioned in any of the official records. The other Pueblos signed the agreement. Taos held out asking for the Blue Lake area.

I think its significant to point out that the only reason we had the 1933 legislation is because there had been complaints that the 1924 legislation had been based on appraised values which were too low. The 1933 legislation was to correct this under-evaluation. The amounts arrived at were fair for their day and must be considered from this point of view. We must realize the government was trying to be fair and that the Taos Indians had not raised the issue of these Blue Lake acres previously.

We must also realize that there are 10 other Pueblos who were included in the 1924 and 1933 legislation, all of whom have certain areas they claim to have religious significance. Many of these Pueblos have already raised the issue and are looking eagerly to the results of these hearings.

I submit that the Santa Clara Indians have stated they should have 30,000 acres of national forest land adjacent to this reservation in exchange for right

of way through this reservation. The land claimed includes Tachicoma Peak which is claimed to have religious significance. 30,000 acres for one road? Is this a fair exchange? I think not.

The Havasupai Indians would have title on 70,000 acres of national forest land and 110,000 acres of national park land transferred to their ownership if legislation now being proposed in Arizona should become law.

The Sandia Indians near Albuquerque have various claims and desires involving 200,000 acres, some of which would involve parts of the city of Albuquerque. The Sandia Mountains on the edge of Albuquerque's city limits have "Religious Significance" to this tribe. The Navajo and Hopi Tribes both claim San Francisco Peak, the Mescaleros claim Fort Stanton, and most of the Santa Teresa grant is claimed by the San Carlos Apache.

All of this is contrary to BIA general policy which hopes to see the day they can abolish reservations.

Precedent cannot be denied. No argument to the contrary can hold up in the face of the regard our courts put upon precedent. Our whole system of jurisprudence is based upon precedence. It would unquestionably be opening the flood gates to a miriad of claims from other Indian tribes and other special interest groups, and I point out that the land claimed by the militant land grant leader Ries Tijerina is in this same Carson national forest. The San Juan Pueblo has already made clear its intention to secure vast acreages it claims on almost identical grounds. They also don't want money. They want the land. Sandia Pueblo, near Albuquerque, claims 200,000 acres including most of the city. These tribes are just laying in wait. I could go on at length.

Maybe we should consider here also the contention that the Taos Indians used this land they now claim. This is not borne out by the recorded history. The Taos Indians were primarily farmers and tilled the lands near this Pueblo. The early settlers did use the Taos Indians as guides and scouts to determine the whereabouts of the Apaches who were the pests of the caravans. The first recorded penetrations of these vast mountain areas by the Taos people was in connection with this scouting and guiding activities. The Taos Pueblo encouraged the settlers for the protection they offered from the maurading bands of other Indians. The Taos tribe seldom ventured out of this protection shield.

Elliott Barker, a distinguished and honored citizen of New Mexico, the man who built the first trail into some of this area, testifies that the Indians did not and could not go into the area. Mr. Barker testifies the Indians did not show any interest when fire threatened the area. No worse threat to a water shed exists than fire. The Indians state this water is the source of their life. I submit that they still don't show proper interest in the area where they contest with the Forest Service over whether or not the area should be sprayed at a time two years ago when spruce bud worm was killing many of the trees. I personally observed what I would estimate to be 7% of the trees dead in this area now due to bad infestation and the delayed treatment.

This area we are dealing with is one of the highest yielding water sheds in the state of New Mexico. It annually yields between 3 and 4 hundred acre feet of water per section of land (640 acres). This water is important to all the people of New Mexico. Many thousands more people than the Taos Indians will be affected by the way these 48,000 acres are cared for. Gentlemen, in New Mexico you can actually see an area as large as 48,000 acres. This is a rare treat and it is possible only in our clear atmosphere and from a lofty peak. 48,000 acres is an area large enough to significantly affect the farming down stream on an area many times this size. It can affect the economy of an entire state. It is an area that is so up and down that if it were smoothed out it would be 100,000 acres.

The proposed legislation would have the Indians own the land and the poor old taxpayer take care of it for them without the privilege of setting foot on it to see what he was paying for if his skin was white instead of red.

The Haley committee report states that this land could be transferred without cost to the government. I ask what about the money already paid which was supposed to settle the issue before. I ask, where are the provisions in this bill to be sure that even this HR 3306 is going to be the last time the Taos Pueblo can hold out its hand to Uncle Sam. You do know that 3306 has this open back door? I wonder if the precedent being set here will not cost the government anything in the years to come. This "no cost" statement is certainly too naive to be considered seriously.

A point raised by the Indians is that they agreed to waive claim to $297,684.67 appropriated from them in 1933 if they would be given title to the Blue Lake area.

They say they have received neither the money or the title to the land. This is a distortion of the facts. The records show that all but $23,724.57 of the above sum has been expended for the benefit of the Taos Pueblo. The words of the act were that this money was to pay for loss of lands and water rights. It also was so written that acceptance of any of the funds was contingent of acceptance of it all and constitutes settlement of the claim in full. The Indians claim that the money settlement applied only to a so-called western area and did not apply to the eastern area, the Blue Lake area. This is pure distortion because until they were asked to sign the 1933 agreement, the Blue Lake area does not appear in any of the records. They say the area was not described, but the areas in contention were described, and even though the description was not in much detail, and were in general terms, there is absolutely no doubt that the Blue Lake area was not included.

The Indian Claims Commission, whose duty it was to investigate these matters in 1965, did a poor job. They did not thoroughly investigate the old records. They did not investigate the intention of the leigslation as to just what it was supposed to accomplish. They simply did not put their investgaton into the proper perspective, and most important of all, they took the Indians' word for things that don't check out. Just because the Indians said they had not been paid for this land, and just because they said they used this land, they took their word for it. They did not look at the records nor did they study the writings of early historians in the area and, worse yet, they did take as uncontestable the words of self-styled authorities whose position has long been known to be completely biased on the Indian side of many controversies. Where there are so many writers on the subject, I see no reason to accept the word of one particular individual without checking and comparing. The records indicate that one person practically single-handedly swayed the whole investigation to favor the Indian side. Other qualified witnesses were not given the opportunity to testify or, their testimony when in conflict with the so called expert, was not verified.

I submit that the Indian of today has learned well the ways of the white man and with a few white men standing to gain personally from such claims guiding them, the Indians are no different than any other special interest group striving for a particular end. I would point specifically to the agreement last year between the Taos town council and the Taos Pueblo over land on which to build a flood control dam. The Pueblo would not yield the easement until the town council agreed to make a statement in writing supporting the Blue Lake claim. The Pueblo was interested in buying the written statement, not the lives and welfare of the Taos residents in the path of potential flood waters.

I bring these points out to support another statement I wish to counter. The statement that the Indians are trying to accomplish behind a religious facade what they could not possibly accomplish by other means. In his prepared statement, Stewart Udall covers this point and he says we reject this argument because it reflects on the integrity of the Pueblo. I suppose this is true and the integrity of the Pueblo is intact, but certainly the integrity of their advisors, the integrity of the investigators, and the integrity of their clever writers and all the collection of "do gooders" involved in this issue is so clouded that it takes "X-Ray" vision to see the narrow thread of truth running through the whole controversy.

The secrecy factor in the Indian religion is very convenient. It may be true, but none-the-less convenient, to support their claim. The whole thing then boils down to the fact that if you accept this explanation you don't really know. In the beginning, the Indians told the white men about his ways but, because he was laughed at and ridiculed, he quit letting anybody know about his religion. The Taos Indians, the same as others, did in the beginning, tell the early white visitors to the area, whom they considered to be friends, about these various religious rites. Many volumes have been written about the various Pueblo religions including the Taos Pueblo. Strangely though, almost all of the books on the shelves of the various libraries around the state have disappeared. A few in locked cases still survive and to read them does not leave any doubt in a reader's mind why the Indian tribe wants to keep his religion from the public eye.

It is an established fact that the Taos religion is a Peyote cult. Originating in 1890 and learned from the Plain Indians. This Peyote cult is referred to as the Native American Church in the book "Cycles of Conquest" by Edward H. Spicer, of the University of Arizona Press.

Spicer explains that Taos was the first tribe in New Mexico to show interest in Peyote. The use of Peyote has caused division in the tribe for years. The Native American Church has continued to grow and spread the use of Peyote,

but the main cult was in the Taos tribe. A declining cult is referred to in the book "Cycles of Conquest" and this fits with the declining use of Blue Lake.

The early religion of the Pueblos was considered immoral and obscene by the officials of that day. The Taos council was arrested at one time for violations under the Indian Bureau's religious crimes code. The general shock and disapproval of the Indians by the early missionaries caused them to hide their religion and is the basis of the secrecy today.

The Indians claim the whole Pueblo goes to Blue Lake. This is not borne out by the facts. No appreciable decrease in the population of the Pueblo is noticed during the ceremonial days in August. Also, our investigation in the week after their ceremonial of 1968 would indicate that between 40 and 60 people camped at the Blue Lake site. This estimate was made by the ranger who has lots of experience cleaning up camp sites. The Forest Service people tell me that this has been the pattern for many years, fewer and fewer people actually go to Blue Lake.

It is also claimed that the Indians make consistent use of the whole 48,000 acre area. This is not supported by any evidence. In fact, the contrary is shown in the lack of travel on the trails and the observations made by the rangers responsible for the area.

The Indians claim they fear the intrusion of outsiders will defile the area with trash and litter. The records of the Forest Service show the few times white men have gone into the area in the last several years averaging about 16 permits per year. Yet the trash we discovered plainly shows the Indians have made no attempt to keep the area clean. The only trash in the Forest Service provided trash pits was a year old, put there the last time the Forest Service cleaned the area in 1967 after the August ceremonial. This years' trash was scattered all about and left just where it fell. No attempt whatsoever had been made by the Indians to stack their tee-pee poles in the manner they are cared for by the Forest Service. A few years of purely Indian care and even the Indians won't want to go to this beauty spot.

In conclusion I would like to summarize the three main precedents that will be broken by this bill. *First*, always Spanish land grants have taken precedence over Indian land claims. This principle was established by the King of Spain and recognized by our treaties when we acquired the land from Spain. About one-quarter of the land claimed by the Taos Pueblo was Spanish grant before being acquired by the Forest Service. The land grant areas in conflict here definitely will set a reverse precedent. *Second*, Indians have been paid for land in the past but never given title to it. This is most serious in view of the other Indian tribe claims all over the state of New Mexico and the United States. *Third*, never before has a land claim been recognized on a religious basis. This is the most dangerous of all precedents because all land is considered sacred by Indians and there are many highly sacred areas much more entwined in our secular society.

The statement by the Committee on Interior and Insular Affairs that the Indians have greater need than the public and therefore, should be given the land is a peculiar statement. Since when does need justify right of ownership. In any event the citizens of this country stand to lose far more than this Blue Lake area if they do not awaken to the dangers inherent in the present Bill and prevent not only this area, but others equally important choice areas, from being lost when they pass into private ownership.

To give the Indians this land will only perpetuate the Indian ghetto that now exists at Taos. It is high time that we who pose as guardians of the Indians of this land stop looking at them as a curiosity and something to be preserved in their natural state. It is time we see to it that the Indian is helped in a way that will help him assume his rightful place in our society. It is high time we stop holding him back under the guise of preserving his culture when that very thing makes him a second class citizen.

If we ever hope to achieve the equality of the races that we are all so stirred up about in our country at this time, we should be very careful to extend these rights to ALL our citizens and not do things now which are exactly opposite to the general welfare of a small group of our First citizens.

Indian Leader Asks That Tribe Be Independent

Pampa, Tex.—A noted Indian affairs spokesman and chief of the Oklahoma Creek Nation called Sunday for a return to complete independence from the federal government.

Speaking before 500 Panhandle members of the Southwest Indian Organization during their annual picnic and conference, W. E. McIntosh said education was the newest front in the Indians' "continuing war" with the United States.

"Our most important battle and conviction is to get our younger people educated in order to carry on this fight after we are gone, if we do not succeed," said the chairman of the recent Oklahoma Convention of the American Indian Congress.

The recently formed Indian congress, now representing about 125 U.S. tribes, is becoming a powerful weapon in Indian efforts to gain settlements from land losses resulting from the Civil War redevelopment era. He referred to land taken from a five-tribe nation established in 1866 between the Choctaw, Cherokee, Seminole, Creek and Chickasaw tribes in Oklahoma.

Large parcels of land held by these Indians, including all of Oklahoma, were purchased from these tribes and sold to other Indian groups during the redevelopment period, McIntosh said.

Citing victories in two of the many of the federal law suits pending, he noted that a $1,047,000 judgment for the Creek and a $15 million settlement for the Cheyenne-Arapahoe tribes resulting from this land reallocation.

"Even if we win these suits," he charged, "Congress must appropriate money to settle them, and they sure haven't been in any hurry to do so.

"I'd like to see every Indian become an individual member of the American Indian Congress," he said.

He said the organization is also backing efforts of Taos, N.M. Pueblo Indians to regain worshipping grounds converted during the 1940s into Blue Lake Park.

Nearly 200,000 Acres—Ancestral Lands Reportedly Eyed by Sandia Pueblo

(By Bob Beier)

The problem of Indian tribes in New Mexico making claim to areas where their ancestors lived centuries ago may have been rekindled by recent Taos Pueblo demands.

Take for example Sandia Pueblo, whose 225 members now live on 24,000 acres north of Albuquerque, a land grant which was conveyed to the tribe by Congress in 1858.

Sandia Pueblo, according to reports, is eyeing the lands of its ancestors—nearly all of modern-day Albuquerque and the Sandia Mountains, perhaps an area of nearly 200,000 acres.

NO ACTION YET

Domingo Montoya, Sandia Pueblo governor, said the idea has been brought up in the past, but "no action has been considered up to now."

"My people are too tired to push any such move now," added Montoya, who also is chairman of the All Pueblo Council. "They have to work hard for a living and they're too poor to do anything like this."

However, the governor said ancestors of the Sandia Pueblo people "occupied the area which is now Albuquerque and the Sandia Mountains."

Montoya did not give a date, although some historians have said this might have been long before Coronado made his trip up the Rio Grande from Mexico in 1540.

PRINCIPAL PUEBLO

Fray Alonso de Benavides, in his "Revised Memorial of 1634," referred to Sandia Pueblo as the principal pueblo of the Tiwa Indians with a population of more than 3000.

Kenneth L. Peyton, superintendent of the United Pueblo Agency here, also said he has not heard of any efforts from or on behalf of Sandia Pueblo regarding any such possible land claim.

Sen. Clinton P. Anderson, D-N.M., who has worked out a compromise in connection with Taos Pueblo's claim for land in the Blue Lake area of Carson National Forest, reported he has heard vague rumors about possible demands of Sandia Pueblo.

DECLINES TO ELABORATE

But, the senator declined to elaborate.

Taos Indian claims on the Blue Lake Area came after the Indian Claims Commission ruled last September that land was wrongfully taken from the Pueblo.

The ruling led to the bill which Anderson introduced in Congress to get some of the land returned to Taos Pueblo because it includes a number of the Indians' religious shrines.

Montoya also said he knows of no move to file any claims for Sandia Pueblo with the Indian Claims Commission.

SAN JUANS SEEKING ESPANOLA LAND TITLE—CLAIM SET ON FEDERAL REGULATION

(By Doyle Akers)

SAN JUAN PUEBLO.—This Pueblo has served notice that it will try through federal legislation to acquire title to a vast acreage which chops into the existing Espanola city limits and highly developed properties.

Grounds for the claim will be that for centuries San Juan Pueblo has used the land for religious ceremonies and as a source of wood for their fires and vigas for construction of their dwellings.

The intent was made clear in a report made public last week showing the Pueblo's plans for economic improvement over the next 10 years.

In addition to the acquisition of the land adjacent to the present southern boundary of the reservation, the Pueblo also intends to ask for all or part of the sprawling Sebastian Martin Grant on the north which now is under the supervision of the U.S. Forest Service.

Failing in acquiring the Sebastian Martin Grant, the report notes that as an alternative the Pueblo will seek exclusive use rights on the land. The Sebastian Martin Grant touches the northeast corner of the reservation, extends north to include the community of Velarde and east to the Sangre de Cristo foothills at Las Trampas. It abuts the Black Mesa Grant on the west.

* * * * * * *

(Balance not legible.)

Senator METCALF. Let me go through the list of witnesses.

I want to give a good deal of time to the delegation from Taos Pueblo, and then we are going to have Mr. LaCome of the Taos County Commissioners, and Mr. Pomeroy, I see, is here.

You are in town, aren't you, Mr. Pomeroy?

Mr. POMEROY. Yes, sir.

Senator METCALF. Louis Clapper, you are in town?

Mr. CLAPPER. Yes, sir.

Senator METCALF. And available.

Dean, Kelley, of the National Council of Churches, is here.

I am going to call Mr. Kelley ahead of Mr. Pomeroy and Mr. Clapper, if I may.

Is Mr. LaCome here?

Mr. LACOME. Yes, sir.

Senator METCALF. How long will you take, do you think?

Mr. LACOME. It won't take but a few minutes.

Senator METCALF. I am going to recess now until 2 o'clock. I will try to be here just as soon after 2 o'clock as I can get the floor of the Senate, and we will first hear you, and then we want to give a good deal of time to the delegation from Taos Pueblo, so you will follow Mr. LaCome, and then Mr. Kelley, and then we will finish up with the people from here in Washington, who haven't plane commitments and so forth. So at this time, we will recess until 2 o'clock.

(Whereupon, at 12:35 p.m., the committee recessed, to reconvene at 2 p.m., the same day.)

AFTER RECESS

(The subcommittee reconvened at 2 p.m., Senator Lee Metcalf presiding.)

Senator METCALF. The committee will be in order.

