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Statement of Bruce Babbitt
Secretary of the Interior
Before the House Committee on Resources

April 24, 1996

I am pleased to be here at today's oversight hearing on the Fiscal Year 1997 budget request for the Department of the Interior.

The budget that you have before you reflects the priority that the President places on protecting America's natural resources and cultural heritage and honoring our historic obligations to Native Americans.

The President's request for the Department seeks a total of $7.33 billion in funds subject to annual appropriation by the Congress. An additional $2.1 billion will be provided by permanent appropriations.

The President's request for the Department is an integral part of his overall budget plan. The President's budget for 1997 will result in the lowest deficit since 1982. His seven-year budget has been certified by the Congressional Budget Office as achieving balance by 2002. But these goals are accomplished in ways that protect American values, including the value that the American public places on the environment.

The request is an increase of $468 million in current budget authority from the amounts appropriated in the 1996 Energy and Water Development Appropriations Act and proposed for appropriation in the 3rd Conference agreement on the 1996 Interior and Related Agencies Appropriations Act. However, viewed in a broader perspective, it is a flat budget. Even considering the termination of the Bureau of Mines and other 1996 program terminations, it is an increase of less than 2.2 percent above 1995 and a decrease of $30 million, or 0.4 percent, from 1994.

The work of the Department is spread across the country at 369 parks and over 500 wildlife refuges; on 270 million acres of public land; at 83 agencies serving over 550 Indian Tribes and one million Native Americans; and at numerous laboratories, field research sites and Reclamation projects. These sites are not just acres and buildings. Collectively they represent America's heritage. The cost of properly protecting this heritage -- maintaining the physical infrastructure and maintaining acceptable services -- is not staying level. Between 1994 and 1997, our cost of doing business as a result of pay increases, higher prices for supplies, and uncontrollable changes will go up by 8.6 percent.

Our challenge in formulating the 1997 budget was to adequately fund our operational and on-the-ground requirements to ensure that we meet our continuing commitments:

- to the restoration of America's natural and cultural heritage through regional partnerships with other Federal agencies, State and local governments, community groups, and the private sector;

- to the millions of Americans who use the National Parks, National Wildlife Refuges, and public lands every year, and to an Endangered Species Act that works;

- to protecting and encouraging Indian self-determination and meeting Federal trust responsibilities to American Indians; and

- to a program of scientific research that contributes to describing and resolving the Nation's resource and environmental issues.

Our ability to propose a budget that meets these commitments is due to the President's commitment to the environment and programs for Native Americans and to our aggressive efforts over the last three years to streamline the Department, reducing headquarters staffs and management layers, and to reengineer our processes and improve the efficiency and effectiveness of our customer services.

Staffing. As part of these efforts, we made extensive use of buyout authority. We focused on higher grade supervisors in headquarters and regional offices and employees working in administrative and support areas in order to free up positions for on-the-ground field work. By the end of 1997, almost 7,700 buyouts will have been completed. Unfortunately, we also had to conduct reductions in force. The Geologic Division in the U.S. Geological Survey conducted a significant RIF to match its staffing level to its historic funding level, separating 466 employees and downgrading or reassigning over 300 more. Departmental Management conducted a RIF as part of a reorganization, downgrading or separating 79 employees. Reductions in 1996 appropriations have required additional and significant RIFs. The Office of Surface Mining issued RIF notices to 265 employees, the Bureau of Indian Affairs to 693, and the former National Biological Service to 92. The now-closed Bureau of Mines issued 832 RIF notices. All told, we have issued 2,834 RIF notices. A total of 1,381 employees were separated through RIF procedures. The other employees took buy-outs, resigned or retired, or took lower graded positions.

Between 1993 and 1997, staffing in headquarters and central offices will have been reduced by about 2,800 FTEs, or 26 percent, enabling bureaus to redirect funds and staff to on-the-ground work in the field. We have also made good progress in reducing higher graded and administrative support positions. By devoting a larger percentage of Interior's human and financial resources to direct program activities, we will provide better, more cost-effective service to the public.

We expect our FTE level in 1997 to be 70,155, which is almost 7,800 fewer than in the base year of 1993. We have set aside 2,000 additional FTEs in a separate special

allocation for seasonal employment. Quite frankly, we doubt funding levels will allow us to use this allocation. However, it will be available to land managers for use in parks, refuges, and public land management programs during peak visitor seasons to provide enhanced services to the visiting public. It will allow them the flexibility they have not traditionally had to manage based on dollars available, not on artificial FTE constraints.

Reinvention. Interior has continued to be a leader in reinvention. All of our bureaus have re-evaluated programs, redirected resources, and re-engineered work and processes. They are providing better service in less time. The Minerals Management Service now processes royalty payments in as few as three days, one quarter of the time it used to take a contractor. We are also simplifying through automation. For example, we have put in place a wide range of user-friendly, paperless personnel systems and processes. We have been in the forefront of other initiatives such as implementing electronic commerce, proposing a franchise fund pilot, and establishing a new Interior Service Center which includes operational activities previously in offices within Departmental Management.

These efforts will continue in 1997 to assure that the funds we are asking you for will produce the highest levels possible of direct front-line customer service and on-the-ground activity. Over 30 reinvention labs across the Department are developing innovative new approaches to management, that will make the Department more efficient and effective. We will continue to consolidate efforts and eliminate levels of review, as the Denver Service Center of the National Park Service did to reduce by 50 percent the amount of architectural and engineering review time required for major projects. The review days for programs are being decreased from an average of 810 to 395 – a reduction of two work-years.

With this background, I'd now like to give you an overview of the key elements of the 1997 budget.

Partnerships. A theme that runs throughout this budget is continued -- and expanded -- support for regional partnerships with States, local and tribal governments, other Federal agencies, industry, non-profit groups, and concerned ordinary citizens. These partnerships are a better way of doing business. They are not top down programs dictated by the Federal Government. They involve bringing people together to consider regional problems on a landscape scale. The goal is to involve all stakeholders and search for consensus, looking for common ground to implement a vision of how we live on the landscape.

The solutions derived from successful partnerships will be more effective and enduring than piecemeal efforts by individual Federal agencies or State and local entities. By looking at whole landscapes and by bringing all stakeholders to the table, we can strive for balanced solutions that provide for the renewal of America's natural and cultural heritage and for a vibrant and sustainable economy.

All told, this budget will support literally hundreds of partnerships, from the Blackstone River in New England to habitat conservation plans in San Diego:

- In the Everglades, we have brought together a broad group of Federal, State, tribal, county, municipal, and special purpose agencies to address a simple fact: the Everglades are dying. Water flowing from the Kissimmee River to Florida Bay today traverses an ecosystem shaped and reshaped over the last 100 years by a man-made flood control system. The consequences of these artificial changes include a decline by nearly 90 percent of wading bird populations in Everglades National Park, the collapse of commercial fisheries in Florida Bay, and the degradation of water quality.

  The comprehensive plan that has emerged to respond to this long-developing crisis includes three elements. First, the natural hydrologic functioning of the Everglades must be reestablished by acquiring land for habitat preservation, dynamic water storage and filtration purposes. Second, current restoration projects and scientific research must be accelerated. Third, stakeholders in the region must make a long-term commitment to ensure that restoration efforts will support the health of Florida's environment and economy.

  The State of Florida has committed major resources to restoration of the Everglades. In this budget, the Administration requests Everglades funding of $155.8 million for the Department to pay for critical land acquisition to improve water storage and water quality and for accelerated hydrologic and biological research, resource protection at parks and refuges, and construction of modified water delivery structures.

- In the Pacific Northwest, the 1997 budget will provide the funding necessary to continue the Administration's commitment to a Forest Plan that strengthens both the environmental health and economic health of Oregon, Washington and Northern California. The Forest Plan marks an entirely new chapter in conservation history in the sense of taking into consideration an entire landscape and bringing together good science and good forestry practice to build a timber plan across an entire region that balances environmental concerns and a sustainable level of timber harvests. The budget for the Department's Forest Plan work is $79.2 million. With this funding, the Bureau of Land Management, in consultation with the Fish and Wildlife Service, will be able to offer 211 million board feet of timber for sale in 1997.

- The Bureau of Reclamation is working with water agencies in the West to study and, where authorized, construct wastewater reclamation and reuse projects. By sharing its technical expertise and its knowledge of emerging technologies in this area, Reclamation can assist in the development of innovative ways to solve contemporary water supply problems. The 1997 request includes $32.2 million towards the Federal cost share of four projects in California, an increase of $11.8 million over the 1996 level for those projects. The four projects are: the Los

Angeles Area Water Reclamation and Reuse Project; the San Diego Area Water Reclamation Program; the San Gabriel Basin Project; and the San Jose Area Water Reclamation and Reuse Program. While each project is aimed at the special problems in its community, the work typically involves construction of advanced wastewater treatment facilities and pipelines and related pumping plants to distribute reclaimed water for industrial and other uses. In addition, Reclamation is funding major cost-shared studies of the potential for water reclamation and reuse in the southern California region, the San Francisco area, and the Tucson/Phoenix area.

- In the coal mining states in the Appalachian region, the Office of Surface Mining has been leading the Appalachian Clean Streams initiative, a partnership effort with other Federal agencies, State coal regulatory authorities, fish and wildlife agencies, local water districts, and grass roots organizations in the coal fields. Over 7,000 miles of streams in West Virginia, Tennessee, Kentucky, Ohio, Pennsylvania, and other States have been devastated by the effects of acid mine drainage, damaging human health, fish and wildlife, public water supplies, business development, recreation, and tourism. With its partners, OSM is applying known technology to restore and enhance these streams for the benefit of the human and natural communities that depend on them. The budget includes $4.3 million from the Abandoned Mine Land Fund as seed money to initiate clean-up at 12 sites in eight States.

- Throughout the country, the Department is working with private landowners, State and local governments, and others to develop Habitat Conservation Plans that allow economic development activities to continue without harming listed, proposed, or candidate endangered species. Successes have included agreements in the Pacific Northwest with timber companies that allow logging, while affording protection to the spotted owl and other species; agreements in the Southeast with States, the private sector, and the Department of Defense to protect Red Cockaded Woodpecker habitat; and the recent agreement to provide habitat for the desert tortoise in Utah. In 1997, there will be over 300 HCPs under development. To support this critical work, the budget proposes an increase in the Fish and Wildlife Service's consultation program and a $6 million pilot program for grants to States to assist in paying the costs of land acquisition as part of HCPs.