The first witness this afternoon is Mr. Elmer A. LaCome, vice chairman of the Taos County Commissioners. Mr. LaCome, we are certainly glad to hear from the administrative agency that is the governmental body over this area, and look forward to your testimony.

STATEMENT OF ELMER A. LaCOME, VICE CHAIRMAN OF THE TAOS COUNTY COMMISSIONERS, TAOS, N. MEX.

Mr. LACOME. Thank you, Senator Metcalf.

Mr. Chairman, Senator Metcalf, my name is Elmer LaCome, from Taos County. Mr. Luis C. Martinez, chairman of the Taos County Commissioners, has appointed me to read a statement before this subcommittee. Mr. Luis Martinez regrets that he cannot be here because of illness in his family.

This statement is presented in opposition to House bill 3306, which will give 48,000 acres of national forest land to the Taos Pueblo Indians.

We are also interested in the affairs of the Taos Pueblo Indians. We have long lived as neighbors with them. We very much want their unique culture maintained. We also desire that their religious freedom be maintained. We agree that their sacred religious lands should be protected—but to give them 48,000 acres of land that belong to the people of the United States would be a serious mistake. This land is important to all the people in Taos County and to all the people who live in the Rio Grande Valley of the Southwest.

Senator METCALF. May I interrupt a moment? When you say that this land is important to all the people in Taos County, you also mean that it is important to the Taos Pueblo and all Indian people concerned, too, because there has been a good deal of testimony about the watershed value of this land?

Mr. LACOME. That is correct.

Senator METCALF. So you are not just talking about the non-Indian population in Taos County?

Mr. LACOME. We are talking about all the people in general.

Senator METCALF. Thank you.

Mr. LACOME. We just cannot agree that the Indians need 48,000 acres for a church; 48,000 acres is 75 square miles of land.

Rio Pueblo de Taos watershed is one of the best water-producing drainages of the Rio Grande River Basin. There is no provision in the bill to protect the existing water rights of the downstream water users from complete appropriation for the use of Pueblo de Taos. There is no assurance that water yield will be protected. I feel very strongly that our water supplies and watersheds will be jeopardized if this land is given to the Taos Indians.

For over 60 years the Forest Service has worked with the Indians in conserving and protecting these lands and their religious areas. We think that these lands should remain part of the national forest system. The Secretary of Agriculture in a recent statement to the con-

gressional committee recognized the need and desirability to protect the religious signficance of the Blue Lake area. He, at that time, proposed that about 3,000 acres be set up for exclusive use by the Taos Indians. He suggested that this area be closed to all activities such as grazing and timber cutting. This would assure protection of the sacred area and also of the watershed.

Under the present 50-year special use permit issued by the Forest Service in 1940, the Pueblo de Taos has had almost exclusive use of over 32,000 acres for 28 years and exclusive use for 10 days each year for their religious ceremonies.

We feel that this permit has adequately protected the watershed and also the religious needs for the Indians of Taos Pueblo. They have free use of the water and wood for their personal use. Indian-owned cattle graze on this area of public-owned land, free of charge. The Indians do not take any responsibility for the management or protection of the area. It is our understanding that if this bill is passed, the lands would be transferred to the Department of Interior to be held in trust for the Indians.

We cannot see how transferring this land to another agency could possibly improve the amount of protection that could be afforded for worship and religious ceremonies for the Indians. Forest Service personnel are familiar with Indian officials and with the land boundaries. Any change of responsibility would necessitate the setting up of a new organization under the Department of the Interior to manage these lands.

The Taos Pueblo Indians have claimed that these 48,000 acres of land were stolen from them by the United States. The facts do not bear this out. The United States acquired the land in question by conquest and by the Treaty of Guadalupe Hidalgo. The Pueblo de Taos Indians were given their grant or "league" in 1815 and this was confirmed and patented November 1, 1864, by President Lincoln.

The Indians now own some 46,500 acres. This amounts to about 46 acres per person. In addition to this land which they own outright they have virtually exclusive use of the 32,000 acres granted to them by the special use permit of 1940. Moreover, there are some 8,000 more acres of national forest land which they more or less use but which is not a part of their free use grazing allotment. Thus, the Indians have a far larger per capita ownership of land than do the other citizens of northern New Mexico; many of whom, as you know, are well below the poverty line and need economic help.

Included in the lands which the Indians are now asking for is a tract of some 3,000 acres which was acquired by the Forest Service through land exchange from the State of New Mexico in 1952. Another 6,000 acres were acquired by land exchange from Mr. Will Ed Harris in 1950. Certainly, these lands should not be included in any giveaway to the Indians.

I personally have seen misuse of the lands owned by the Indians through improper grazing. The Indian private lands and the permitted national forest lands are grazed by members of an Indian association who own cattle. This association is composed of some 10 members. The remaining Indians derive no benefit whatsoever from the exclusive grazing use on the national forest permit area. It would not matter how much additional land was acquired by the Taos Pueblo, still only these few Indians would benefit.

I would like to comment on a point that was made by a Congressman on the floor of the House recently during the discussion of this bill. This in effect is what he said: "The Taos Pueblo Indians need this land more than the Forest Service."

The Forest Service does not need the land that is involved here at all. This agency has only been charged with the responsibility for the management. It is really the people of Taos County, the people of the State of New Mexico, and the people of the United States who really need this land.

We would not be opposed to turning over a small tract of land such as suggested by the Secretary of Agriculture and by Senate bills 1624 and 1625. We do feel, however, that any bill should direct that management of the proposed area require that it be protected from grazing by domestic livestock and be closed to the cutting of green timber. We also think that the Forest Service should continue to protect the area from insect and disease and also to control fires which might occur there. With this type of management, watershed will continue to receive adequate protection.

There are many more people who will be adversely affected by the passing of this bill than would benefit. Many people in Taos Valley, outside Pueblo de Taos, make their livelihood by and are dependent upon the water produced within this watershed. We do not feel that H.R. 3306, as passed by the House of Representatives, is in the public interest.

I urge you to support legislation that will assure the Indians of reasonable protection of their religious activities as well as satisfy the needs and desires of all of us who live in Taos County and the valley of the Rio Grande.

Senator, that concludes my written statement presented by the Commission of Taos County.

Senator METCALF. Thank you very much, Mr. LaCome.

Senator Anderson?

Senator ANDERSON. I think it is a very interesting statement and a good statement. I appreciate very much having taxpaying organizations to testify about what this bill is all about. You have done a good job and I appreciate it very much.

Senator METCALF. Mr. LaCome, I agree that your statement is more than helpful. I am wondering if it is proposed—you are a county commissioner—that you could tax this land if it is kept in the present situation?

Mr. LACOME. I don't really see where we could because, as is, the county itself isn't benefiting from it that much.

Senator METCALF. So whether it is in a use situation or in actual Indian ownership, there is no proposal to invoke and impose a county property tax on this land?

Mr. LACOME. I think that the county could benefit from it if it were put into commercial use.

Senator METCALF. Well, there isn't any suggestion that it be open to commercial use, because this committee wants to abide by the 1933 law that says that the Indians' use is paramount, and it is only when the resources under the contract are not needed by the Indians that they are made available for commercial use. But some of the fear that I have heard invoked is that you people will go out and tax this 48,000 acres.

But there isn't any proposal by the county commissioners to tax this land; is there?

Mr. LaCome. Senator, I think that would be mostly up to the assessor. As a county commissioner, I am not quite qualified to answer that question, due to the length of time I have been in there as commissioner.

Senator Metcalf. Well, I would hope that there would be, even though just a use permit.

Mr. LaCome. I concur with Senator Anderson. I am pleased that a member of the regular administrative authority is here to testify and present your views, and we are grateful for your testimony.

When we get back from answering the rollcall, we will hear from our good friends, the members of the tribe.

(A short recess was taken.)

Senator Metcalf. I am very sorry but I must return to the floor.

I would like to note that we have in the audience Miss Linda Bernal, who is related to one of our witnesses and working for the Bureau of Indian Affairs here. Though she has no testimony, she is going to help her fellow tribesmen at the witness table. I do want to assure you, my old and good friends from the tribe that I have visited with over all the years I have been in Congress, both as a Member of the House of Representatives and as a member of this body, that I am looking forward to your testimony. I will be back as soon as possible. Believe me, I have enjoyed our relationship over the years.

Mr. Bernal. Thank you very much, sir.

Senator Metcalf. I am very sorry but things move rather fast.

(A short recess was taken.)

Senator Metcalf. The subcommittee will be in order.

The witnesses now appearing are the delegation from the Taos Pueblo, Mr. Romero, Governor; Mr. Paul Bernal, secretary; and would you identify the other witnesses at the table.

STATEMENT OF QUERINO ROMERO, GOVERNOR, TAOS PUEBLO; PAUL J. BERNAL, SECRETARY OF THE PUEBLO COUNCIL; MR. MARTINEZ, MEMBER OF THE PUEBLO COUNCIL; AND WILLIAM C. SCHAAB, COUNSEL

Mr. Bernal. Mr. Chairman, I would like to introduce the Taos delegation to testify at these hearings today.

On my far right is Governor Romero, Governor of the Indian Tribal Village. To my right is Mr. Martinez, who is the oldest council member and has been the spokesman for many, year years. I am Paul J. Bernal, and my legal counsel is Mr. Bill Schaab.

Next is Miss Linda Bernal, who is employed by the BIA in Washington, D.C., and Mr. Valentino Cordova. The last two I mentioned do not hold any authority position, but they might testify in support of the bill passed by the House of Representatives recently.

Senator Metcalf. Now I want to emphasize and have the record show that you are represented by your counsel, Mr. Schaab, who previously testified.

Mr. Bernal. Yes, sir.

Senator Metcalf. Then go ahead in your own way.

Mr. Bernal. Thank you, Mr. Chairman.

I would like to have my Mr. Martinez testify in his own Indian native language, and I will interpret for him.

Senator METCALF. All right.

Mr. BERNAL. First, I testify here to support of H.R. 3306. I am the oldest council member and spokesman for many, many years. This is the place where you give your honest interpretation and respect. This is the place where you give your honest interpretations so people can understand you, and no mixtures of falsifying information is welcome in this room. This room belongs to the U.S. Government. People can be told here knowing about respect in an honest way insofar as testimony that I will give to the best of my ability.

First of all, I want to make a comment here in regard to my friendship with Mr. Anderson, Senator of New Mexico. He and I have been friends for many years, and he and I have been close business relationship experienced in the way of discussing this particular matter.

I am desirous for him to consider my testimony and my presentation, and I will to the best of my ability, and I would expect for him to listen and to do the best part for him and give us a consideration.

Now I shall tell the committee about the Blue Lake and the 48,000 acres and why I say that we are here about this lake, why is it that we have a relationship which is undesirable for us. I have been working on this and I have experience to work with this Blue Lake problem, and I have no desire to do other than to tell you exactly what has gone on. The reason why that we have a misunderstanding with the Forest Service I shall tell you.

The first problem that we have experienced with the Forest Service I will point out to you in a situation in La Junta Canyon, which now shows on the map the blue spot on the southeast corner.

In that area in the year about 1956 and 1957 a lumber operator had been given permission to establish a lumber operation in this canyon in what we call Deer Creek, and he established a lumber mill in there and invited the lumbermen or the loggers to bring in their teams of horses and they have brought in their houses for us by these loggers and they built a corral right on the creek.

This creek is falling into Buffalo Creek. A desecration has been done by these people, tremendous damages have been done, and also the lumber people under these programs have cut a tremendous amount of timber in that area and today no timber now is available for clear-cut. They already have cut that blue spot area in the southeast corner of the map.

This is my objection. This is one of the damages which the Forest Service has failed to correct in this area.

In order for us to prevent further damage in this area, me and my council, the Governor and the staff, went ahead and approached them to find out who is the operator where this permission was coming from. The operator, Mr. Tony Cordova, told us that he got permission from the Forest Service and then also I brought in the U.S. Public Health Service to see and to make a correction and to help us to correct this damage.

In this area the land looks to me to be almost beyond recovery. The watershed is damaged so badly that it is going to take a long time to bring it back to its natural form. Many side of the drainage on the east side of this exclusive use area, parts of the Apache Spring and Bonito Park and Witt Park, the Forest Service let many non-Indians graze their stock in this particular area by permit, and the

Forest Service has permitted to cross and make accessible for the timber loggers coming from the east side of this, the red line on the map, to come on in and make accessible and makes roads, and the loggers have built the logging trails inside of that red mark, this border.

Senator METCALF. Just a minute.

If a logging trail is built, it was built, as you say, for outside activity? Not for Indian logging?

Mr. BERNAL. Yes, sir. According to what he says, Mr. Chairman, this logging trail has been made for the outside people for their accessible purpose.

Senator METCALF. Within this area that is described in yellow on the map?

Mr. BERNAL. Yes, sir.

Senator METCALF. I hope that Mr. Greeley will listen to this and respond to it.

Senator ANDERSON. I think he might be mistaken.

Senator METCALF. I see that the representatives of the Forest Service are shaking their heads.

Senator ANDERSON. Has there been a trail built up there?

Mr. BERNAL. Yes, sir.

Senator ANDERSON. What sort of a trail?

Senator METCALF. By the Forest Service or by permit from the Forest Service?

Mr. BERNAL. Mr. Chairman, I cannot answer that question, but the first trail, the logging trail, comes through here. It cuts into this area in here. The fresh logging trail is built inside of this area right through here [indicating on map].

Senator METCALF. Mr. Greeley, are you and your staff observing where he indicated with the pointer? It's very difficult for me to identify this, the line that is indicated by Mr. Gamble where you said that they penetrated over on the far side of the map; is that the top of the divide?

Mr. BERNAL. Yes, sir.

Senator METCALF. And you insist that the Forest Service has permitted logging trails to be built into those various areas that you indicated on your map?

Mr. BERNAL. Yes, sir.

Senator METCALF. About a half dozen?

Mr. BERNAL. I would like to ask Mr. Martinez about that.

Yes, sir. The Forest Service agreed that they say there are trails into this area.

Senator ANDERSON. I want to be very sure about it. Did the Forest Service approve these trails?

Mr. BERNAL. Senator, we do not know whether the Forest Service did, because we have not been consulted and we did not have any negotiations before anything happened.

Senator ANDERSON. First, I understood you to say that the Forest Service did know about this and didn't do anything. Now you say you don't know whether they knew it or not.

Mr. BERNAL. The Forest Service, Mr. Senator—he said that the Indians did not know anything about this activity. The Forest Service did not provide information about their activities in this area so therefore the Indians have not been informed.

Senator ANDERSON. How do you know that the trail has been built? Have you been up there?

Mr. BERNAL. Yes, sir; I went through there. I have directly.

Senator METCALF. Well, suppose it were a trespass. Who would be the first to learn of it, the Forest Service or the Indians.

Mr. BERNAL. The way I could answer that question, Mr. Chairman, is probably if the Forest Service happened to find out this kind of activity in this area the Forest Service should inform the tribal government and council.

Senator METCALF. Now if there is a trespass, are you complaining that the Forest Service did not enforce the regulations and keep the trespassers off the land?

Mr. BERNAL. I am complaining about this act because the Forest Service did not take a stand and make a correction on this. They did not stop these people from doing it. I make this in the form of a complaint.

Senator METCALF. We have evidence already of one trespass, and that the Forest Service discovered such a trespass and ordered the people off the land, provided for recovery of the logs that were cut, and enforced the agreement.

But you have described about half a dozen such trespasses, and how do you enforce it if there is such a trespass? How do the Indians do that?

Mr. BERNAL. The Forest Service has a responsibility to supervise the area. What methods of supervision they could use would be up to them. It would not be for us to tell the Forest Service what to do, and they should be in the area and protect the boundaries of this area.

Senator METCALF. What I was wondering about is that you need the Forest Service to enforce your grazing and timber and other rights.

Mr. Schaab wants to respond.

Mr. SCHAAB. I was simply going to try to explain what the question is, Mr. Chairman.

I think the question intends to ask: How could you prevent trespass under H.R. 3306, the House bill? How could the Indians protect their land from trespassers without the Forest Service to do it for them?

Mr. BERNAL. If the Indians are given the responsibility to maintain and protect against this trespassings, H.R. 3306 spells out the bill, kick all non-Indians out.

Senator ANDERSON. Well, if you make charges that somebody is trespassing, you ought to be able to tell who is trespassing and where.

Senator METCALF. Well, you haven't made any charge here that there has been any trespass except the one that is already in evidence in the permit area. Now I call your attention to the map behind you, which is the map that we refer to from time to time, and there is an area in yellow and then there is a white area and a blue line, and the permit area is the yellow line and you are talking about people who have gone in and logged and lumbered in the area that is white, and that isn't the area under the 1933 act or under any other act which requires a permit. Is that correct?

Mr. BERNAL. Insofar as the yellow area of which you stated the act of 1933, this area we know that we have been dissatisfied with the setup, and we don't like the exclusive permit area, and we not only

claim the yellow area, we are claiming the whole area, so we have a right to voice it. We have a right to voice the activities going on with our knowledge.

Senator METCALF. You have a right to complain. That is what you are in here for. But the permit area is the yellow area, and there has not been a trespass on that area except the one that was testified to that was ended by the Forest Service. Isn't that correct?

Senator ANDERSON. The governor nods his head.

Senator METCALF. I don't want to belabor the point. I saw you nodding your head. There hasn't been a trespass into the permittee area, even though you contest the fact that those are the boundaries and the Forest Service has consistently enforced and supported your rights in that area.

Mr. BERNAL. According to the 1933 act.

Martinez would like to know who drew the map? Who helped draw the designation of the special use area? Did the Forest Service draw the map? And who drew the white area? How come it happened this way?

Senator METCALF. The map was drawn by the statute, and the map was drawn according to the same provision that we draw deeds and other things, metes and bounds, and descriptions of, in accordance with land surveys, and sitting here we have to look at this statute, just as we look at a deed. You are satisfied with the map?

Mr. Collier, after he came in with an affidavit that wouldn't be worth a whoop in a whirlwind in court, after his signature was affixed to an agreement, came in and said, well, that was wrong; but if this were a deed, we would be in real trouble. You wouldn't have a leg to stand on.

The thing is that after consultation with the tribe, and consultation with the various individuals in hearings before Congress such as this, metes and bounds, corners, survey reports, were the result of this area, and these are things we can't question. We can remedy it, according to appeal, if you have a justification, but Congress drew that map at that time.

Mr. BERNAL (interpreting for Mr. Martinez). We realize that the United States had to do a lot of things about the statute. But the justification, it seems to me, is that there is a lack of interpretation on the part of the Government of why that yellow area has been designated as such, and at the time of this negotiation, we had a lack of education, and today, you can see for yourself, I need an interpreter. I do not communicate with you, and you can't communicate with me.

The difference in here is that a great deal would be accomplished if our people like you can understand American language from the beginning of time. Today we have not been able to be interpreted. We have explained the reason why such a yellow area has been in there, and—not including on the east side of the white on the east side—has not been included in the yellow area.

Senator METCALF. Well, as I say, I am not going to belabor this point. I have many Indian friends, some of whom can't speak English. I don't know of a single Indian that doesn't know the difference between 48,000 acres and 30,000.

Mr. BERNAL. If I am permitted to continue my testimony——

Senator METCALF. Certainly; go right ahead.

Mr. BERNAL. I will do so at this time.

Senator METCALF. Please.

Mr. BERNAL. I would like to take this opportunity to further testify in support of H.R. 3306 passing the House. In H.R. 3306 it spells out the area for our protection. I am pretty sure, Mr. Chairman, that you know about this, and I am pretty sure that Mr. Anderson, Senator of New Mexico, knows about this; and I have one point here to bring to your attention about the desecration that has been done, has been continued by the Forest Service personnel. Why is it that the administrative cabin had to be built in the Blue Lake about 500 yards away from the lake? And why is it that the Forest Service have to fence off, in this area, and build a corral for horses that will pollute the springs? The water will drain off from this area, going into the public use. Why is it the Forest Service did not make correction when they stock up the fish in the lake? And why is it the Forest Service did not make an effort to make a correction when they dynamite fish in Star Lake? This is the tremendous desecration, the damage they have done—the American public. They have cut trails, they bring other peoples in the area, and today the Blue Lake area and all the surrounding Blue Lake is nothing.

The last part of the 1920's and the early part of the 1930's, the village of Arroyo Seco, the sheepowners have been allowed to graze their sheep in this area. These sheep have been grazing this area, and they have grazed this area down to the ground, and today you are not able to find a way to rehabilitate this area.

The people of Taos Pueblo, inhabitants, have been suffering from the day—these little babes, little boys and girls, young men and young women, elderly, old people up to the aged. I don't want my people to be left out, and take that land away from them. I am asking my friend, Clinton P. Anderson, to support H.R. 3306, and I would like for him to make consideration, and honest consideration of H.R. 3306, which we want him and urge him to support. There is nothing wrong with this H.R. 3306. The land would come out of the Taos Pueblo, jointly with the American people.

I am pretty sure that we can find peace. I am sure that we can find some kind of an understanding, come to some kind of a good understanding. Why can't you and I travel together as friends, holding hands, hand to hand? We can solve our problems, and do things right, and make ourselves available for understanding as friends.

In 1967 I was governor and I had to accept the negotiation, the business people of Taos. These are our neighbors. These are our brothers. These are people that we do business with, and we are concerned about this business protection, when they approach our tribal Governor, decide that they would like to build a flood control dam in La Cruces Arroyo.

In a friendly way, without any kind of a bargain, without any kind of an approach, we did it in a friendly way, and we did this because we have been in a helping way.

The water of the Taos Creek could be enjoyed by both the Indians and the non-Indians. Today we are enjoying the practice, and a decree enforced by the Spanish Government way back, and so therefore nobody has been harmed, the non-Indians also enjoying the water along with us, because the sharing is going on today, and we have no intention to jeopardize the right of the people of the town of Taos. We want

them to have what belongs to them, and we don't want to take any position to harm their rights. They are part of the people in that community as well as ours, but therefore these water decrees are not harmful.

The same favor to water commissioners, which is composed of Mr. Malachia Martinez, who has testified just a few days ago, Mr. Charlie D. Brooks, the businessman, and also Mr. Escobal, the lawyer. These people have made an effort to come and sit in with the council, and talk about the improvements of their canal or ditch. The Indian people went along, and to do this, whatever they did in an effort of supporting the Indian people, it was their own prerogative. We did not enforce it.

According to the testimony I have heard from other individuals, that anyone who belonged to this tribe has objected to supporting this H.R. 3306, if they want to do that, it is still their prerogative; but the majority of the people are supporting this H.R. 3306, and this is what they want, and this is what we want for the Taos Pueblo people.

I am going to end my testimony here, with appreciation, and I want to encourage my friend, Clinton P. Anderson, to support H.R. 3306. It is a good bill, and is the one that he should support, as a friend. I thank you for the opportunity to testify before this committee, Mr. Chairman.

Senator METCALF. Mr. Romero, do you want to testify?

STATEMENT OF QUERINO ROMERO, GOVERNOR, TAOS PUEBLO (THROUGH AN INTERPRETER, MR. PAUL BERNAL)

Mr. BERNAL. Mr. Chairman, Mr. Anderson, Mr. Hansen, and the rest of the people who are making themselves available to listen to our testimony, I am the governor of Taos Pueblo. I am a little hesitant to show myself in any way out of unrespect to you, but I have a responsibility for being the governor of Taos Pueblo, and I have an authority to speak for my people, in regard to the Blue Lake situation—what is going on at Blue Lake, in the area today.

The way we have been interpreted, the way we have been brought up for clarification, we are fighting for our own land; we are fighting to have our own land returned to us for our own particular use.

Why is it we have to fight? This has been our land from the beginning of our time.

About our religious beliefs, it would be up to the individual what he wants to believe, and this is the way that this country has always protected individuals. We do believe, and we have this tradition in ancient history of our religion, from the beginning of our Indian time. How we use and what we do, and what we say, and how we are able to contact and talk to our spirit, is absolutely our right to do that within this area.

I am hurt in my heart—to the last vein within my heart, I am hurt—the way we have to fight for our sacred land, the way we have to fight for this burial land, on which we have been brought up, the land that we have traveled to pray to our spirit of God, to pray to God in our own way. It hurts me to think about the fight.

Being an American citizen of this country I don't have to fight for anything like this. It should be given back to us, and this is our land. My peoples were the older traditional type of peoples, and that is my foundation, and I have learned lots of good things from them, and

there is where my stronger philosophy, and the way I do, to protect and to initiate, with authority, to protect their interests. This is some of the things I am using for my purpose.

Blue Lake for our life is living. Blue Lake is where the spirits of Indian God is still living today, on this dirt, insofar as we know.

We go over there to pray, and we go over there to worship. The stars and the moon and the sun and the sky and the clouds and the air, and whatever nature has provided for us, we do believe in this. You need these yourself. No one is any more powerful than God himself. I do believe this is my interpretation of this.

Personally, I don't have any feeling with the Forest Service personnel. I don't have any feelings with nobody. I don't like anyone to be impressed that I am against Forest Service personnel. But for the fact within this area, we would have to go in there by permission, the sacred area of Blue Lake, and the 48,000 acres. We go in there by permission. This has been the thing that we don't like to see. We should not be going in there under any kind of a setup. This has been our land; this has been our church. A shrine that we have been talking about in this area are located the vegetations, the timbers, and the creeks and the springs and the water, and the little wild animals that we use for our ceremony purpose are in there. Why should we let it to have this desecration by the people who don't believe in preserving these things?

My council member, Severino Martinez, has stated here, giving permission to go in there would not be justified because we exercise our religious purpose in there.

Congressman Haley on the House side, Wayne Aspinall on the House side, passed this H.R. 3306, with an honest and good study, a good study, and they protected the Indian interests. They have given their time to learn from the Indians, and they have given themselves a time to listen to the Indian people.

Half of the lawmakers of the United States of America have already protected this, and supported H.R. 3306. What is wrong with it? We want this H.R. 3306 to be endorsed by this committee. We do believe in American way of treatments. We do believe that we belong to this society of our country.

I want to thank you, Mr. Chairman, for letting me testify, and this is my testimony to this committee.

Thank you very much.

Senator METCALF. Thank you very much, Mr. Romero.

Senator Anderson?

Senator ANDERSON. We hear a lot of claims about trouble with your religious rights. Can you give me one specific example of some sort where the Forest Service caused you to suffer for your religious rights?

Mr. BERNAL. Mr. Chairman, I would like to answer your question in this way: The Governor says that through the Taos Pueblo Indian Reservation, the Forest Service go into this Pueblo Canyon. During the period that we are going in there, he is personally in the summertime, or in the late fall, my own people go in there with packs, on the road. We got there to find travel by the Forest Service personnel. They go in there, we call it an interruption. We call that disturbances.

Senator ANDERSON. Some Forest Service men go in there and cause you some trouble?

Mr. BERNAL. We do not intend to learn their names, because the Forest Service should have an assignment of that personnel to go in there, and maybe have different ones, but we know there were disturbances going on in that area.

Senator ANDERSON. Thus far you haven't illustrated anything that the Forest Service has done to cause you trouble in religious circumstances. Can you name one thing they have done?

Mr. BERNAL. We have our special ceremony conducted in the canyon, and while we were in the midst of conducting the ceremony, a Forest Service vehicle with Forest Service personnel went through there, and we would have to stop this activity, not to attract their attention.

Senator ANDERSON. When did this happen?

Mr. BERNAL. It must be the month of July.

Senator ANDERSON. July which year? This year?

Mr. BERNAL. Last year, 1967.

Senator ANDERSON. 1967.

Mr. BERNAL. Right.

Senator ANDERSON. July of 1967.

Mr. BERNAL. That is right.

Senator ANDERSON. What did they do?

Mr. BERNAL. There were two men in a Forest Service vehicle, and we didn't want to attract their attention, and we have to hide, and they passed on.

Senator ANDERSON. You were hidden, and they passed on. They didn't know you were there at all.

Mr. BERNAL. They didn't pay any attention to us. They passed on.

Senator ANDERSON. Is there a road down there, where the Forest Service might presumably drive?

Mr. BERNAL. The road going through there is used by both the Indians and the Forest Service. The Forest Service should notify the war chief or the tribal authority before they go in at any time.

Senator ANDERSON. There is a magazine called Colorado—Colorful Life in the West, in the fall of 1968, this year, and it talks about, "The 477 million acres of public domain are deemed by the Indians to be their promised land." Four hundred and seventy-seven million acres. Do you think that would be a fair amount of what the Indians would claim?

Mr. SCHAAB. I didn't understand the question, Senator.

Senator ANDERSON. There is a publication that is almost entirely devoted to the Indian situation, a very good magazine, it is a magazine called Colorado. And in that magazine there is a picture on page 21. It says, "The 477 million acres of public domain are deemed by the Indians to be their promised land." Four hundred and seventy-seven million acres. You wouldn't settle for the possession of that? Will you settle for 477 million acres?

Mr. SCHAAB. Do you intend the question seriously, or rhetorically, Senator?

Senator ANDERSON. I keep hearing these things about the Sandias, the Cochitis, Santa Claras and others. A bill came in here about the Grand Canyon, that we are going to rededicate that to the Indians, that is H.R. 19072. There are claims all around, all the time, about

this situation. If this is given to the Taos Indians wouldn't you also be obligated to give the other Indians the equivalent? You say they don't have any sacred region, but they think they do.

Mr. BERNAL. What the other Indian people are doing, we are not encouraging them to do what we are doing. We do not believe in setting up a precedent of this religious ground, this religious or sacred area that we are asking under H.R. 3306, because this is a very, very unique case. We don't believe in that economic development, and who knows what other tribes are going to make for economic reasons, and we are not able to answer that question, why these peoples are doing it.

Senator ANDERSON. Well, the Nambe are also objecting to it, aren't they? The Nambe?

Mr. BERNAL. I do not feel that I should be involved in the Nambe situation, and it is their prerogative, whatever they want to do with their tribal lands, and I am not able to answer that question fully. I don't belong there, I don't live there, I don't experience their activities.

Senator ANDERSON. Well, everybody worries, and I get a lot of mail out of Philadelphia that is all about this Indian situation.

I don't know what they have to do with it, but they worry about it. If you could tell us a little bit about what you really thought this situation was with the other Indians, I would be happier. We asked you about the land, and prepared to enlarge the use permit. You turned that down. If you really wanted to get that church of yours, as you say, wouldn't you take the first offer that was made to you to get it?

Mr. BERNAL. The 48,000 acres in the Blue Lake area—excuse me. The 48,000 acres. The Blue Lake area, we can't accept any compromise. We do not like to have this 48,000 acres whittled down and cut down, and it has been cut so much, and so much taken in the Government experience ways have been, in the area, we do not know these technical questions. This is our land and should be returned to us. H.R. 3306 consists of trust title to 48,000 acres. Interior Department should be authorized to administer this area.

Senator ANDERSON. But you didn't get that same grant all at one time. You were apparently satisfied—someone testified you were when you got the 31,000 acres, and that took in the most sacred area. But someone wanted to offer you an area which you think should be most sacred, you turn that down. You want 48,000 acres, when at one time you were satisfied with 31,000. Why don't you take it?

Senator METCALF. I wonder who is testifying now. Is it Mr. Schaab?

Mr. BERNAL. Mr. Chairman, I am trying to get the question straight. I am not able to——

Senator METCALF. Who is responding to Senator Anderson's question?

Mr. BERNAL. I am interpreting, and the Governor is responding.

Senator METCALF. Fine. Go right ahead.

Mr. SCHAAB. If you want to hear what I say to them publicly, all I am trying to do is to——

Senator METCALF. No, all I want to know is to whom should the reporter ascribe the testimony that is being given, and it is to Mr. Romero?

Mr. SCHAAB. To Mr. Bernal. I think Mr. Bernal has been interpreting for both of them, together.

Senator METCALF. Thank you very much. Go right head. I am sorry to interrupt.

Mr. BERNAL. This has been a different interpretation of acreage, 32,000, somebody says, and 31,000, somebody says. The 1933 act has been very, very unsatisfactory to the Indian people. We want to amend that, and we want for us to be returned the 48,000 acres, in trust title, and this is what I wanted and this is what I am testifying for.

Senator METCALF. Well, the 1933 act says, "Containing approximately 30,000 acres." Specifically, plainly, clearly, and without equivocation, "containing approximately 30,000 acres." That is section 4 of the act.

Actually, it contains a few more than 30,000.

Mr. SCHAAB. Apparently more accurately, 31,000 and some odd.

Senator METCALF. That is correct. But there wasn't any attempt to deceive anybody. It was understated in the statute, and there is really more acreage than was stated in the statute.

Mr. SCHAAB. Mr. Chairman, perhaps I can answer just one.

Senator METCALF. I would be delighted to have you clarify it.

Mr. SCHAAB. I think the documentary record with which I am familiar, and which is part of the Pueblo statement, indicates there was a good deal of uncertainty from 1927 until 1933 when the description that was used in the 1933 act was being formulated as to exactly what land was covered by it. They did specify the acreage of 30,000, but the Forest Service, in a couple of places, stated that the entire watershed covered only 34,000, and it is clear to me from the documents how Mr. Collier and others on whom the Taos Pueblo were then relying did not understand that the 30,000 acres description in the 1933 act failed to include the entire watershed.

Senator METCALF. Mr. Schaab, if we adopt the theory that you have advanced here, that by subsequent affidavit, and subsequent statements, you can impeach a statute or a deed, there wouldn't be a single acre of land in the United States that couldn't be challenged.

Mr. SCHAAB. That is not really what my intention is. This is in the nature of legislative history. It is part of the background of the 1933 act. I think in a technical, legal sense there may have been evidence of a mutual mistake on both sides, by the Pueblo's representatives and by the Forest Service representatives, as to exactly what land was covered by that 30,000-acre description.

Senator METCALF. I can't understand how there could be a mutual mistake when it specifically says 30,000 acres, and now you come in and say 48,000. I am not a land expert, althought I have gone over some of the land, but I believe that I could tell the difference between 48,000 and 30,000 acres, and, as I say, I don't know of an Indian in Montana that couldn't tell that difference.

Mr. SCHAAB. The issue really was not the number of acres. The issue involved was the land to be covered. If the entire watershed had been covered by the 1933 act, even though the number of acres were 30,000 instead of 48,000, it would have met what John Collier thought he was getting at the time. He didn't realize that he was getting less than the entire watershed, within the scope of the act. I think that is quite clear from the state of the record.

Senator METCALF. I understand you, Mr. Schaab. Thank you.

Senator ANDERSON. Well, I will merely say, had they asked in the first place, there would be no compromise. The people who have been belaboring me, the religious crowd, say, "Why don't you let them have their church?" And we say, they have got another church. They say, "Oh, no, you have your church and swimming pools, and your forest lands, besides that, and we won't compromise," so you know you are really not trying. I don't believe it is in order to have a compromise of 48,000, when 30,000 was clearly indicated. I think that is a very sound position.

Mr. BERNAL. Mr. Chairman, Governor Romero states that he appreciated the apportunity of testifying.

Senator METCALF. Senator Hansen?

Senator HANSEN. I have no questions.

Senator METCALF. I have three major questions, and I will welcome responses from Mr. Schaab, or the members of the Council, or the employees of the Bureau of Indian Affairs.