Land Management Operations. As have our budgets for the past three fiscal years, the 1997 budget proposes the funding we believe necessary to adequately operate and maintain the National park and wildlife refuge systems, as well as the public lands in the West. As in prior years, we propose to put resources where they count most: close to park visitors, wildlife watchers and hunters, stockmen and miners, and recreational boaters and anglers who use them. Demand for services from all three of the land management bureaus is growing. Park visitation is projected at 273 million people in 1997, and hunting, recreation, and other visits to the public lands and wildlife refuges will continue to increase.

The President proposes an increase of $90.2 million from the 1996 Interior Conference bill for the Operation of the National Park System account. This increase will allow the System's 369 parks to maintain operational capabilities and at least keep even with maintenance requirements. At a minimum, all parks will receive a three percent increase to maintain current levels of resource protection and visitor services; parks with more deeply rooted problems will receive a larger increase. Increases totaling $13 million will go directly to 39 parks in the form of specific program increases to address immediate resource needs. An additional $16 million is requested for natural and cultural resource management, regional maintenance programs, and the air quality program. Increased air quality monitoring will allow the Park Service to ensure the integrity of Class I park areas threatened by air pollution. Visitor services in parks will be further enhanced by continued funding in the Construction account for visitor transportation improvements at Grand Canyon and Zion National Parks.

For the Fish and Wildlife Service proposed increases in the Resource Management account include $10 million over 1996 for operation and maintenance of the highest priority units of the National Wildlife Refuge system. This will allow greater opportunities for compatible, wildlife-dependent recreation, reduce maintenance backlogs, and provide additional habitat restoration. A $4.4 million initiative to help revitalize wild fish stocks of recreational importance for the Nation's 50 million licensed anglers is also proposed. This funding will restore and enhance degraded habitat in cooperation with States, local communities, Tribes, and other recreational fisheries stakeholders in the Colorado River basin, the Atlantic and Gulf Coast States, the Great Lakes region, and the Missouri/Mississippi basin. Additional efforts will focus on the impacts of whirling disease on trout fisheries in Montana and other western States.

The Bureau of Land Management budget for 1997 emphasizes protection of natural resources, renewed support for recreational customers, and full implementation of the Forest Plan. Proposed increases in the Management of Lands and Resources account for these efforts total $19.3 million, but are partially offset by decreases in other programs, including the Automated Land and Mineral Records System where development efforts are winding down. The proposed increases will support overdue improvements in the management of riparian areas and fish and wildlife habitat, storm water pollution abatement at abandoned mine sites, control of noxious weeds, and infrastructure maintenance at BLM recreation sites.

Endangered Species Program. The Endangered Species Act is a strong, effective conservation tool that can work to preserve the biological diversity of our Nation without stifling economic development. Over the past three years, we have used previously neglected tools in the Act to provide greater administrative flexibility, allowing us to continue effective protection for species while minimizing economic effects, assuring fair treatment for landowners, and reducing delay and uncertainty for States, local governments, private industry, and individuals. The President's

budget proposes a level of funding that will allow us to continue these efforts in 1997.

The budget restores adequate funding for the candidate conservation program to pay for partnership efforts with Federal and State landowners and the private sector to arrest the decline of species that are candidates for listing under the ESA. There are about 180 candidate species in States from Maine to Hawaii, including the Bull Trout in Idaho and Montana and the Black Bear in Florida and Georgia. Relatively modest preemptive expenditures on these species now could avoid the need to list them in the future.

The budget also restores the funding required for an orderly listing program. For the past year, final listings have been prohibited by the moratorium adopted in the 1995 Defense Supplemental Appropriations Act. Since October, the Fish and Wildlife Service has been prevented by a lack of funding from conducting any meaningful preparatory or analytical work. Continuing to ignore the 238 species currently proposed for listing means that many of them may continue to decline. We will have less flexibility in managing protection for these species when they are listed and will spend more on recovering them.

The budget restores full funding for the consultation program and provides an increase of $4 million for work on the Pacific Northwest Forest Plan. The 1997 program will focus on over 300 HCPs and an expanded up front technical assistance to assure expedited permitting processing of HCP applications.

The budget fully funds the recovery program to get ahead of the burgeoning backlog of recovery actions. The 1996 Conference level has impacted ongoing recovery efforts for the desert tortoise, sea turtles, Hawaiian forest birds, manatee, Louisiana black bear, and whooping crane, among others, and will lead to even more expensive future recovery programs. Funding for 1997 will be used to accelerate recovery using a multi-species approach.

Elwha Dams Removal. As part of a Government-wide effort to improve planning and budgeting for fixed asset acquisition, the budget includes $111 million in a Government-wide general provision to provide "upfront" budget authority for restoration of the Elwha River in Olympic National Park, Washington, as authorized by Public Law 102-495. Starting in FY 1998 after environmental studies have been completed, the National Park Service would use these funds to acquire the Elwha and Glines Canyon Dams and to fully restore the river ecosystem. Long-term benefits of this project are estimated at $163 million and include restoring native fisheries for both the Elwha Tribe and local communities, improving natural resources and recreation within the park, and creating jobs during the restoration effort.

BIA Programs. The largest partnership in our budget is our partnership with the over 550 Federally recognized Tribes. In 1994, the President invited all tribal leaders

to the White House for a historic government-to-government meeting. The 1997 budget continues to build on this base by proposing that 51 percent of the operating budget of the Bureau of Indian Affairs be devoted to Tribal Priority Allocation programs. Tribes may establish their own priorities for the use of TPA funds based on local conditions and unique needs. More than 85 percent of the operating budget is available for operation by Tribes under Self-Determination contracts and Self-Governance Compacts.

As we ask Tribes to take on increased responsibility, we must provide adequate resources, both for Tribes and for the Government's residual trust responsibilities. To meet this commitment, the President's budget proposes an increase for the Bureau of Indian Affairs of $211 million over the 1996 Conference level.

Three-quarters of the proposed increase will go to Tribal Priority Allocation programs. This will restore these programs to the level of 1995 and provide an additional increase of $86 million or nine percent to pay for basic necessities and services critical to the quality of life on reservations, including tribal government, law enforcement, child welfare, scholarships, natural resource management, and road maintenance.

An increase of $43.5 million is proposed for school operations to provide funds needed for BIA schools to maintain academic standards and provide safe transportation for an anticipated 1997-1998 enrollment of 51,800 elementary and secondary school students.

In the President's budget, TPA and education programs together comprise 83 percent of the BIA operating budget. Other reservation-based programs account for eight percent. Only nine percent of the operating budget pays for administration. In 1997, Central and Area Offices and other support functions are funded at a level almost $28 million lower than two years ago. Central Office staffing will be one third below two years ago; only critical trust and inherently Federal functions remain.

Office of the Special Trustee. To provide for orderly implementation of the transfer directed in the 1996 Conference bill, I have administratively transferred authority for a portion of my trust responsibilities to Indian Tribes and individuals from BIA to the Special Trustee for American Indians. As a result, the Special Trustee now has direct authority and responsibility for a significant component of the trust asset management function -- collection, disbursement, and investment of Indian trust moneys -- as well as general oversight for other Interior trust functions.

A 1997 increase of $20 million is proposed for functions reporting to the Special Trustee. The additional resources will be used to continue efforts to bring trust resource management, accounting, investment, and related systems up to industry standards, and immediately address accounting systems and control deficiencies. These efforts will help ensure that the Federal Government fulfills its responsibilities to properly account for and invest, as well as maximize the return

on, all Indian trust moneys; and prepare accurate and timely reports to account holders regarding all collections, disbursements, investments, and investment earnings. These and other efforts over the next three years will be guided by a comprehensive strategic plan to be developed by the Special Trustee.

Science. The Administration is committed to a vital program of scientific research conducted by the Department of the Interior. Interior's earth science and biological research have contributed greatly to describing and resolving the Nation's resource and environmental issues, as well as to safeguarding the health, safety, and welfare of the American people.

The 1997 budget continues this commitment with a request for the U.S. Geological Survey of $746.4 million, an increase of $15.8 million over the 1996 level. As a result of 1996 Congressional action, USGS is now Interior's "science agency" responsible for most of the Department's scientific research activities. Funding for the biological science programs of the former National Biological Service has been merged with that for the earth science programs of USGS. In addition, the Congress transferred mineral resource information functions from the U.S. Bureau of Mines to USGS. Although we did not propose or request the consolidation of science programs in USGS, we are committed to making the consolidation work and to taking advantage of the potential synergy between biological and earth sciences.

Fiscal Year 1997 increases in USGS include $5 million for work related to equipment upgrade to establish a basic infrastructure to manage classified data that can be used by civilian agencies to address environmental issues and $5.8 million for biological work on Federal lands prioritized by the land management agencies. In addition, USGS will redirect $5.4 million within its base to higher priority programs, including: examining the public drinking water supply; studying urban geologic hazards; compiling and producing a digital National Atlas in cooperation with other Federal agencies and private and public interest groups; and supplying the geospatial data to support the 2000 Decennial Census before FY 1999.

Conclusion. There are numerous differences on budgetary and fiscal policy between our Administration and the Congress. I believe, however, that the 1997 budget for the Department of the Interior supports priorities on which there should be consensus.

This concludes my statement. I will be happy to answer any questions you may have.

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STATEMENT OF BRUCE BABBITT
SECRETARY OF THE INTERIOR
BEFORE THE SENATE COMMITTEE
ON ENERGY AND NATURAL RESOURCES

FEBRUARY 25, 1997

I am pleased to again appear before the Committee on Energy and Natural Resources.

I testify today in support of the fiscal year 1998 budget request for the Department of the Interior with cautious optimism. Two years ago there were deep divisions over funding priorities and over the inclusion of controversial legislative riders in the Interior Appropriations bill. Last year, at the end, we were able to come together on a bill that was satisfactory in most respects to all parties. At the same time, agreement was reached on the important 1996 Omnibus Parks Act and on other natural resource legislation, including the California Bay-Delta Environmental Enhancement and Water Security Act.