I am concerned about the election of the tribal officers that come up here. Now are the tribal officers democratically elected? Let me add that we had a great controversy in America that has been settled by the U.S. Supreme Court, that in election of officials of the Government, or representatives of the people, there shall be one man, one vote. Now in accordance with that Supreme Court decision, are the tribal councils of your tribe elected with one man, one vote?

Mr. BERNAL. Mr. Chairman, I would like to take an opportunity to answer that question for you. May I?

Senator METCALF. Please. Anybody that can answer it.

Mr. BERNAL. Yes, Mr. Chairman, the Taos Pueblo is now exercising the self-form of government. This is old traditional self-form of government.

Senator ANDERSON. The what?

Senator METCALF. I didn't get that. The Taos Pueblo now——

Mr. BERNAL. The Taos Pueblo now, and have been, exercising the self-form of government.

Senator METCALF. Self-government, yes.

Mr. BERNAL. Self-form of governemnt. This is our oldest type of government, which these people have been still exercising today.

The Spanish crown, the Mexican crown, and United States recognized this authority, similarly, and the Spanish-American government, by Abraham Lincoln, gave a cane saying, "I will recognize your self-form of government." That is what Abraham Lincoln says.

Senator METCALF. Well, now——

Mr. BERNAL. I would like to get into the detail——

Senator METCALF. Now let me ask a question, and will you answer yes or no?

Mr. BERNAL. Yes.

Senator METCALF. Are the members of the tribal council of the Taos Tribe elected by democratic, one-man, one-vote procedures?

Mr. BERNAL. I am unable to answer that question yes or no. I would like to explain how come the Taos Pueblo Council elects these, and where it is authorized, and things like that.

Senator ANDERSON. Could you also describe the fact that this council is a self-perpetuating organization? If one man dies, the members of

the council elect the next man, and no other person is voted on for many years?

Mr. BERNAL. It is initiated through the authority of holding. Mr. Romero, for an example, has been the lieutenant governor twice, and then when he first served in this capacity, he became a council member, and now that he is the governor, why, he is still a council member.

Any one member of his tribe who should be given this kind of authority capacity in the tribal government becomes a council member whenever he serves in this capacity.

Senator ANDERSON. The answer is no.

Now let me ask again: Has there ever been a democratic election for a member of a council?

Mr. BERNAL. Mr. Chairman, I would like Mr. Cordova to answer that question for you.

Senator METCALF. Surely. As I said, I want anybody that can explain this whole situation to do so.

Mr. CORDOVA. Mr. Chairman, my name is Valentino Cordova, and I am a member of the Taos Pueblo Tribe. I am sort of in exchange here with the Office of Education, but I actually work for Arizona State University.

Senator METCALF. If you can do as well as Chuck Taylor you will do pretty well.

Mr. CORDOVA. I think what you are asking my governor, or our secretary here, the question is not understood in our democratic sense of the word. In other words, the Taos Pueblo government has long been established before the coming of the white man. If you want your question answered specifically, we are following the Spanish setup of government that was imposed upon the Indian tribes, the Pueblo Tribes.

In other words, this was a form of elders, who had the right to vote, and this way of voting and election of your governor and his staff has come down through the centuries. I think that our people at this point are not sophisticated enough to impose upon ourselves the democratic form of government yet, and it might take a couple of centuries, until we get to that point.

Senator METCALF. Well, we have taken a dim view, and looked askance on some of these traditional forms of tyranny and so forth that have come down through the years.

Now do your people vote, as registered electors in State elections?

Mr. CORDOVA. Yes.

Senator METCALF. Well, then, if they are sophisticated enough to vote for the Governor of a State, or the Representative to Congress, or a U.S. Senator, they are certainly sophisticated enough to vote for their tribal leaders.

Mr. CORDOVA. Let me qualify my "Yes" statement to your question, Mr. Chairman. I vote and probably maybe 30 of us from this reservation vote. Most of the young people, my age, you might say, have gone on to school, and are sophisticated in this manner. However, in our tribal form of government, and I have gone through the initiation rights, we recognize the power that the Tribal Council holds. I doubt if there are any young people at this point in the majority who will dispute this power that the Tribal Council holds. In other words, we will uphold it, and we will probably carry it on, when our time comes.

Senator METCALF. That is a powerful argument for democracy in the tribe, if some of you young leaders are fearful of disputing the authority of this self-perpetuating tribal group.

Well, anyway, I have learned the answer, I think, to my question, that you do not have what we consider under the Supreme Court decision, and what you understand, as I understand, a popular vote for your tribal officials.

Mr. CORDOVA. No.

Senator METCALF. Now, the second thing I want to know about is this grazing. We have an allegation that only 10 people or only at most 15, have grazing rights. Now, are those tribal grazing rights, or are those individual grazing rights?

Mr. BERNAL. Do you want me to answer that question, Mr. Chairman?

Senator METCALF. Please. Yes, the question is there and somebody ought to answer it.

Mr. BERNAL. All right. The 10 cattlemen or stockmen you are talking about with grazing rights, the community grazing lands belongs to all people in this reservation, consisting of 1,400, and a little over.

Senator METCALF. How many?

Mr. BERNAL. About 1,400. Community grazing lands are available to these people, and no way has been defined to use these community grazing lands, because the stockman is a stockman, and he needs to use these lands for his own purposes. And he is subject to maintain the area, and to build a fence, and to take care of these lands, and to see that all the protection is initiated in these grazing lands.

Senator METCALF. Well, how many of these 1,400 people, who share these grazing land rights, actually graze cattle on this area?

Mr. BERNAL. I don't think there are—not too many people are grazing. You know, the stockowners, the stockmen.

Senator METCALF. Can you estimate?

Mr. BERNAL. About 20.

Senator METCALF. Twenty. Well, that is more than they said, but about 20. But those are individual grazing rights, and they are not tribal cattle?

Mr. BERNAL. No, these are individual cattleowners, and they are not belonging to the tribe.

Senator ANDERSON. As a matter of fact, don't you select certain people to have these rights, and all the rest of them——

Mr. BERNAL. No, we never do, Senator.

Senator ANDERSON. Have you more than one group? Have you any community rights at all?

Mr. BERNAL. We never would deprive anyone. Everybody has the same rights, sir.

Senator ANDERSON. No.

Mr. CORDOVA. Mr. Chairman.

Senator METCALF. I wasn't clear on that, and you have cleared it up.

Mr. CORDOVA. Mr. Chairman, there has been an allegation made that these people in political power are also the owners of cattle, solely those people.

My father happens to be the Lieutenant Governor of Taos Pueblo, and we have never owned a cow. So I think this allegation is untrue. I think it depends on the individual ability of an Indian to acquire whatever economic resources he does have.

Senator METCALF. Do you know these 20 people that exercise these grazing rights?

Mr. CORDOVA. Yes, I know them.

Senator METCALF. Are these members of the Council?

Mr. CORDOVA. Some of them aren't.

Senator METCALF. Some of them are not. How many would you say were not?

Mr. CORDOVA. I would say just by looking back, two-thirds of them are not members of the Council.

Senator METCALF. Thank you.

Senator Hansen, did you want to ask a question?

Senator HANSEN. Yes.

Senator METCALF. I have one more.

Senator HANSEN. Yes, go right ahead.

Senator METCALF. All right, go ahead.

Senator ANDERSON. Have you found out from the Forest Service, did they give you this figure of 20?

Senator METCALF. Mr. Greeley is back there. If he is prepared to answer the question that Senator Anderson has propounded.

Mr. GREELEY. I didn't hear the question, Senator.

Senator METCALF. Senator Anderson.

Senator ANDERSON. Can you list how many people own these grazing rights, as far as the Forest Service is concerned? I have been told steadfastly that only members of certain groups could have cattle, and one man owns nearly half of all the cattle.

Mr. GREELEY. Senator, we have no records of who the Indian permittees—I mean who the Indian owners are who run stock in this area.

Senator METCALF. Does the tribe have a record?

Mr. BERNAL. Sure we have a record.

Senator METCALF. Could you give us a list of the names of the people?

Mr. BERNAL. Certainly.

Senator METCALF. And the amount of cattle that each one grazes?

Mr. BERNAL. Yes, sir.

Senator METCALF. And would you make a notation as to how many of those who graze cattle are members of the Council?

Mr. BERNAL. Yes, sir.

Senator METCALF. That, I think, would clear up the whole question. Would you do that?

Mr. BERNAL. Yes, sir.

Senator METCALF. Without objection that material will be submitted and made a part of the record immediately after this colloquy and this testimony.

(The information requested is as follows:)

RODEY, DICKASON, SLOAN, AKIN & ROBB,
COUNSELORS AND ATTORNEYS AT LAW,
Albuquerque, N. Mex., September 27, 1968.

Re Taos Pueblo hearings on H.R. 3306.

Hon. GEORGE MCGOVERN,
Chairman, Subcommittee on Indian Affairs, Committee on Interior and Insular Affairs, Old Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is submitted in response to the request of Senator Metcalf who acted as Chairman of hearings on H.R. 3306 held in Washington on September 19 and 20, 1968, that the Taos Pueblo furnish to the Subcommittee the names of members of the Pueblo who own livestock, the approximate number of head each person owns, and whether such owners are

members of the Pueblo Council. The list annexed hereto contains the information requested; there are 25 Indian owners of livestock, of whom only 9 are members of the Pueblo Council. Only 40% of the total cattle grazed are owned by members of the Council.

I also wish to correct the Taos Delegation's statement in the letter addressed to you dated September 22, 1968, that the Pueblo had not approved a permit for the trip to Blue Lake made on September 6, 1968, by Messrs. Seaman, Freeman, Little, Gunter, and an unnamed photographer. Information received by the Delegation in Washington on September 21 and 22 indicated no such permit had been approved by the Pueblo's War Chief. On return to Taos, however, it was learned that such a permit had been approved. The confusion arose because the War Chief understood the permit covered a trip to Bear Lake rather than Blue Lake.

On behalf of Taos Pueblo I also wish to make this letter a part of the record for the purpose of answering the misstatements of fact made by adverse witnesses at the hearings. The Pueblo's responses are set forth below under paragraphs headed with the name of the adverse witness. I regret that it was not possible for the Pueblo's witnesses to respond to such misstatements at the hearings, but I hope you will understand that the misstatements were so extensive that we could not, without having had prior notice of the misstatements, prepare an adequate response on the spur of the moment.

N. Preston Gunter. Mr. Gunter suggests that the Indians are asking Congress for the Blue Lake area "for economic reasons"; in fact, their request is based solely on their religious needs, and H.R. 3306 does not give them any significant economic benefits.

Mr. Gunter's suggestion that the Indians have already been paid for the 48,000 acres covered by H.R. 3306 is erroneous as indicated by Finding No. 22 of the Indians Claims Commission's Findings of Fact entered in *Pueblo of Taos* v. *United States*, 15 Ind.Cl.Comm. 666, 684, which was read into the record on July 20. The Indians have received only $160,835.94 with respect to lands taken from them within the Taos Grant outside the boundaries of the Town of Taos. Mr. Gunter has misconstrued the memorandum dated May 6, 1966, made a part of the record at the conclusion of my testimony, which shows that the Indians have remaining to their credit in their account with the United States an unexpended balance of $23,724.57. The rest of the $160,835.94 has been withdrawn by them for various Pueblo purposes. Mr. Gunter's erroneous statements regarding payments to the Pueblo have been answered before (see the letter from Commissioner Bennett to Chief Cliff dated June 6, 1966, which I also submitted to the Subcommittee on July 20); his reiteration of his unfounded charges is therefore surprising.

Mr. Gunter states that the Indians first "tried to claim" the Blue Lake Area in 1933. The documentary record filed with the Committee establishes that their claim to the Area has been consistently asserted since 1904, and that the repeated assertion of the claim has been fully documented in official records, copies of which have been filed with the Committee.

We hope that the Subcommittee will not consider Mr. Gunter an expert on land claims of various Indian tribes. Certainly his statement does not provide proof of the claims described therein, and his propensity to ignore clearly established facts should make doubtful the validity of his assertions.

Mr. Gunter states that the Taos Indians did not use the Blue Lake Area until after the coming of the white settlers. The Indians Claims Commission found that the Indians first entered the Area around the year 1300. There were no white settlers in the Area prior to the 17th Century, and the settlers Mr. Gunter has in mind are apparently Americans, who arrived in the 19th Century.

Mr. Gunter does not correctly state the "testimony" of Elliott Barker. Contrary to stating that the Indians "did not and could not go into the area" Mr. Barker's letter dated May 1, 1918, which is annexed to the Pueblo's statement to the Subcommittee as Exhibit 17, clearly recognized the Indians' use of the entire Watershed at that date.

Mr. Gunter does not hesitate to impugn the Indian Claims Commission. We need only point out that the Government's case was presented before the Commission by competent counsel more learned in the facts of the case than is Mr. Gunter.

Mr. Gunter's statement that the Pueblo would not grant an easement for a flood control dam to be constructed by the Town of Taos unless the Town Council made a statement supporting the Blue Lake Claim is untrue. The Indians testi-

fied at the hearing that the flood control easement was granted without any such requirement, and theIndians received no payment for the easement.

Mr. Gunter's statements characterizing the Taos Indians' religion as a declining "peyote cult" are untrue, and Professor Spicer has filed a statement with the Committee rebutting the interpretation of his book "Cycles of Conquest" which was relied upon by Mr. Gunter. Mr. Gunter's distorted views concerning the Taos Indians and their religion should not be given credence by the Subcommittee.

With respect to Mr. Gunter's statements concerning the use of Blue Lake he purports to have studied during his spy-trip on September 6, 1968, the Indians have responded directly to the Committee concerning the findings of their own officials with respect to the condition in which the Blue Lake vicinity was left at the termination of the ceremonials on August 25, 1968. Mr. Gunter's statement that "the Indians have made no attempt to keep the area clean" is not supported by facts. We trust the Subcommittee will not espouse Mr. Gunter's clear prejudicies against the Indians.

John W. Little. Mr. Little states that, "The facts just don't substantiate the Indians' claim that their Indian religion is being threatened by the Forest Service." Mr. Little's statement suggests that a reasonable white man would not agree with the Indians; therefore, their good faith in making their claim is to be questioned. We submit that it is irrelevant whether or not a white man would react as have the Indians to prior Forest Service policies or activities in the Area. The true issue is whether the Indians truly believe that Forest Service activities or policies threaten their religion and their culture. On that issue there can simply be no question: the Pueblo has asserted its desire to obtain ownership of the Rio Pueblo Watershed for more than 60 years, and their present effort is being conducted at great economic cost to a Pueblo which has few economic resources. They would surely not bear such burdens nor maintain their demands for so long a period if they did not deeply and sincerely believe that their religion is vitally threatened. Moreover, the provisions of H.R. 3306 depriving the Indians of any significant economic benefits from transfer of the Blue Lake Area fully protect against the possibility that the Indians have raised the religious issue as a subterfuge.

Mr. Little exalts the conservation record of the Forest Service while derrogating the record of the BIA. It is perhaps significant that the Forest Service itself has not argued that the BIA cannot adequately protect and conserve the Rio Pueblo Watershed under the terms of H.R. 3306. We do not believe Mr. Little has proven that the BIA cannot effectively protect the Watershed.

Both Mr. Little and County Commissioner Martinez state that protection of the Watershed is vital to preserve the flow of water in the Rio Pueblo. The Indians agree, and H.R. 3306 specifically provides such protection. There is absolutely no reason to believe that the quantity or quality of water in the Rio Pueblo would be diminished by the enactment of H.R. 3306.

With respect to Mr. Little's photographs and the alleged findings on his trip to Blue Lake on September 6, we wish to point out that he has no proof for his statement, "The Indians had left the area in a mess." Mr. Little was in the area 12 days after the Indian ceremonies had terminated, and he has not eliminated the possibility that the trash he photographed was left by white trespassers. The Indians have responded directly to the Committee concerning their knowledge of the clean condition of the area and the fact that the trees cut by a power saw could not have been cut by the Indians. We cannot explain the discrepancies between Mr. Little's statements and photographs and the Indians' statements; if both parties are telling the truth, the trees were cut and the trash was left by white trespassers who entered the area between August 25 and September 6.

Mr. Little's statements challenging the Indians' use of the Rio Pueblo Watershed clearly reveal the practice of certain Forest Service employees of spying upon the Indians for purposes of determining the extent of their use of the Watershed. It is precisely such observation by alien eyes that the Indians object to as destructive of their religious practices. The fact that Forest Service pilots survey the Area from above and its employees patrol the Area on the ground should indicate vividly to the Subcommittee that the Indians are being denied privacy in the practice of their religion by the Forest Service. That invasion of the Indians' religious freedom is now exacerbated by the Forest Service's clear intention to gather information for use in attacking the Indians' good faith and credibility.

Finally, Mr. Little's suggestion that the Pueblo's demand for ownership of the Watershed reflects only the wishes of a few old men who govern the Pueblo

with an iron hand and without regard to American civil liberties should be weighed against the statements by Mr. Cordova (age 31) and Miss Bernal (age 22) to the Subcommittee that the young people in the Pueblo support with equal fervor the demand for the Watershed. The fact that the Blue Lake Area has been sought for more than 60 years by generations of Taos Indians should in itself rebut the argument that a majority of the Indians do not want the land.

Elliott S. Barker.—Mr. Barker candidly attacks the religious claims of the Indians as "a pure and simple subterfuge to get the land for ulterior purposes." Since H.R. 3206 does not give the Indians any significant economic benefits, it is difficult to imagine what "ulterior purposes" would impel the Pueblo to push so long and so hard and at such great cost for recovery of this land. I suggest that Mr. Barker should not attack the good faith of simple people who are deeply sincere in their beliefs unless he has a strong factual basis for his attack; I trust that the Committee will construe Mr. Barker's attack as a reflection on his views rather than on the views of the Indians.