In the context of an overall budget that reaches balance by 2002, the President's 1998 request for the Department builds on the foundation of our 1997 agreement. The President's request seeks a total of $7.5 billion for the Department in funds subject to annual appropriation by the Congress. This is an increase of $522 million in current budget authority over the regular appropriations provided in the 1997 Interior and Related Agencies and the Energy and Water Development Appropriations Acts. It is an increase of $423 million in current budget authority over total 1997 appropriations available to date, including emergency funding released by the President. An additional $2.3 billion will be provided by permanent appropriations.

Within these totals, we propose the funding necessary for our operational and on-the-ground requirements to ensure that we meet our continuing commitments:

- to the restoration of America's natural and cultural heritage through regional partnerships with other Federal agencies, State and local governments, community groups, and the private sector;

- to the millions of Americans who use the National Parks, National Wildlife Refuges, and public lands every year, and to an Endangered Species Act that works;

- to protecting and encouraging Indian self-determination and meeting Federal trust responsibilities to American Indians; and

- to a program of scientific research that contributes to describing and resolving the Nation's resource and environmental issues.

Our ability to propose a budget that protects these priorities is due to the President's commitment to the environment and programs for Native Americans and to our aggressive efforts over the last three years to streamline the Department; reducing headquarters staffs and management layers, and to reengineer our processes and improve the efficiency and effectiveness of our customer services.

As of the end of fiscal 1996, we had reduced our overall employment level by 12 percent below 1993. The largest reductions have been in headquarters and overhead staffs, so that Interior employment in the Washington, D.C. area has been reduced by 15 percent. Our Department-wide reduction is second only to the Defense Department among large cabinet agencies.

Partnerships for Restoration. As I look back across the five budgets I have presented to the Congress, the most striking trend is the increasing recognition that natural resource issues cannot be resolved on the basis of jurisdictional boundaries or by the work of single levels of government, let alone individual agencies. For decades, the tendency was to think of natural resources in terms of a conservation approach: set aside the "back forty" as a nature preserve and it will take care of itself. Modern science and modern ecology have taught us that the natural world does not work that way. Landscapes are complex, living, and integrated systems.

Three principles must guide our approach to the most pressing natural resource problems. First, we cannot solve these problems by treating individual symptoms. We must treat them on a landscape scale. Second, in seeking solutions we must look across, and beyond, agency boundaries. We need to involve all the relevant Federal agencies, as well as States, local and tribal governments, industry, non-profit groups, and concerned ordinary citizens. Third, our goal should be restoration, so as to ensure the long term ecological and economic health of communities.

These three principles are reflected in some of our most important 1998 proposals:

- Congress authorized the Everglades National Park to preserve the sawgrass prairies, mangrove forests, and abundant wildlife of the largest remaining subtropical wilderness in the coterminous United States. The Park has since been complemented by the establishment of the Big Cypress National Preserve and several national wildlife refuges. But this "back forty" is not thriving. Man-made changes have profoundly altered the flow of water from the Kissimmee River to Florida Bay. Water quality has been degraded, wading bird populations in Everglades National Park have declined by nearly 90 percent, commercial fisheries in Florida Bay have collapsed, and non-native and exotic plants and animals have proliferated, overwhelming some indigenous species.

  Four years ago, we joined together with a broad group of Federal, State, tribal, county, municipal, and special purpose agencies to save the Everglades. This group is motivated by a consensus that restoration of natural hydrologic

functions in South Florida is essential not only for the parks and refuges in the region, but also for the continued health and vibrancy of the economy of South Florida.

The State of Florida has committed major resources to restoration of the Everglades. In this budget, we again propose to establish an Everglades Restoration Fund. Funding of $100 million is sought in 1998, with advance appropriations of the same amount that would become available in 1999, 2000, and 2001 for a total of $400 million. These amounts, together with the $200 million plus provided by the 1996 Farm Bill, will provide an assured funding stream for critical elements of watershed restoration, including land acquisition, construction of the Modified Water Delivery project for Everglades National Park, and scientific research.

- On the other side of the country in the California Bay-Delta, our budget addresses another, very similar problem of a stressed landscape. Our request for the Bay-Delta demonstrates the necessity for comprehensive, long-term approaches to the complex and interrelated problems of an entire landscape.

  The region where the Sacramento and San Joaquin Rivers meet the San Francisco Bay once sheltered a stunning variety of fish and wildlife and still provides habitat for 120 species, including some listed as threatened or endangered. The region is also critical to California's economy, providing water to two-thirds of all homes and businesses in the State and irrigating more than four million acres of farmland where, among other crops, 45 percent of the Nation's fruits and vegetables grow.

  For the past 150 years, dredging and channelization, flood control, unscreened diversions, pollution, and large scale water exports have contributed to the degradation of the Bay-Delta ecosystem. As a result, the Bay-Delta has reached the point where it cannot reliably meet the water needs of California residents, businesses, and agriculture while protecting environmental resources.