Mr. Barker's arguments that the Indians' historical interests in the land do not warrant enactment of H.R. 3306, and that to give this land to the Indians would unfairly benefit them in relation to their Spanish-American neighbors again ignore the fact that the Indians will not receive any economic benefits under the bill. It also ignores (apparently as a "subterfuge") the essential issue of protection of the Pueblo's religion and the consequent preservation of its ancient culture. Mr. Barker is obviously interested in destroying Indian cultures rather than in their preservation. We hope the Subcommitte will not vote to endorse such a brutal policy.

Kenneth B. Pomeroy.—The statement that payment to the Indians of $160,835.94 extinguished their claim to the 130,000 acres presently before the Indian Claims Commission is a misunderstanding which we have explained above. The amount received by the Indians did not compensate them for land lost within the Town of Taos nor for lands lost outside the Pueblo Grant. We hope that there will be no further arguments based on a misapprehension concerning previous compensation payments.

James A. Snead.—Mr. Snead asks whether the Indians are to receive both the Watershed and compensation for its loss, suggesting that enactment of H.R. 3306 would have that effect. H.R. 3306 by its terms requires the Indian Claims Commission to determine the value of the rights granted by the bill as an offset against any award to the Pueblo in its pending claims case. Therefore, the Pueblo will clearly not receive both compensation and the land itself.

Ladd S. Gordon.—Mr. Gordon's statement, pointing out that Forest Service administration of the Watershed "could provide vastly more public benefit" than administration by the Department of the Interior, emphasizes the Indian's fears that continued Forest Service management of the Area will destroy their religion by maintaining the outside pressure of recreationalists and lumber interests.

The other adverse witnesses before the Committee, and several of the witnesses named in the foregoing paragraphs, also relied on the fact that enactment of H.R. 3306 will create an undesirable "precedent." Whether or not a precedent is created by enactment of the bill is a question of fact. The facts are that no other tribe can show the same religious interest in land adjoining its reservation which remains in Federal ownership, has been adjudicated as Indian-owned land by the Indian Claims Commission, and has been recognized by two Acts of Congress setting it aside for the benefit of the Indians. Exclusive use of the Rio Pueblo Watershed is required to protect and preserve the Pueblo's religion and culture. Protection of its religion was the principal ground for enactment of the 1928 and 1933 Acts. However, the Indians have not succeeded in obtaining exclusive possession of the land under those Acts, and Congress should now fulfill its original intention of setting this Watershed aside for the Taos Pueblo by enacting H.R. 3306.

We trust this letter will be made a part of the Committee's record of the hearings on the bill.

Sincerely yours,

RODEY, DICKASON, SLOAN, AKIN & ROBB,
by WILLIAM C. SCHAAB.

20-496—68——12

TAOS PUEBLO CATTLEMEN AND LIVESTOCK, SEPTEMBER 1968

Name	Number of head in special permit area	Number of head in common grazing lands	Total number of head
Archuleta, Sam	12	0	12
Bernal, Louis F	0	27	27
Bernal, Paul	0	47	47
Concha, Martin	17	0	17
Cordova, Jimmy	0	7	7
Lucero, Thomas	0	19	19
Lujan, Frank J.[1]	0	40	40
Lujan, Jerry	0	48	48
Lujan, Juan G	0	30	30
Lujan, Lucino [1]	0	6	6
Lujan, Thomas J	9	20	20
Martinez, Severino [1]	0	150	150
Mirabal, James [1]	0	14	14
Mirabal, Jerry [1]	20	0	20
Mirabal, Leon	0	70	70
Mirabal, Luis [1]	0	13	13
Mirabal, Ralph C	0	4	4
Montoya, Albino [1]	7	0	7
Rainer, John C	(2)	(2)	[3] 120
Reyna, Delfino	0	58	58
Romero, Cesario [1]	65	0	65
Romero, Frank C	0	9	9
Romero, Manuel	4	0	4
Sandoval, Jerry	0	25	25
Suazo, Eliseo [1]	0	34	34
Total	125	621	866
Number of owners			25
Number of council members			9
Percentage of council members			36
Percentage of total livestock owned by council members			40

[1] Tribal council members.
[2] On private (assigned) land.
[3] Estimated.

(Following the remarks received from Mr. Schaab, the following letters were sent out:)

INTERIOR AND INSULAR AFFAIRS COMMITTEE,
October 4, 1968.

Mr. N. PRESTON GUNTER,
Sportsmen's Legislative Action Committee of New Mexico,
Albuquerque, N. Mex.

DEAR MR. GUNTER: At the recent hearing on H.R. 3306, the Taos-Blue Lake bill, the Acting Chairman, Senator Metcalf, requested certain information from Mr. William C. Schaab, the Pueblo's counsel, in connection with the ownership of livestock by the Indians.

By letter dated September 27, 1968, Mr. Schaab has furnished the information requested and, in addition, has made several comments concerning the testimony you gave to the Committee.

In view of the fact that Mr. Schaab has requested that his entire letter be included in the hearing record, I feel it is only fair that you have an opportunity to review his rebuttal and make any further comments or supply any further information that you feel is pertinent and would be helpful to the Committee in clarifying the hearing record. It would be appreciated if you would respond to this invitation at your earliest convenience in order that the Committee may proceed with the printing of the September 19–20 hearing.

Sincerely yours,

GEORGE MCGOVERN,
Chairman, Subcommittee on Indian Affairs.

INTERIOR AND INSULAR AFFAIRS COMMITTEE,
October 4, 1968.

Mr. J. WARNER LITTLE,
President, New Mexico Wildlife & Conservation Association, Inc.,
Santa Fe, N. Mex.

DEAR MR. LITTLE: At the recent hearing on H.R. 3306, the Taos-Blue Lake bill, the Acting Chairman, Senator Metcalf, requested certain information from Mr.

William C. Schaab, the Pueblo's counsel, in connection with the ownership of livestock by the Indians.

By letter dated September 27, 1968, Mr. Schaab has furnished the information requested and, in addition, has made several comments concerning the testimony you gave to the Committee.

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Sincerely yours,

GEORGE MCGOVERN,
Chairman, Subcommittee on Indian Affairs.

(Answers to the foregoing letters were received as follows:)

AIR ENGINEERING CO.,
Albuquerque, N. Mex., October 18, 1968.

Subject: Taos Pueblo hearings on H.R. 3306.

Hon. GEORGE MCGOVERN,
Subcommittee on Indian Affairs, U.S. Senate,
Washington, D.C.

MY DEAR MR. MCGOVERN: I am submitting this letter in response to your invitation in your letter of October 4, 1968 and in rebuttal to the statement filed by William C. Schaab, counsel for the Taos Pueblo.

I am both amazed and amused at the red face Mr. Schaab must have had when he had to retract the statement made to the effect that no permit had been issued for our visit to Blue Lake on September 6, 1968. The War Chief knows very good and well no permit is required for anybody to make a trip to Bear Lake. This is a poor excuse and it is regrettable that the leaders of the tribe don't even shoot square with their own counsel.

I will cover first the specific points listed under my name in Mr. Schaab's statement.

First, I am glad that they really sum it all up when they state the only need for the claim is based solely on religion. I feel the hearing certainly demonstrated that the present arrangement has protected the Indians right to practice their religion in absolute privacy. The forest service certainly demonstrated the fact that they have done everything possible to protect the Indian and the Indians could not cite one instance when their privacy had been invaded.

Second, Mr. Schaab's attempt to discredit my statement regarding payments is clever in the respect that he side-steps the main contention I am trying to bring forth. This is that at the time the monies were originally set up to pay the Indians for loss of land and water rights, the Taos Tribe had not made claim to any land not covered by the agreement. It is clever indeed for them now to try to attempt to say the money only paid for certain land and not for the Blue Lake area. The Blue Lake area was not even in the picture at the time and this is the error the Indian Claims Commission made. It must be kept in mind that there is a difference between a claim on record for land and a use of land on which no claim has been filed. Any reference to the findings of the Indian Claims Commission as proof of anything is bad indeed since their findings were in error to begin with.

In the third paragraph under my name, Mr. Schaab uses the date 1933 when he knows full well I corrected this date to 1927 when formally reading my statement as I pointed out the correction at that time. I am referring to the legislation originated in 1924 but not finalized until 1927.

Of course, I am no expert on land claims. I'm not a lawyer. I'm only a private citizen trying to speak up when I feel an injustice is about to be perpetrated on the people of New Mexico. It is a real risk to any private citizen to attempt to lock horns with the cunning and clever "mouthwork" of a professional attorney.

Mr. Schaab quotes again that the Indian use of the area dating back to the 1300's was found by the Indian Claims Commission. I pointed out in my statement that this reputed finding was the testimony of one so-called expert and that there is much historical evidence to refute the testimony of this single witness who is another of the anthropologists with a source of information at stake.

The reference to my misinterpretation of Elliott Barker's statement can be explained only by an understanding of the geography of the area and making a distinction between travel to the Blue Lake itself and travel into the balance of the area. Also, there is more than one route to Blue Lake.

I make no denial of my feeling that the Indian Claims Commission did a poor job. Just because they are a government agency does not make them immune to error and when it is recognized that they are biased toward the Indian side of most questions, I feel it is within my right to question their findings.

On the matter of the flood control dam I enclose a newspaper clipping which makes it clear that the Taos Pueblo leaders did exert pressure on the flood control authority before giving the easement. Such direct conflict of statements certainly does seem to indicate the tribal leaders will go to almost any lengths and that if there is any untruth it must be on the Indian side of this issue. Mr. LaCombe, the Taos County Commissioner who also was at the hearing, informed me that this is not the only instance where the tribe has exacted such a statement from a local government group before it would grant an easement or some permission to use its land. On this point the Indian leaders are definitely giving their council incorrect information.

I have, in fact, read a letter from a water user in Arroyo Seco named Luciano C. Garcia addressed to Senator Mechem complaining of more of this same type of pressure. Mr. Garcia recites how the Indians would not even allow the water users to clean the ditches unless they agreed to support the Indians Blue Lake claim. Other water users wanted to repair and improve the ditches but were not allowed to do so unless they agreed in writing to support the Indian claim.

The records are full of this type of behavior on the part of the Indians and serve to point out that the Indians, at least their leaders, are not always as reliable as all the "do gooders" in this country would have you believe.

Regarding my quotations on the book, "Cycles of Conquest" by Professor Spicer, I enclose copies of the pages of his book that I quoted from. I leave the interpretation up to you as I do not know what Dr. Spicer said about my interpretation of his book. I feel it is important to point out, however, that Dr. Spicer himself is quite likely biased in favor of the Indians since he is a member of the "Natonal Committee for the Restoration of the Blue Lake Lands to the Taos Indians" and his name appears on the letterhead of this organization.

It is a recognized and understandable position that nearly all archaeologists and anthropologists have sided with the Indians in most issues to keep on the good side of them otherwise their source of information would be drastically reduced.

With regard to the last statement by Mr. Schaab directed at my testimony and his clever invention of the term "Spy Trip", I must reply strongly to Mr. Schaab that I was there and he was not. I saw clear cut evidence to support my statement. I stand on my findings and must go from here on to some of the area covered in the testimony presented by Mr. Little on this matter of desecration of the area by the Indians themselves.

Mr. Schaab states that he cannot explain the discrepancies between our findings and the statement that the Indians say they left the area cleaned up after their ceremonies. I wish to point out that Mr. Schaab's contention that the trash was left by white trespassers is simply not reasonable. The facts to consider are these: First the area is closed to all except members of the Taos Tribe through August 30 and therefore, the time lapse between our visit and this date was only

five (5) days and not twelve (12) as he states. Secondly, the estimate by the ranger that between forty (40) and sixty (60) persons had recently camped at the area was made by his examination of the trash and the quantity of such trash along with the number of camp fires. This accurate estimate of the number of people was corroborated by testimony of one young Indian girl who said she was among the forty-six (46) people from the tribe at the ceremonies.

When you consider the time lapse, the controlled access to the area, the accuracy of the ranger's estimate, and the quantity and nature of the refuse, it is just not likely that anyone other than the Indians themselves left the mess we saw.

I have information now that the Indians have since cleaned the area themselves and have taken newspaper people favorable to their cause into the area to show them how clean it is and how dirty the forest service cabin nearby is by contrast. I wonder if the refuse at the forest service cabin isn't the same transplanted trash.

It should also be recognized that we knew what we would find before we went to the area. It has been a well known fact for years that the forest service people have always had to clean the area after the August ceremonies. I'm sure the forest service would have to verify this if asked. Their records are full of direct reference to this problem. I have given the color photos I referenced in my letter of Oct. 7, 1968 to Mr. Little so he can reply directly to Mr. Schaab since he originally covered this matter in his statement presented at the hearings.

In summary, I wish to state that I am not questioning the Indians' right to practice their religion or religious practices in this area. I am convinced that their religious freedom is adequately protected by the present arrangement and that title to the land is not necessary to assure this freedom. The Indians cannot come forth with one shred of factual evidence to the contrary.

I am further convinced that this bill would set a precedent of far-reaching magnitude and any attempt by anyone to diminish this possibility is really too naive to stand up on the face of the actions of other tribes throughout the country.

I am also convinced that any study in depth of the issues involved clearly shows that the veil of sentiment and emotion that can be projected on religious grounds is indeed a convenient smoke screen to hide behind and that only the astute person is going to see this. It, therefore, becomes the duty of persons like yourself to turn on the fog penetrating light of truth and render the decision accordingly.

Yours truly,

N. P. GUNTER.

[Enclosures]

[From the Albuquerque Tribune, June 3, 1966]

PUEBLO OKAYS EASEMENT

TAOS, N. MEX., June 3—An easement providing land for a $125,000 flood control project in Taos County has been signed by Taos Indian Pueblo.

The flood control project calls for construction of a dam in Las Cruces Arroyo on pueblo land. The dam would reduce the threat of high water from the arroyo flooding the south part of Taos during storms.

Indian officials had balked at signing the easement until the Taos town council put in writing its support of the pueblo's claim for 50,000 acres surrounding its sacred Blue Lake.

The town council met in special session to draft a letter voicing its support of the Indians' claim. Pueblo officials then signed the easement yesterday.

Phil Lovato, an official of the northern Rio Grande Resource Conservation and Development project, said funds are available to start work on the flood control project. He said work can begin as soon as bids are opened and estimated this would be three to four weeks.

as the 1850's. In 1851 a Baptist mission was set up at Laguna, but was received coldly and was quickly abandoned. More successful in its aims was a Presbyterian mission, established at Laguna in 1875. Many conversions resulted and the Presbyterian Church became an established institution at Laguna. A similar attempt was made by the Presbyterians at Isleta, but a mission school established there in the 1880's was abandoned by the mid-1890's. Nowhere else among the Eastern Pueblos did any Protestant church gain any foothold, although efforts were made from time to time, as at Jemez. Sometime during the 1890's the Native American Church, a religious organization which based its rites on the use of peyote, gained converts in Taos and continued to exist there with a small group of practitioners.

Meanwhile, in all the villages Catholic churches continued in existence and the vast majority of Pueblos continued to call themselves Catholics. They maintained their own ceremonies apart from or sometimes combined with Catholic practices. The Catholic churches in the villages were served by secular priests who visited them occasionally and who performed baptisms and marriages for the Indians. Usually a piece of land of the village was set aside for the maintenance of the church, but such land was not regarded by the Indians as the property of the Catholic Church. Its produce went for the payment of the priest and maintenance of the church, but the land itself was considered the property of the village. The only strong effort to revive the missionary work of the Catholic Church took place after 1900, when a mission was established by the Franciscans in Laguna territory; the mission was active from about 1913 till 1925, establishing several chapels in the Laguna settlements and gaining much influence among the Laguna Indians.

During the period of hostilities over land in the 1920's after the Sandoval Decision, the Bureau of Indian Affairs instituted an attack on Pueblo religion. Stimulated by the antagonisms roused in New Mexico on this issue, the Commissioner of Indian Affairs, who favored the New Mexican viewpoint that Pueblos should not have the federal protection of land enjoyed by other Indians, sought to turn public opinion in the United States against the Pueblos. One measure which he adopted was to send investigators to the Pueblos to gather information on their religious practices. The report of these investigators described rituals which required bodily exposure and sexual behavior which was contrary to the accepted Anglo traditions. On the basis of the report the Commissioner of Indian Affairs publicly denounced the people of Taos, with whose ritual the report dealt in detail, as "half animals." The Bureau then refused to release Pueblo children from boarding schools to take part in initiation ceremonies on the ground that the latter were depraved customs. The Indian Bureau had long maintained a set of regulations forbidding certain kinds of religious gatherings among the various Indians of the United States — the Religious Crimes Code. An attempt to enforce the code against the Pueblos was instituted, but received little support outside the Bureau and was abandoned with the appointment of a new Commissioner of Indian Affairs.

The pressure to change was thus constantly a part of Pueblo life from the 1880's on. Coupled with the land pressures, the Bureau of Indian Affairs program

at the same time, the crystallization of far-reaching differences of feeling about the old and the new customs. In 1879 friction ran high when Robert Marmon became village governor. Two kivas were torn down and a group of about forty Lagunans moved out of the village in protest, taking with them those sacred objects to which their families held title. In the following year they went to Isleta on the Rio Grande where the Isletans offered them land if they would stay. They remained and established their own settlement, called Oraibi, at the edge of Isleta where they constituted a conservative influence in that village. Meanwhile, although the Protestant faction remained dominant in community organization in Laguna, the village never forsook entirely the old religion. Two factions remained, with different degrees of conservatism toward the acceptance of new ways, but still operating under the one Spanish-Pueblo type of community organization.

Friction was reported at Isleta as early as 1852, when troubles were discussed with the New Mexico Territorial governor. During the 1880's and to a much greater extent later, internal disputes continued to affect Isleta life. Isleta was the only southern Tiwa village during the 1700's and was composed of the survivors of the other Tiwa villages, after Coronado's conquest, as well as Piros and others from the south after the Pueblo Revolt. Of all the Pueblo villages it was the closest to an expanding Anglo-American city — Albuquerque. Although villagers took sides on a variety of issues, such as the telling of sacred traditions to inquiring Anglo-Americans, dissension centered primarily around the election of community officers, the village governor and the war captain. Isleta was the only Pueblo village to adopt the Spanish method of electing officers. After 1887, with the death of a strong cacique, disputes over the election procedure became serious and continued as a source of factionalism. In 1949 Isleta adopted a constitution and tribal council form of government.

In Taos in the 1890's a young man who had been away at boarding school and come into contact with Plains and other Indians there brought back with him a knowledge of and devotion to the beliefs and ritual of the Native American Church. He instituted a church and gathered about him a group of men and women who held regular peyote meetings. The leading men of the village opposed the introduction and tried various measures to put a stop to it. They were often led by Antonio Mirabal, who in regard to the acceptance of Anglo-American customs did not hold conservative attitudes (although much later in the 1930's he bitterly opposed the appointment of a woman as superintendent of the Pueblo Agency). The split over the Native American Church resulted in violence and the creation of strong antagonism between the two opposing factions. It resulted in the adoption of the new religion by only a few families, and even these families did not wholly reject the Pueblo religion.

At San Ildefonso there was a longstanding tradition of a split, but not until about 1910 did it become overt. Traditionally, the San Ildefonso people believed that they had been tricked by witches (bad leaders) into changing the location of their plaza a short distance north of its ancient and traditional location. About 1910 village leaders began to talk of moving the plaza back to the south; that is, building new houses around the old location, in order to try to improve the fortunes

universal character, it revealed some influence from Christian teaching, but it did not require a personal experience of conversion for participation in its activities.

The other new religion which was active in the region in the 1950's was the Native American Church. This was not an invention of any of the tribes in the region but had diffused to them from Indians in Oklahoma who had organized the church in the 1890's. The Native American Church was a religious group which employed as its central rite the eating of the cactus button, peyote. The system of beliefs and rituals combined some Christian-derived elements, such as the belief in Jesus as a source of spiritual inspiration, and other elements derived from the old ceremonial systems of the Delaware and other Indian tribes who had been sent to Oklahoma by the United States government. The moon as a female deity and ground altars were examples of such elements. The religion centered around the practice of group eating of the peyote buttons. Such a group gathered in a house or other structure, sat in a circle, and consumed the buttons. The effect of the peyote consisted in the inducement of visions of various kinds and, when eaten in the group, feelings of well-being and group identification. A usual accompaniment of peyote-eating was the passing of a drum to each participant successively, who then accompanied himself while singing songs known as the peyote songs. A session was ordinarily an all-night affair and was terminated with forced vomiting about dawn by each member of the group. The Native American Church existed as early as 1900 as an organized institution with a national head and staff of officers. It carried on missionary work among many Indian groups, proselytization which steadily increased through the 1950's.

The first New Mexican tribe to show interest in the Native American Church was Taos village among the eastern Pueblos. Peyote buttons had been used there traditionally as a specific cure against illnesses caused by witchcraft, but the use of peyote had never developed into a cult. In the 1890's a young Taos man who had been educated in Pennsylvania at Carlisle took an interest in the peyote ceremony and introduced it to other young men in the village. Soon a group was established which regularly carried out the peyote-eating ceremonies. Their activities were opposed by the village leaders, especially as the "peyote boys," as they were called, began to curtail their participation in the traditional village ceremonial life.

Attempts were made by the village hierarchy to forcibly suppress the new rites and oust the peyote-eaters from the village. These were unsuccessful and a feud developed between the families of the "peyote boys" and other families. The peyote cult became more entrenched in the lives of the group that had adopted it, but it did not spread as the opposition to it by the ceremonial leaders crystallized. It continued to exist, and its practitioners increasingly withdrew from other religious activities, constituting a source of conflict for fifty years at Taos. Its attempted introduction was resisted at San Juan village, and it spread nowhere else among the Eastern Pueblos, except for its adoption by a lone practitioner in Santa Clara village.

Although Native American Church missionaries worked as far west and south as the Papagos, nowhere else in the Southwest was the religion adopted for the forty years following its introduction at Taos. But during World War II in the

early 1940's, it began to be taken up by Navajos, chiefly in the extreme northeastern part of the reservation where many different religious sects had concentrated their activities and where the Indian Bureau had instituted a resettlement project on newly irrigated land. Here, in the vicinity of Fruitland, New Mexico, peyote-eating groups of Navajos were formed. Gradually the religion spread westward until by 1955 there were some two thousand members of the Native American Church. Its spread was opposed by the Navajo Tribal Council, on the ground that peyote was a habit-forming drug, until it was pointed out that medical opinion in the United States was not in agreement on the matter. The Tribal Council then on the principle of religious freedom ceased to oppose it. Nevertheless, the fact that the use of a drug was a necessary feature of the religious ritual constantly brought the practitioners of the religion into conflict with Anglo-Americans. Navajo groups who carried on their ceremonies off the reservation were raided by police, and newspapers took up campaigns against the religion. Nevertheless, by 1960 the influence of the Native American Church was rapidly growing among Navajos. As a religion which combined some elements of Christian belief with generalized Indian traits it fitted well into the mixed culture patterns of many Navajos who had worked extensively off the reservation, and appealed as well to many Navajos who felt antagonistic towards Anglos and saw in the Native American Church an institution which they themselves could control locally. It also fit into the growing awareness on the part of Navajos of many other Indians in the United States with similar reservation background and relations with Anglos. Its spread was related to a pan-Indian type of feeling which had grown up widely over the Southwest as a result primarily of large public performances such as the Gallup Ceremonials participated in by Indian dancers and musicians from many reservations. Yet by 1960 the Native American Church had spread nowhere else among Southwestern Indians. It was confined to a declining cult in Taos and a rapidly growing movement among the Navajos.

The new religions which took hold in the Southwest affected with greatest intensity the Mayos, the Navajos, and the Apaches. The Mayo new religion was very short-lived once forcible suppression of its leaders had been applied. The other groups, with the exception of Walapais, Havasupais, some Papagos, and Tarahumaras who embraced cults very briefly, did not develop intense interest in new religions. By the middle of the 1900's the Apache Holy Ground religion seemed the strongest rooted and most influential. Yet it, too, seemed to be giving way in the late 1950's to a new type of evangelistic Protestant movement, a few years after the return from jail of Silas John.

THE PERSISTENCE OF INDIAN RELIGIONS

The great variety in Indian religious belief and practice which was characteristic of the states of New Mexico, Arizona, Chihuahua, and Sonora by the middle of the twentieth century was partly a result of the persistence of the native religions as whole systems or surviving parts. Religious diversity was greater in this region

NEW MEXICO WILDLIFE AND CONSERVATION ASSOCIATION, INC.,
Santa Fe, N. Mex., October 14, 1968.

Subject: Hearings on H.R. 3306 (90th Cong.).

Hon. GEORGE MCGOVERN,
Chairman, Subcommittee on Indian Affairs,
Committee on Interior and Insular Affairs,
Old Senate Office Building, Washington, D.C.

DEAR SENATOR MCGOVERN: Thank you for affording me the opportunity of making further comments in response to Mr. Schaab's letter of September 27. I understand that these additional remarks are to be made a part of the hearing record.

With respect to the entry permit for our September 6 trip to Blue Lake, the Forest Supervisor, Mr. Don Seaman tells me that the request was for entrance to the Blue Lake area. Bear Lake is outside the Taos Pueblo authority; therefore, no permit is required to visit Bear Lake. This fact should be well known to the Pueblo War Chief.

I don't believe that it is incumbent upon me to prove that the BIA is not competent to adequately protect and conserve the Rio Pueblo Watershed. My statement was, "Conservationists have long agreed that the Forest Service is the best equipped agency to manage forest lands." The way to prove or disprove that statement is to interview a significant sample of recognized conservationists. As evidence to support my statement, I invite a general comparison of the present conditions of BIA administered lands in New Mexico versus those administered by the Forest Service. This comparison will support another statement of mine with which conservationists in general will agree. That is, "With few exceptions, the BIA has been unable to effect sound conservation practices on Indian Trust Lands." "The lands on the Taos Pueblo Grant and the lands acquired by the Pueblo are a case in point." I do not mean to judge the BIA too harshly. The agency understandably has had to emphasize economic, health, and educational programs ahead of conservation.

I suppose the only real proof of the source of the litter we found at Blue Lake after the 1968 ceremonials would have to come from the testimony of impartial eyewitnesses. There being none, we must rely on the evidence. Let me elaborate on why the five of us who visited Blue Lake believe the little and the freshly cut green trees were left by the Indians.

Forest Service records as far back as 1932 reveal that clean-up crews have always had to police the area after the August ceremonials. My interviews with Forest Service personnel, both retired and active, indicate that there has always been a mess at Blue Lake after the Indians have left.

The nature of the litter we found was not of the usual type found in campgrounds frequented by non-Indians. In my camping experience, which spans some 25 years, never have I seen anything quite like it. Virtually all of the six or seven campsites we found contained unburied campfires with logs which were left to smolder. The Forest Service's highly successful Smokey Bear television campaign has had a great effeect on the camping public. White campers in all probability, would not have been so universally careless with fire.

While there were a few wine and liquor bottles, there was a strange absence of freshly dropped beer cans. Instead, there was a peculiar preponderance of olive containers at every campsite. Also there were large, blackened coffee and syrup cans near a number of the fires. Using such containers as cooking utensils is not common among non-Indian campers as modern campers usually use lightweight cookware. The age of all the sign appeared to coincide with the ceremonials.

As for the cutting of living trees, the stumps in Figure 4 of my statement may indeed have been cut by non-Indians. Again we have no impartial eyewitnesses. The trees in that picture were obviously cut with a saw, perhaps a power saw, perhaps not. I have since learned that the Taos Indians do have and use power saws. They use wood extensively for fuel. The Forest Service has not cut firewood or teepee poles at Blue Lake since 1962. The freshly cut stumps in Figure 4 positively do not predate 1962. Be that as it may, I definitely saw freshly cut teepee poles with green pine needles still attached. (Enclosed is a photograph of a fresh, axe cut, green tree at Blue Lake.)

The principal reason a non-Indian would want to go to Blue Lake is to fish. However, most fishermen have lost interest in fishing by the time of the Blue Lake ceremonials. It is generally known that a permit is needed to go to Blue Lake. It has not been stocked with fish for years, and it has been closed to fishing.

Blue Lake is very hard to reach, being the farthest lake from the parking areas on the edge of the wilderness. Fishermen going to Blue Lake would have to pass by a number of other lakes that *are* stocked and which provide much better fishing.

The remaining fish in Blue Lake are very small and are not worth the arduous trip necessary to reach them; nor is it worth the risk of being caught by the Forest Service or by the Indians. Finally, there are prominently placed signs at Blue Lake which declare the area closed to camping by non-Indians. Why so-called "white trespassers" who are sneaking into a place they know they are not supposed to be, would draw attention to themselves by boldly running a power saw, chopping down trees, and building fires is beyond me—especially when at any moment, they could be caught.

I did not suggest, as Mr. Schaub claims I did, that the ownership of the watershed reflected only the wishes of a few old men. "A few old men" are their words, not mine. In light of the strong denial, perhaps there is something to it. My statement was: "I would venture to say that if the people of Taos Pueblo could be polled without fear of harrassment by the council, the majority would choose the money that is coming to them for loss of their lands in the city of Taos and for the 130,000 acres of alienated Indian lands." The statement is based in part on the fact that only a few Indians would gain any benefit by ownership of the area. The limited benefit would accrue mainly to the 25 livestock owners (accepting the Indians' figure). More land would be acquired and the restraining hand of the Forest Service on over grazing would be removed. It is not surprising that Miss Bernal, a niece of the Tribal Secretary, Paul Bernal, would support that faction of the Pueblo that wants Blue Lake.

The permit on the Blue Lake area is tantamount to ownership. The evidence indicates that the Forest Service is striving to protect the Indians' privacy, and the Indians will be paid for the land in accordance with the Indian Claims Commission's findings. Essentially under the present arrangement, with the exception of grazing, the Indians can have their cake and eat it too.

I would like to reiterate one point upon which the Indians and my Association agree. That point is that we oppose the compromise lgeislation which would convey 3,150 acres to the Pueblo de Taos either by deed or in trust. It is our opinion that the precedent would be the same as that established by passage of H.R. 3306. Also we believe that justification for granting 3,150 acres is lacking just as it is lacking for granting 48,000 acres.

Nowhere in my earlier statement did I say that Forest Service pilots were spying on the Blue Lake area. The pilot I referred to is with the New Mexico Department of Game and Fish. His flights are not specifically to Blue Lake, but over the vicinity while in transit to other points. If flights by Game Department or Forest Service aircraft become a vital question, then a check of the aircraft log books should settle the matter.

Mr. Schaub's allegations that my statements clearly reveal the practice of certain Forest Service employees of spying upon the Indians for purposes of determining the extent of their use of the watershed is unfounded. Such an allegation is just one more example of the stretched, bent, and twisted interpretations of Forest Service actions and intentions that the Indians and their attorneys have had to employ in order to develop their otherwise non-existent case. The Indians have failed to cite one instance when their religious ceremonies were interrupted or spied upon by outsiders.

A number of the Taos Pueblo Indians may indeed sincerely believe that the Forest Service is threatening their religion. Columbus may have sincerely and deely believed that the world was round, but his beliefs had to be proven correct before the world changed its maps. Similarly, a water mirage in the desert, no matter how sincerely attested to by the person who sees it, does not justify a federal flood control project. Wisely, the subcommittee has sought facts which would substantiate the Indians' allegations before it would commit the government to such far-reaching steps as those contained in H.R. 3306.

I stand by my earlier statement that the facts just don't substantiate the Indians' claim that their religion is being threatened by continued Forest Service administration of the Blue Lake area. The hearing record will show that the only use of the Blue Lake area by non-Indians consists of an average of only six, I repeat six permits per year. It should be stressed that the Pueblo approves those permits. When afforded the opportunity, the Indians could cite not one single instance when the Forest Service issued a visitor permit over the objections of the Pueblo authorities.

Finally Mr. Chairman, please let me confess to a thought that has been in the back of my mind throughout my invsetigation and study of this controversy. Had I found that the Forest Service was indeed harassing the Indians in the free and private practice of their ancient religion, it was and still is my intention to make such findings known and to endeavor to persuade the Forest Service to protect the Indians' religious privacy. As I said before the subcommittee, and I sincerely believe this, as long as there is even one Indian who holds to the old Taos religion, his religious rights and privacy should be protected.

Sincerely,

JON W. LITTLE, *President.*

STATE OF NEW MEXICO,
DEPARTMENT OF GAME AND FISH,
Santa Fe, October 25, 1968.

Senator GEORGE MCGOVERN,
Chairman, Subcommittee on Indian Affairs, Senate Committee on Interior and Insular Affairs, Senate Office Building, Washington, D.C.

DEAR SENATOR MCGOVERN: Reference is made to the comment on my Hearing testimony made by Mr. William C. Schaab in his letter to you of October 4, 1968. It is indeed unfortunate that Mr. Schaab has used this method of confusing the testimony delivered before your subcommittee. I will not commend on the questions Mr. Schaab has raised regarding testimony of other individuals, for I am sure they are adequately equipped to handle this matter themselves.

Mr. Schaab's expression of fear on behalf of the Indians "that continued Forest Service management of this area will destroy their religion by maintaining the outside pressure of recreationists and lumber interests" are ill-founded if the record of the Forest Service is observed. As far as I know, the Forest Service has never made any effort to "maintain pressure" from any group. Their only position is to resist pressures of the many potential users of public lands, and I think the record will quite clearly prove that the Forest Service has withstood all pressures that would have infringed upon the rights of privacy for the people of the Taos Pueblo to practice their rituals in the area of Blue Lake.

I certainly do appreciate the opportunity to comment on Mr. Schaab's letter, and I feel that if his letter is included as a record of the Committee Hearing that all letters in reply to his comments also be included.

Sincerely yours,

LADD S. GORDON, *Director.*

SANTA FE, N. MEX., *October 25, 1968.*

Taos Pueblo hearings on H.R. 3306.

Hon. GEORGE MCGOVERN,
Chairman, Subcommittee on Indian Affairs, Committee on Interior and Insular Affairs, Old Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to Mr. William C. Schaab's letter of September 27, copy of which has just come to my attention.

Since Mr. Schaab has requested that his entire letter be made a part of the Hearings, and since he has made some derogatory comments on my testimony in the statement I filed, I respectfully request that my reply to those comments below be made a part of the Hearings record also.

Mr. Schaab states, "Mr. Barker candidly attacks the religious claims of the Indians as a pure and simple subterfuge to get the land for ulterior purposes." Mr. Chairman, in my statement I fully recognized that the Taos Indians have long used the Blue Lake area of about 3,000 acres for annual religious ceremonies, and I concede that this area might appropriately be given to them for that purpose. But the remainder of the land they are claiming is not in the same category. Nevertheless by claiming it as their "*Church*" they have generated support for their claims. Many of us go to the wilderness to relax tensions and stresses and to commune with nature but we do not own, or need to own, the land.