  In 1994, Federal and State officials signed the historic Bay-Delta Accord. The Accord recognizes that a comprehensive package of actions is required to strike a fair balance among competing uses, restoring and protecting the Bay-Delta ecosystem while strengthening the State's long-term economic health. Last September, the President signed the California Bay-Delta Environmental Enhancement and Water Security Act, which authorizes $143.3 million a year for three years in additional Federal spending for Bay-Delta ecosystem restoration. The authorization became effective in November 1996 when California voters approved a $995 million bond issue to cover State cost sharing for activities to restore the Bay-Delta ecosystem and for other water resources activities in California.

Our request for the Bureau of Reclamation in the Energy and Water Development Appropriations bill seeks the $143.3 million authorized for 1998 in the Bay-Delta Act. The requested funds will be distributed among participating agencies based on plans to be developed by the CALFED group, a consortium of the Federal and State agencies with management and regulatory responsibilities in the Bay-Delta. These funds will match non-Federal funding under the terms of a cost sharing agreement now being developed.

- In the Pacific Northwest, the budget proposes to continue the funding for the President's Forest Plan, the first of our major partnerships for restoration.

At the beginning of this decade the northern spotted owl triggered a crisis in the old growth forests of the Pacific Northwest. Yet, like a sneeze, the owl was only a symptom warning us that the entire Northwest forest system was sick, over stressed, and in need of treatment. Science told us that we needed to prescribe treatment for the whole forest, providing unbroken corridors textured by a mixed canopy of trees varied by age, size and species, and maintaining wide stream buffers along fish bearing streams, from headwater to tidewater.

The Plan is not just about owls, salmon, and other wildlife. It directly addresses the economic issue: Healthy forests are important for a healthy, forest-based economy. If we destroy our old growth forest, we will lose jobs in salmon fishing and tourism and eventually in our timber industry as well.

Under the Plan, logging has been scaled back from the unsustainable levels of the 1980's. At those cut levels, the forests (and the forest economy) would be destroyed within a generation, just as they were in earlier times in New England and the upper Midwest. By scaling back to a sustainable level, we ensure a steady, predictable supply of timber for loggers and mills in the century ahead. And we ensure that the forest towns will continue to diversify, with new people and new industries seeking the quality of life and the health of the natural landscape.

The Plan is working, with the help of funding provided by appropriations to the Bureau of Land Management and Fish and Wildlife Service. Unemployment in the Northwest has hit the lowest level in decades. We didn't lose 100,000 jobs, as some critics predicted, we created jobs.

For 1998, we request $71.1 million, an increase of $2.9 million over the 1997 enacted level. This level will allow the Bureau of Land Management to meet its 1998 timber target of 211 million board feet, as part of the Plan's overall annual sustainable harvest target of 1.1 billion board feet. It will also allow the Fish and Wildlife Service to continue a streamlined Endangered Species Act consultation process, to negotiate additional habitat conservation plans,

and to implement the 4(d) rule, which will relieve spotted owl prohibitions for 30,000 owners of small tracts of land.

In addition to these major initiatives, the budget supports numerous other partnerships across the country, including support for numerous habitat conservation plans outside of the Pacific Northwest, increased funding for partnerships to clean up mine drainage in the Appalachian States, and start-up funding for the nine new heritage areas partnerships authorized by the Omnibus Parks bill. An increase of $1 million in the Park Service will fund technical assistance partnerships with communities to assess and restore watersheds affected by non-point source pollution and wetlands loss.

Managing Fire. Last year, fires burned over six million acres, including almost five million acres in the public land States of the West and Alaska. As has been the trend in recent years, the wildland fires in forests and on ranges burned hotter, bigger, and faster -- growing ever more lethal, destructive, and expensive to fight. Two decades ago, we spent an average of $100 million each year to put out wildfires; last year we spent $1 billion.

This explosion of fire -- and cost -- is in large measure the ironic product of our success over the past 90 years in suppressing fire. Healthy, low-intensity natural fires that once burned across the forest floor have, as a matter of policy, been "out by 10:00 A.M."

Last February, Secretary Glickman and I released the Wildland Fire Policy Review directing managers to place greater emphasis on fuels reduction as a tool for protecting forest and rangeland resources. Our 1998 budget addresses the practical problem of implementing this policy. In the Interior wildland fire account, the budget proposes an increase of $4.8 million for a combination of prescribed fire and mechanical treatment to reduce fuels. This will bring the total Department of the Interior hazardous fuels reduction program to $12.8 million, which will treat half a million acres. The Forest Service program for 1998 is proposed to total $30 million and treat at least 800,000 acres. This proposal establishes the foundation for a long-term effort to address our fuels management needs through the budget.

Land Management Operations. As has each of our budgets during this Administration, the 1998 budget proposes the funding we believe necessary to adequately operate the National Park Service, Fish and Wildlife Service, and Bureau of Land Management and to preserve our parks, refuges, and public lands so that future generations may have the same opportunity to experience our natural and cultural heritage that we have had.

The increases requested in the budget reflect the continuing popularity of national park and wildlife refuge systems, as well as the public lands in the West; park visitation is projected at over 275 million people in 1998, and hunting, recreation, and other visits to the public lands and wildlife refuges will continue to increase.

The increases also reflect the personnel intensive nature of operating and maintaining 374 parks, 509 wildlife refuges, and 200 BLM districts and resource management units. The costs for the staffing necessary to provide services to the public and properly maintain natural and cultural resources range between 50 and 60 percent of land management bureau operational costs, five to six times the average for all Federal agencies.

The budget proposes an increase of $65.7 million for the Operation of the National Park System account. This increase includes across-the-board increases so that all parks can maintain their current level of services and targeted increases for 63 parks to cover new responsibilities and previously unfunded needs. Among the 63 parks are the five new areas added to the National Park System by the Omnibus Parks Act.

An area of emphasis in the Park Service's operations budget is additional funding to maintain irreplaceable cultural and historic resources of the Park System. Increases are proposed for historic structures stabilization, cultural cyclic maintenance, and museum cataloguing, as well as for a Vanishing Treasures initiative. This initiative recognizes the highly specialized maintenance needs of the Anasazi and other Native American sites in the arid southwest, over 60 percent of which have been severely impacted by weathering and erosion. It will provide $3.5 million to bring these resources to a point where they can be sustained by routine preservation treatment programs. As part of the initiative, the Park Service will train a new generation of specialists to take over the task of preserving this unique cultural heritage as many of the current specialists retire over the next few years.

For the Fish and Wildlife Service, proposed increases in the Resource Management account include $13.2 million over 1997 for operation and maintenance of the highest priority units of the National Wildlife Refuge system. This will allow greater opportunities for compatible, wildlife-dependent recreation, reduce operational backlogs, and provide additional habitat restoration. Specific projects have been selected using a ranking system, the Refuge Management Information System, which will ensure the most efficient distribution of limited resources to meet the highest priority refuge needs.

An increase of $11.8 million in BLM's Management of Land and Resources account emphasizes improvements in recreational programs at highly visited sites such as Red Rock, Nevada, where visitation has grown 13 percent a year for five years, and the strengthening of BLM's resource protection capabilities, including an additional $3 million for the cleanup of abandoned hardrock mine sites in Montana and Colorado, and an additional $1 million to combat invasive weed species that threaten the health and productivity of public lands. Funding for the new Grand Staircase-Escalante National Monument is proposed at $6.4 million, an increase of $5 million over 1996 base funding for the area, to ensure a planning process that fully involves the people of Utah and other stakeholders, and to provide services for an expected increase in visitors.

Increases in the MLR account are partially offset by decreases in other MLR programs, primarily the Automated Land and Mineral Records System, which is moving from the development phase to the operation and maintenance phase. We intend to give ALMRS its operational test in New Mexico this Spring and are currently planning to bring on-line all of the BLM States over the next 20 months. We have put in place a seasoned management team at this critical juncture, including the appointment of BLM's first chief information officer. The system holds great promise for providing land and mineral information to State and local governments, industry, and the public.

Recreation Fees. In an era of constrained budgets, we cannot expect the general Treasury to meet all of the needs of our public lands. In the 1996 Interior and Related Agencies Appropriations Act, Congress authorized a demonstration program to test fee collection levels and methods at parks, refuges, and public land sites. We are in the process of implementing that authority. Demonstration fee programs are in place at over 100 sites and an additional 50 sites are in the process of being designated. In 1998, we expect to collect over $50 million to supplement regular appropriations.

This new revenue will be applied to maintenance and infrastructure needs to improve the quality of the visitor's experience. At the largest parks with the highest visitation, we will be able to achieve dramatic results. At the Grand Canyon, visitors on the busiest days can wait as many as two hours for a parking space. The experience at the Rim of the Canyon is one of urban traffic, not majestic solitude. With demonstration fee revenue, we will help provide a new inter modal transportation hub away from the Rim, along with a light-rail system or a fleet of clean, quiet shuttle buses for visitors.

The President's budget proposes legislation for a permanent fee program based on the demonstration program. The budget also commits the Administration to work with the Congress to reform Park Service concession fees.

Endangered Species. The President's budget proposes $78.8 million to continue our efforts to administer the Endangered Species Act to provide effective protection for species while minimizing economic effects, assuring fair treatment for landowners, and reducing delay and uncertainty for States, local governments, private industry, and individuals. This is an increase of $11.4 million from 1997.

With the requested level of funding, the Fish and Wildlife Service will be able to pay for 292 projects to keep declining species off of the endangered and threatened lists and work on 100 habitat conservation plans. The Service will also be able to manage an increasing Section 7 consultation workload, including 38,000 technical assistance consultations (up nine percent from 1997), 900 formal consultations (up six percent) and 1,500 programmatic consultations (up 76 percent).

Bureau of Indian Affairs Programs. My biggest disappointment in the otherwise sound compromise on 1997 appropriations was that we were unable to agree on a higher level of funding for programs that support tribal self-determination. The claim of Native Americans to a fair share of attention and resources is very great, and I do not believe that that claim was met over the past two years.