If in reality this land was their "church" would they graze 800 head of livestock in their church? Would they have permitted without protest the Forest Service to build trails for public use in their church? Would they violate the State Game Laws in their church? Would they dilly-dally and bicker about terms of fighting a forest fire set by one of their tribesmen while illegally hunting deer in their church?

I insist that, with the exception of the 3,000-acre Blue Lake area, religion is being used as a subterfuge to get the larger tract of land. The use they make of it and the things they do in the area are simply not consistent with religon as a dominating factor.

Mr. Schaab insists that they would derive very little economic benefit from the land, and hence it must be the religious aspect that makes them try so hard to get it. I disagree. The area has potential hydro-electric power sites; it has possibilities for mineral development; it has timber resources; it has possibilities for ski course development; it has high recreational values and the Indians could, and undoubtedly would, capitalize on this by charging for admittance, for trail riding, scenic tours, camping and for fishing in the lakes and streams. Furthermore it would give them free rein to kill game as they please to the great detriment of surrounding areas. Mr. Schaab is, indeed, naive if he really thinks there are no ulterior motives involved.

But whether or not the lands have economic values, to give this tract to the Taos Indians would be to set a very dangerous precedent both for other Pueblo Tribes and for groups of Spanish-Americans, so called, to make claims for tracts of National Forest and BLM lands under one pretext or another. The religious aspects would be ignored for their invalidity is too apparent.

Mr. Schaab states, "Mr. Barker is obviously interested in destroying Indian cultures rather than in their preservation." Mr. Chairman, if Mr. Schaab is referring to cultures such as the massacreing of almost all the settlers in Taos in 1680, and joined by other Pueblos killing of hundreds of people, including priests, missionaries, women and children, in Santa Fe and other settlements, burning and destroying their property and driving all settlers out of the New Mexico territory; or if he refers to the Taos Indians' unprovoked murder of Governor Bent and a dozen others in Taos in 1846; or to the setting of a forest fire by a tribesman hunting deer out of season, and reluctance of the Indians to help put it out; or to the killing of a doe deer with suckling fawns and running a Forest Ranger off with a rifle when he approached, and subsequently trying to kill two of my Deputy Game Wardens first with a rifle and then with a butcher knife when attempting to make an arrest (the Indian was finally subdued by manual force at the risk of their own lives when they would have been justified in shooting him is self defence). Or to such acts as a member of the Tribe shooting does and fawns at night by use of a spotlight to feed minks at his employer's mink farm and other such practices, then he is right, I am opposed to preservation of such cultural practices.

On the other hand if Mr. Schaab is referring to lawful religious practices and ceremonies, skills and tribal cultures of any kind whatsoever then his statement is completely unfounded. I served thirty-two years in responsible Federal and State positions and seven years as Executive Secretary of the New Mexico Wildlife and Conservation Association and State Representative of the National Wildlife Federation and the record will not reveal one word spoken nor one action taken by me that would in any way substantiate his charge that I am opposed to preservation of Indian cultures. His statement is preposterous and completely without basis of fact.

Respectfully,

ELLIOTT S. BARKER.

Senator METCALF. During Mr. Gunther's and Mr. Little's testimony, there was an allegation, a charge that there was very little use of this area, that only about 40 people used the Blue Lake area for religious ceremonies during August. Would you respond to that?

Miss LINDA BERNAL. Mr. Chairman, I wish to answer that question.

Senator METCALF. Surely.

STATEMENT OF MISS LINDA BERNAL, TAOS PUEBLO TRIBE

Miss BERNAL. I am Linda Bernal, and I am with the Bureau of Indian Affairs, but I am here as a member of the Taos Pueblo Tribe today. I went up to Blue Lake this summer, about August, let's see, the 23d through the 26th, and there are allegations that there may be 40 people go up to the ceremony always, 40 to 60, I think the number was. But this is absolutely untrue, because Indians galore go

up there every year. We don't know the number because we don't bother to count. It is their prerogative to go up there. And you can't say that 40 people went up there, because that is absolutely untrue. Because a large majority, and I say almost 1,400 people that live there, believe in this Indian religion very strongly—very, very strongly. And I am speaking from the young point of view, because I know that the young adults at Taos Pueblo are very, very strong about this. I think the feeling grows stronger as we get a little bit older, every year. I know I look forward to this every year, and I try to make it home, if I can, for this.

Senator METCALF. Did you want to say something?

Mr. BERNAL. Mr. Chairman, I would like to be permitted to testify for the delegation from Taos Pueblo. I would be more free to answer some of these questions rather than defer to my Governor, and this would kind of take care of some of the delays. If you will permit me to do that, I will appreciate it.

Senator METCALF. Well, the question is there. I want somebody to answer it. I am not directing it to any specific person. This committee is after information.

Mr. BERNAL. Yes.

Senator METCALF. And we want you to help us in resolving this very difficult and complex question. These allegations have been made, and the only fair way in a hearing is to ask the people that know more about it than anybody else. Now how many people do you think went up to that ceremony during the month of August?

Mr. BERNAL. I would like to testify, Mr. Chairman.

Senator METCALF. Well, all right.

STATEMENT OF PAUL BERNAL, TAOS PUEBLO TRIBE

Mr. BERNAL. My name is Paul Bernal. I live in Taos Pueblo and I have been working for Taos Pueblo Council more than 20 years, and my father's and my mother's and relatives have been a strong traditional type of people. I have been working for the councils and the community affairs, and I have been helping interpreting, and I have been drawing information, to get a clear indication of the problems, and I have been closely in contact with this Blue Lake situation, the early part of my life, and I have been initiated into the Taos Pueblo Council. I have been authorized to become interpreter, and also their secretary, and I have been doing all kinds of services free of charge. I have not been paid for it, and I never received any kind of compensation from the tribe, and I am doing it on a volunteer basis.

Mr. Chairman, Taos Pueblo historical struggle on this Blue Lake situation now continues for more than 60 years after the taking of this Blue Lake, and the 48,000 acres. The taking happened on November 7, 1906, and during the taking, my Indians have been forming new education, and the people of Taos Pueblo Council. Therefore, it was the only negotiation—no interpretation.

No understanding about this taking whatsoever. So therefore, at that time the land was taken without any clarification whatsoever.

After 1906, the Blue Lake area became spoiled. The Blue Lake area of 48,000 acres has become disturbed, and for this group of people from the neighborhood to find freedom to exercise their religion is difficult. I have experienced this, and I want to tell this committee.

These people have been suffering. This group of Indians feel that there is unjustification. Their very own land, a piece of the property they have been using for religion from the beginning of time has not been recognized by the U.S. Government—and with this experience, the Indians of Taos Pueblo felt that they should tell their American neighbors, their friends, about what is going on. I think today, here, that we are represented by an able lawyer, Mr. Bill Schaab. For the first time this documentation has been done completely.

I am sure, Mr. Chairman, for the benefit of the committee, that you will find all the justification by which came about H.R. 3306, and H.R. 3306 brings it out, and a lot of American people felt that there is justification in this bill.

Senator METCALF. With all due respect, and you have made a powerful statement here, the answer was not responsive, and I wonder if Mr. Schaab, if it is appropriate, and if there is nothing secret or violative of the religious rituals of the Taos Pueblo, if you would give us a breakdown, if you can find out, as to the number of people who participate in the religious ceremonies every year.

Senator HANSEN. Mr. Chairman.

Senator METCALF. Senator Hansen.

Mr. BERNAL. Mr. Chairman, I went up to Blue Lake this last August. 1,400 people, more than 75 percent of these people, had been up there to attend the ceremony.

Senator METCALF. Seventy-five percent of 1,400 people in your tribe?

Mr. BERNAL. Yes.

Senator METCALF. During the month of August?

Mr. BERNAL. Yes, I have been up there and seen it myself.

Senator METCALF. That is the answer that I wanted, and I thank you very much.

Mr. BERNAL. I can verify that statement. I can prove it, and if you want me to, I can get all the names of these people.

Senator METCALF. You are not under oath, and we will accept the statement. I just wanted to know.

Mr. BERNAL. Thank you very much.

Senator METCALF. Senator Hansen?

Senator HANSEN. No; you go ahead.

Senator METCALF. The next question I have concerns this very significant and important area, as I gather, for watershed. As far as this Senator is concerned, the most important use of our national forests and our public resources is watershed protection. Now what is your proposal to take care of the firefighting, in the event that this bill passes?

Mr. BERNAL. In the event, if H.R. 3306 should pass, we have what we call The Snowballs, the Taos Pueblo firefighters, who have been trained. This group is able to fight, and go out to these places and fight fires. We do not have money. We are a very, very poor group of Indians, but we can voluntarily protect this, on our own, which we have done long before the U.S. Government was involved in this—long before.

Senator METCALF. Go ahead.

Mr. BERNAL. Also the Bureau of Indian Affairs can assist us, when the Interior Department takes the responsibility to administer this area, and, therefore, the Bureau of Indian Affairs are well equipped,

and under our ways, can help us in the case of a fire, or any other conservation practice.

Senator METCALF. Well, the next question is related. What are you doing, or going to do, or propose to do about insect control?

Mr. BERNAL. In regard to the insect control, which a number of times has been brought up, the Bureau of Indian Affairs are capable, and can find a solution, can provide this to this area, protect for infestations in the trees.

Senator METCALF. Have you done anything about insect control as a tribe?

Mr. BERNAL. We have not done it, but the Forest Service has done the infestations control during the past.

Senator METCALF. Have you cooperated with the Forest Service in insect control?

Mr. BERNAL. We did cooperate with the Forest Service, as long as I have been able to interest the Taos Pueblo Council of this program, and I have been encouraging the tribal council to do this, and I am not speaking for anyone who had done anything away from it, Mr. Chairman.

Senator METCALF. Thank you very much.

Now I am going to yield the floor to my good friend from Wyoming, and relinquish the questioning.

Senator HANSEN. Thank you very much, Mr. Chairman.

I have been very interested in the testimony here this afternoon, and I don't want so much to ask questions of you as to make a few observations that seem to me to be in order. Because I think it would be easy for you to misunderstand the thrust of our questions and the interest we have, I thought it might be well just to make some observations.

The question has been asked, what use have the Pueblo de Taos put to the Blue Lake area? I don't know what is behind that question. I had the feeling there might be some desire to suggest that a high percentage of the Taos Pueblo did not use this area, and that maybe a few people, or a small percentage of the Pueblo were trying to get a large area over which they would have rather exclusive use for domain.

Now without addressing myself to that possibility, I would like to say, insofar, as the religious symbolism of this whole area is concerned, I don't think that question has any place here. I don't think it is up to you to have to say how many or what percentage of your people participate in a religious ceremony or activity.

I think that you are entitled to your religion just as we are to ours, and I happen to belong to a church, and if all of the people in my church were to be judged on the basis of my attendance, I am afraid there would be a lot of us flunk out, I don't think we should try to suggest that unless 50 or more percentage of your people attend that the setting aside of this area for the purpose that you suggest is fair. I just wanted to make that observation, because I think that the area can be important to you. I believe it is important to you. I don't think that the importance of the area, and its significance to you and to your religion, ought to be based upon how much you use it, or how many of your people make this religious pilgrimage up into the Blue Lakes area.

Secondly, the question was raised about how the tribal council is chosen. Now if we are interested, insofar as our concern about the

adequacy and constitutionality and the rights of the tribal council, there may be some pertinence to that question. On the other hand, it seems to me that the Government of the United States should not try to go so far as to say to all Indians, "Unless your tribal council is chosen in a democratic fashion, we won't recognize it."

We have some Indian tribes in Wyoming, and I respect their culture. I think they have much to give this country of ours, and I believe you people have much to give. I think there is much in your religion and in the government that you practice that we could very well emulate.

I admit that, with reference to the manner in which the tribal council is chosen—it may not be democratically chosen—and I would suggest that the hierarchy of some of the churches in this country are not democratically chosen.

I think we can call to mind a very important religious group of people in this country, and throughout the world, and I don't believe that those in control of at least one important church that I can think of are chosen democratically at all. I have never heard about anybody voting for them, and yet, I certainly think that that church makes a very important contribution. I am not one to leave or to have you people leave here with the impression that you ought to have to rearrange the manner in which you choose members of your council.

I have no doubt at all but what the people who sit on your tribal council are just as dedicated and just as sincere in trying to do the very best job they can for your young people as any other religious group is, and I wanted to say these things, because they do disturb me. I don't mean to imply by what I have said that my very distinguished colleagues, for whom I have the highest respect, would disagree with me at all on this area, but because I thought that you might misunderstand, at least my feelings. I wanted to speak out, and to have it become part of the record so you would know at least how one man feels.

Mr. BERNAL. Thank you very much, Senator.

Senator METCALF. Just a brief comment.

Inquiry and interrogation as always is not directed for any purpose other than for the information of the committee, and testimony came in as to the nonuse of this area. I think some important and significant testimony was made that it was used to a greater extent, and I think that the chairman, at least, has concurred with the statement made by Senator Hansen, that if one person feels that there is a religious significance to this area, that person's right should be protected.

We are all concerned with the preservation and perpetuation of Indian culture and Indian ritual that is a part of the traditions of America. We want to preserve that in the southwest as we want to preserve it in the northwest. We are concerned also, of course, about the political activity of the tribe, as against that religious activity, and I am glad that the Senator from Wyoming has brought this up.

The purpose of the hearings is to get information, and the purpose of questions is to clarify material in the minds of the people who are not as familiar with the area as you are, and certainly no one should take offense at the direction of the interrogation or the kind of questions that are asked in order to clear up the kind of testimony that is presented. I am glad to have the opportunity to make a statement——

Senator HANSEN. Thank you.

Senator METCALF (continuing). Because I feel that the Senator from Wyoming has helped. These three members of the tribe are long time, firm friends of mine. I have known them since I was in the House of Representatives. They have been in my office and I have been in their area and met with them. I regard them highly, and respect them, but we have to make a record at this hearing, and give these people an opportunity to respond to the testimony that was presented by other witnesses. I feel that some of the responses have been very well handled, and answered some of the questions that are in our minds.

Thank you very much.

Senator HANSEN. Thank you, Mr. Chairman.

Senator METCALF. Any more questions?

Senator ANDERSON. I do want to say that the expression of the Senator from Montana has been very fine. This is not pleasant at all for him. The many hours he spent on this are certainly staggering, and I take this opportunity to say I appreciate it very, very much. He is a fine man, a fine Senator, and a fine person to conduct these hearings.

Senator METCALF. Well, I am delighted to work with my friends from the southwest in the Indian community just as I am pleased to work with the people in my own Indian community. I am pleased to cooperate with the Senator from New Mexico.

Mr. SCHAAB. Mr. Chairman, I don't believe Mr. Bernal has finished the statement that he wanted to give, if it is okay.

Senator METCALF. By all means he has a right to say anything he wants to say. This is an open hearing, and this is your testimony.

Mr. BERNAL. Mr. Chairman, as Mr. Severino Martinz has stated before, we don't want to throw any falsified information in this body. We have a lot of respect, and we like for you to feel that we are here to talk to you in America, we want you to understand. We don't come here to feel that you are not going to listen to our presentation. We came here to listen to other people's testimony, because this is a public hearing, but the honest testimony that these people are making is no longer new. This particular House in 1966 knew about this, the time before, and this is sort of a historical struggle, as I have indicated before; so, therefore, I hope that whatever we have been able to give you is information you want. Any misinterpretation should be deleted. Our misinformation to you people should be called to our attention, so we can make clarifications, and I think this is the right way to achieve the due process.

Due process in this country is very, very important. We don't want anybody to misunderstand this, and we don't like anybody to feel that we are not doing an honest thing. We do not come here to tell our Senator, or Senator Metcalf and Senator Hansen. These are our particular problems, our actual Indian traditional knowledge, and this land could not be converted to any kind of economic value. It will not turn into any kind of a recreation activity. We can assure you that the generations to come, if God should give us the opportunity to exist—it is always wrong to make any kind of a prediction of our Indian lives. We have very, very strong Indian understanding, and our foundation is in the place where we belong.

Our boys are in the war in Vietnam. I was in World War II, and I wear the Navy uniform. I was aboard the U.S.S. *Ticonderoga*, the fighting carrier. We were about 1,800 men, stationed on that one par-

ticular carrier, and I have seen action in the South Pacific area, seen the Japanese kill our boys. I have drunk lots of salt water which has made me understand about this right, speaking for my people. I did not dishonor, I did not disobey the orders of this country to wear that uniform, and my boys in Vietnam carried that order.

Mr. Chairman, give us that justification, give us that justice. Give us a strong condition. We like to preserve. We would like you to give us an opportunity to make that preservation, so our Indian life can exist. Indian customs, Indian features. We have no power to convert our complexion, like your ways. We would like to learn your laws. We like to learn your ways. We like to learn more about your society, and your civil rights, and whatever you have. It is good for us. We are not saying these procedures and these fundamental principles are not good, but at the same time, we like to be protected by the Constitution of the United States insofar as our laws and religion is concerned, and this is our primary purpose to be here today, Mr. Chairman. I do have a respect of all men commonly in this God's world. We talk about our common problems. This is our common understanding, but we can achieve that goal only right here. We are not going to go anywhere to complain but we come right here in this place—poor man, rich man, or average man. This is their home, Washington, D.C. Their problems should be presented, and should be considered. After thorough investigation, due process should be provided for these poor people. Let us not struggle, let's not cause any sufferance of our people.

We have no great economy, we have no money. We borrow money and we are a very, very poor Indian tribe of New Mexico. We don't have any resources. We would like to have strong consideration, and I think a good justification was shown by Mr. Haley and Mr. Aspinall of Colorado. These are good men. I have a lot of respect. These gentlemen have a lot of responsibility, and they are doing lots of deeds for the poor people, and also for the rich man.

Thank you very much, Mr. Chairman, for the opportunity to speak.

(Subsequent to the hearing the following additional information was received:)

PUEBLO DE TAOS,
Taos, N. Mex., September 22, 1968.

Re: hearings on H.R. 3306.

Hon. GEORGE MCGOVERN,
Chairman, Subcommittee on Indian Affairs, Committee on Interior and Insular Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The purpose of this letter is to set forth the reasons for Taos Pueblo's unequivocal opposition to S. 1624 and S. 1625, which would take away rights that the Pueblo now has in the Blue Lake Area, and to explain, with reference to the testimony of witnesses opposing H.R. 3306, why enactment of that bill is essential to the preservation of the religion and the integrity of the culture of the Taos Indians.

1. *S. 1624 and S. 1625—Destruction of Existing Rights.* Under the provisions of S. 1624 and S. 1625, 93 per cent of the Blue Lake watershed would very shortly be opened to recreationalists and logging operators. Enactment of those bills would cut off the existing meager rights of the Pueblo to protect its religion from outside interference. Under Section 1(b) of the bills, the Pueblo's rights to the 3,150 acres around the lakes will be subject to Forest Service interference if "necessary to protect adjacent national forest lands"; that vague language does not require administration primarily for protection of Indian interests. The provisions of Section 2(b) of the bills reduce the rights of the Pueblo under the 1940 Permit, thus enabling the Forest Service to develop the watershed without regard to the religious needs of the Indians.

Below is set forth in tabular form a comparison of the Pueblo's rights under the Permit and under the several numbered paragraphs of the Senate bills:

SECTION 2 (B), OF S. 1624–25	1940 PERMIT
(3) Authorizes sales of timber to individual Indians for commercial use without approval of tribal government. This could deprive the religious leaders of the Pueblo of their authority to protect the religious use of the watershed.	Timber for commercial purposes may be purchased by "the Indians," i.e., the Pueblo as such. (It is significant that the tribe has consistently refused to permit any cutting of timber in the sacred area.)
(9) Authorizes the Forest Service to issue 1-day permits unilaterally without concurrence of the Pueblo, and to abandon the requirement of 1-day entry permits altogether unless the procedure is annually requested by the "governing officials" of the Pueblo. The Pueblo's right of approval for overnight visitors would be forfeited if not requested annually.	Permits concurred in by Pueblo are required for all non-official intruders.
(4) Timber may be sold for commercial use to non-Indians "with the concurrence of the Pueblo de Taos officials." Presumably such "officials" include persons other than the "governing officials of the Pueblo" referred to in paragraph (9).	No provision for sales to non-Indians.
(5) Timber may be "removed" if determined to be "necessary to prevent the spread of insect infestations and diseases." Large-scale logging operations could be conducted under that authority.	No comparable provision.
(6) "Such other steps" may be taken as are determined to be necessary to protect surrounding areas. This is a direction that Forest Service activities in surrounding areas shall prevail over the religious and cultural needs of the Indian people.	No comparable provision.
(7) Exclusive use from Aug. 16–31, subject to intrusions by unnamed "law enforcement officers" for unspecified "official" purposes. The Indians are denied full security in the practice of their religion even during those days in August.	Exclusive use for 3 days in August subject to entry by "forest officers" for fires or other emergencies.
(8) Protection of Indian shrines is not available unless the secret places are identified to the Forest Service. (As Sen. Metcalf observed, sanctity actually attaches to the entire watershed and not only to discrete shrines.)	No comparable provision.
(1) Total grazing capacity to be determined. Stock will be ear-tagged and counted. Forest Service can prevent grazing by Indian stock.	No specific limitations on grazing rights.
(2) Free wood for personal or community needs may be "made available." The Indians would apparently have no right to take wood if not made available by Forest Service.	Forest Service has no right to prevent wood-gathering.

The Pueblo strongly opposes approval of S. 1624 and S. 1625 because they would deprive the Indians of the religious use of the Rio Pueblo watershed, except for the 3,150 acres around the lakes. That deprivation would be a death blow to the Pueblo's religion and culture.

2. *Attack on Indian Religion.* The attack on the Indians' religion, culture and honesty made by such witnesses as N. Preston Gunter, Jon W. Little, and Elliott S. Barker vividly shows why the Indians have become distrustful of the Forest Service. Such men are able to exert effective pressure on the Forest Service. Mr. Gunter's testimony is studded with factual misstatements and falsehoods,[1] and it betrays a thorough contempt for the religion and the honesty of the Indians; yet the Forest Service has not sought to correct or to disavow such testimony. Mr. Barker has directly attacked the Indians' good faith by characterizing their religious claim as "a pure and simple subterfuge to get the land for ulterior purposes" (although H.R. 3306 gives the Pueblo no economic rights to the watershed). Mr. Little paints the 65-year-old Blue Lake claim as a selfish demand for the benefit of a few old men (although this is refuted by the testimony of two young people of the Pueblo at the hearing, and by the active public support of schoolchildren and parents' associations of the tribe).

The other opposition witnesses uniformly insist that the watershed should be devoted to non-Indian interests (while in some cases stressing the fact that Indian interests have been favored by prior Forest Service management). The existence of such pressures and the apparent responsiveness of the Forest Service mean that the Indians will never be secure in the exercise of their religion within this watershed as long as it remains under Forest Service control. The Forest Service itself testified that its plans for the area include the commercial harvesting of timber, fencing of pastures for range management, vegetative manipulation to increase water yields, and increase of recreational use on a one-day basis. It is therefore clear that transfer of administrative authority to the Department of the Interior is the only feasible means of protecting the Indians' ancient religion and unique culture.

3. *Forest Service Tactics.* The testimony of Messrs. Gunter and Little disclosed that a spy-trip had been made with two officials of the Forest Service on September 6, twelve days after the 1968 Blue Lake ceremonies ended on August 25, for the sole purpose of gathering information and pictures to be used against the Inidans at these hearings. The spy-trip was not made pursuant to a Pueblo-approved permit. The District Ranger subsequently advised the Pueblo of the trip by an offensive letter which, although dated September 10, did not arrive until September 17 when the tribal delegation was already in Washington and out of direct contact. The witnesses implied (without explicitly stating) that they photographed the area as they found it, and they alleged that littering and cutting of green timber was done by Indians. They did not offer any proof of that charge; it rests entirely on their unverified surmise.

The true facts are that the conditions shown in Mr. Little's photographs were not created by Indians. The Blue Lake sanctuary was cleaned up carefully after the end of the ceremonials on August 25, by a group of men assigned by the Pueblo for that purpose. The tepee poles shown in Fig. 3 of Mr. Little's statement to the Subcommittee were then stacked in good order on the ground. The garbage shown in Fig. 4 was not present. On September 3, officials of the tribe inspected the area and confirmed that clean-up had been thorough and complete. Another official inspection trip on September 21, following receipt of the District Ranger's letter, found the site clean and without the conditions shown in Mr. Little's photographs. The stumps shown in Fig. 4 were clearly not made by Indians, who are prohibited from taking saws into the Blue Lake sanctuary; the stumps were produced by a chain-saw operated by non-Indians.

In the face of such tactics, can any reasonable man wonder at the Indians' distrust of the Forest Service and their consequent desire to obtain a transfer of the sacred watershed to the Department of the Interior, which is more sympathetic to the ways and needs of the Indians?

4. *Precedent Issue.* The hearings disclosed a general apprehension that enactment of H.R. 3306 would open the floodgates to Indian land claims all over the country. Despite the fact that no witness identified an actual case similar to the facts of the Taos claim (where the special Indian religious need for this watershed has been recognized by two acts of Congress and by the Federal agencies involved), the danger of a multitude of specious claims was decried.

If the fears of the opposition are founded in fact (which the Pueblo doubts), then the United States should indeed take steps to correct an anti-human policy that would destroy remaining Indian religions and cultures. A policy of com-

[1] A statement by Prof. Edward H. Spicer answering the misstatements on the Taos religion is enclosed herewith.

pensating Indians for Federal wrongs solely in money is neither just nor reasonable where cultural, religious and human values are destroyed. Money is just compensation only for a loss of wealth; it is not just compensation for religious losses. Those who deny Indian claims based on such human deprivations reflect an attitude toward our dependent peoples that is morally wrong, an attitude that cries out for change.

If such issues are indeed presented by this simple bill to restore to the Taos Indians their religious sanctuary, then the Congress should forthwith enact this bill to mark the beginning of a new policy which will commit the United States to the protection of the surviving Indian cultures. Such a policy will be consistent with the high moral principles which Congress has always invoked in Indian matters and it will demonstrate the moral commitment of the Nation in the eyes of the world to the protection and primacy of human values everywhere. We have become in recent years too insensitive to the human needs of human beings; the cries of protest are heard from every quarter. Let a new policy be developed to end the anti-human treatment of our Indians, to foster and protect their ancient religions and cultures for the enrichment of American life.

Sincerely yours,

Quirino Romero,
Governor.
Severino Martineu,
Council Spokesman.
Paul J. Bernal,
Council, Secretary and Interpreter.

Statement by Taos Pueblo Officials Concerning Condition of Blue Lake Area After Ceremonials Ending August 25, 1968

Two members of the War Chief's staff made an inspection of the site of the ceremonials on September 3, 1968, and found the area very clean. The inspectors were Jimmy Lujan and Ignacio Suazo.

(Domingo Cordova, Secretary to the Governor, who was in charge of clean-up after the ceremonial, said that he had left the area clean and campfire sites covered.)

On September 21, the area was inspected by John Marcus of the staff, who reported:

I went up to the Blue Lake yesterday as I had volunteered to find out about the letter that was sent to the War Chief from the Forest Service. I went up and I got to Blue Lake about 12:30. As I approached the entrance, I saw one horseback rider with a white mulepack who was a white man. After going down a little farther halfway, I met some more young white men who were six of them. I asked them what they were doing and was told that they were fishing. I asked one older man with them if the place was clean. It so happened this man was from Texas and the man told me that he had never seen a cleaner place of all the places that he has been, which means that the area was clean.

After that I was told that this probably would be the last time this Texas man would be coming back but he was very glad we kept this area so clean.

At this point I told them that the area was sacred and it wasn't permissible to fish but since you've already done the fishing, you can go home.

So I continued on down to investigate some more and I was told that there was somebody around the area, which I thought was one of the War Chief's staff. But after being around the Blue Lake and the ceremonial site I could not find anyone. Also, I did not find any littering or trash or tepee poles scattered around like the Forest Service indicated, only one or two cigarett butts.

On the way back I met another two representatives of the War Chief, who are still up there now (Sept. 22) (Frank T. Lujan and Henry Nelson Lujan).

I also checked the area around Waterbird Lake and the first campsite, which were clean.

NO PERMIT WAS ISSUED FOR FOREST SERVICE PARTY

The War Chief reports that Duane Freeman came to see him on September 4. The War Chief told Mr. Freeman that he was not giving permission for the Forest Service trip because it was not allowed to go up there yet. He did not sign a permit.

TAOS PUEBLO COUNCIL,
GOVERNOR'S OFFICE,
Taos, N. Mex., October 11, 1968.

MR. EDWARD P. CLIFF,
Chief, Forest Service,
U.S. Department of Agriculture,
Washington, D.C.

DEAR CHIEF CLIFF: We wish to protest to you in the strongest possible terms two recent actions by officials of the Forest Service with respect to the Blue Lake Area. First, on September 6, 1968, Don Seaman, Supervisor of the Carson National Forest, and Duane R. Freeman, District Ranger at Taos, accompanied two persons having no official connection with the Forest Service and an unidentified photographer on a trip into the Blue Lake Area for questionable purposes. Second, Mr. Freeman sent the Pueblo a letter dated September 10, 1968 which misstates facts and betrays a disdainful attitude wholly incompatible with the 1933 mandate of Congress for "safeguarding the interests and welfare" of Taos Pueblo in the Blue Lake Area.

It is unclear to us why Messrs. Seaman and Freeman accompanied Jon W. Little, N. Preston Gunter and a photographer into the Blue Lake on September 6. If the purpose of their trip was to investigate the condition of the Indian ceremonial ground and camp ground near Blue Lake they should have invited representatives of the Pueblo to accompany them. We have always understood that the Forest Service desired Indian cooperation in the maintenance of neat and sanitary conditions around Blue Lake. However, it is apparent that Messrs. Seaman and Freeman knew that Messrs. Little and Gunter wished to make the trip in order to gather information and photographs to be used against the Pueblo at the Senate hearings on H.R. 3306. They therefore lent their official capacities to a scheme to undercut the Pueblo's position in support of that bill.

We believe that it is improper for official Forest Service personnel to go into the Special Permit Area for the purpose of supporting attacks on our Pueblo. Moreover, Mr. Little in his statement to the Senate Subcommittee dishonestly used the picture of the tree stumps, which was captioned, "No way to treat a church. Trash pit is only a few steps away from the Indian campsite at Blue Lake. Note unburied camp fire and freshly cut green stumps." The actual site at which the photograph was made is not at the Indian campground nor in the Indian ceremonial ground; it lies between the ceremonial ground and the Forest Service administrative cabin. Therefore, the photograph is not of an "Indian camp site at Blue Lake." The stumps in the photograph were made (by Mr. Freeman's subsequent admission) at least three or four years ago and were not "freshly cut, green stumps."

We believe that the least the Forest Service can now do is publicly disavow and dissociate itself from Mr. Little's statement to the Senate Subcommittee and from his misleading photographs.

With respect to Ranger Freeman's letter of September 10, both the arbitrary tone and the unfounded charges contained therein are wholly unacceptable. The letter reflects a patronizing and disdainful attitude toward the Pueblo which can only be described as regrettable.

Ranger Freeman's charge that the Blue Lake Area "had been left in somewhat of a mess after the ceremonials in August" is without foundation. As we have noted previously, the area was cleaned up by an assigned group from the Pueblo immediately following the ceremonial on August 25, twelve days before the September 6th visit reported in Ranger Freeman's letter. A joint trip to Blue Lake on October 1 that we arranged with Ranger Freeman, an account of which is enclosed, did not disclose any "mess" left by the Indians. There were no "cans and bottles . . . strewn about," although some old accumulation of trash was discovered out of sight under bushes—from its age obviously, *not* left there by the "ceremonials in August." As for the "cigarettes and gum wrappers," upon close inspection a few were noted on the trail leading through the ceremonial ground to the Forest Service cabin, which is used by Forest Service trail riders and others entering the area.

The inspection trip with Ranger Freeman on October 1 disclosed the most serious sanitary problems to be in the immediate vicinity of the Forest Service cabin: a quantity of trash in the rear lying about as open garbage pit, an unsightly barbed wire fence and scattered high stumps, trash by a sheepherder's stove nearby, overgrazed and barren earth within the administrative area, a large quantity of horse manure and an outhouse which directly pollute the

waters of the Rio Pueblo. If anyone is chargeable with having left the Blue Lake vicinity in a "mess" the charge is more appropriate against the Forest Service than against the Pueblo.

The existence in the vicinity of the Blue Lake of a Forest Service cabin, its use by trail riders and others, create an objectionable source of garbage and litter. The outhouse and corrals are sources of pollution of the Rio Pueblo. The cabin and numerous trails that have been cut, combined with the maintenance of directional signs giving distances to Blue Lake (three such signs are located on one trail from the north), attract trespassers who represent yet another source of trash and of intrusion upon the religions privacy of our people.

We therefore suggest and hereby request that the Forest Service remove the cabin, which is old and is desrepair, and the outhouse and corral entirely from the Blue Lake watershed, that references to Blue Lake be removed from all directional signs and that use of trails for access into the lake be discouraged by appropriate measures. These actions would eliminate the source of pollution of the river and prevent further accumulation of garbage and debris in the Blue Lake Area.

Very truly yours,

TAOS PUEBLO COUNCIL,
QUIRINO ROMERO,
Governor.

TAOS RANGER DISTRICT,
CARSON NATIONAL FOREST,
Taos, N. Mex., September 10, 1968.

Mr. TORIVIO GOMEZ,
War Chief, Taos Pueblo,
Taos, N. Mex.

DEAR MR. GOMEZ: As I discussed with you last Thursday, I made a visit to the Blue Lake on September 6, 1968.

We found that area had been left in somewhat of a mess after the ceremonials in August. Cans and bottles were strewn about, as were cigarettes and gum wrappers, and so forth. Tepee poles were scattered also and had not been replaced in the area provided.

I realize it has been Forest Service policy in the past for the Forest Service to clean up the area after ceremonials. However, with the significance that your people place on Blue Lake I would think you would be somewhat embarrassed to have someone else clean up a mess in an area which you claim is a shrine.

Since this area is entirely within your special use area, I feel it is the responsibility of the Taos Indians to clean up the area after ceremonials.

Please send someone to Blue Lake to pick up the litter and stack the tepee poles in the area provided.

I intend to inspect the area again sometime around September 30. Please have this work completed by then.

Perhaps you may wish to send Taos Pueblo representatives along during this inspection.

Thank you for your cooperation.

Sincerely yours,

DUANE R. FREEMAN, *District Ranger.*

TAOS PUEBLO COUNCIL,
GOVERNOR'S OFFICE,
Taos, N. Mex., October 1, 1968.

REPORT BY COUNCIL SECRETARY OF INSPECTION TRIP TO BLUE LAKE WITH TAOS DISTRICT RANGER

I took the War Chief to the District Ranger's office on the morning of September 27. We advised Ranger Freeman that a Council meeting was to be held that evening for the purpose of informing him that tribal officials planned to make an official inspection trip into the Blue Lake Area on the 28th, and to invite him to accompany them. Ranger Freeman said that he wanted to go with them.

We asked Mr. Freeman to show us the permit issued for the spy-trip on the 6th and 7th of September. Mr. Freeman did so. The permit was signed by the War Chief, and was issued to "Don Seaman and party of four and seven horses."