The budget requests an increase of $114.4 million for the Bureau of Indian Affairs. Of this total, $76.5 million or 67 percent, is for the Tribal Priority Allocations budget activity, the part of the budget that Tribes allocate according to their own locally-based priorities. Among other things, this increase will allow Tribes to maintain an additional 1,250 miles of reservation roads; to hire another 400 law enforcement staff; and to fund an additional 220 child welfare cases each month. However, even with the increase, the overall level of TPA funding will be only two percent higher than it was in 1995.

An increase of $16.8 million is proposed for elementary and secondary school operations to provide funds for an anticipated three percent increase in enrollment to a total of 52,400 and for statutorily mandated pay increases.

In the President's budget, TPA and education programs together comprise 82 percent of the BIA operating budget. Other reservation-based programs account for nine percent. Only nine percent of the operating budget pays for administration of the Bureau. In 1998, Central and Area Offices and other support functions are funded at a level about $26 million lower than three years ago, a reduction of more than 20 percent. The BIA's staffing level will continue at its current level, the lowest in 15 years.

Office of the Special Trustee. The budget proposes to continue efforts under the direction of the Special Trustee to ensure that the Federal Government fulfills its Indian trust management responsibilities. The 1998 request for this office is $39.3 million, a $5.2 million increase over the 1997 enacted level. With funds appropriated in 1997, the Special Trustee will initiate reform efforts and begin to make critically needed improvements to Individual Indian Money accounting systems, policies, practices, and procedures. In 1998, a total of $16.7 million will be available for continued implementation of Indian trust management systems improvements. Approximately $5 to $6 million will be necessary to cover recurring costs for IIM improvements planned in 1997. The other $10 to $11 million will go to improvements in additional systems: Trust Resource/Asset Management Delivery, Accounts Receivable, and Land Records and Ownership.

The work of the Special Trustee is directed towards improving systems for the present and future. The question of past account deficiencies continues to be addressed separately. In December, we provided a preliminary report to the Congress under the American Indian Trust Reform Act outlining our analysis and possible options to resolve disputed account balances and known errors. We have

conducted consultation with Tribes and individuals and will be providing a further report in April that takes into account their concerns.

Science. At the beginning of the current fiscal year, we successfully completed consolidation of the former National Biological Service into the U.S. Geological Survey. Over the years, the Department's earth science and biological research have provided the critical science needed for sound resource management. I am confident that the synergy between biological and earth sciences in the "new" USGS will build on and expand this tradition.

The 1998 budget for USGS is a net increase of $5.3 million over the 1997 level. Within this total, we propose a $9 million increase in the National Water Quality Assessment program that will use the NAWQA model to provide information on water quality conditions for streams and acquifers of 75 of the Nation's key metropolitan areas, including the largest city in each State, as part of the President's initiative to provide the public information about toxics. Increases are also proposed for better operation and maintenance of the USGS portion of the Global Seismographic Network and for enhanced technical assistance to address priority biological research needs identified by the Department's land managing bureaus. The USGS and its research partners will also refocus $1.2 million in 1998 to a program to establish historic mapping and modeling databases for the New York, Chicago, Philadelphia, and Portland, Oregon metropolitan regions.

The increases in USGS are partially offset by programmatic decreases resulting from Reinventing Government II initiatives and from scaling back other programs, including the Water Resource Institute program.

Conclusion. I believe that the 1998 budget for the Department of the Interior supports priorities on which we can reach consensus. I hope that over the next several months, we can have a dialogue to achieve that consensus.

This concludes my statement. I will be happy to answer any questions you may have.

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STATEMENT OF SECRETARY OF THE INTERIOR BRUCE BABBITT OVERSIGHT HEARING ON THE GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT FROM DESIGNATION TO MANAGEMENT BEFORE THE HOUSE RESOURCES SUBCOMMITTEE ON NATIONAL PARKS AND PUBLIC LANDS

APRIL 29, 1997

Good morning, Mr. Chairman, and thank you for inviting me to appear before the Subcommittee this morning regarding the establishment, planning, and future management of the Grand Staircase-Escalante National Monument.

The newest of our National Monuments is a magnificent place, a rugged treasure trove of geologic wonders, ancient historic sites, biological diversity, and a rich fossil record dating to the Late Cretaceous Era.

I strongly believe President Clinton did the right thing in establishing the Grand Staircase-Escalante. I also believe that future generations of Americans will agree with that judgement, including the citizens of Utah. However, I respect and understand the views of the Chairman and other members of the Utah Congressional delegation, who disagreed with that opinion last September, and who continue to disagree today.

Now it is time to move forward, regardless of one's views on the President's proclamation. And that is exactly what we are doing. We want to hear all voices and take all views into account as we move forward to establish a management framework for the very first Bureau of Land Management National Monument.

We have been and will be listening to the people in the towns and communities

surrounding the Monument, to mayors and county commissioners, business people, users of the outdoors, and concerned citizens of every stripe and variety. Each of us has a stake in bringing about the best possible outcome for Utah and its citizens, and for the management of the public lands owned by all Americans.

I am pleased to see Governor Mike Leavitt here today. He and I have spoken on several occasions about the importance of making this Monument a success, for Utah and the country. I know he did not support the President's action, and I suspect he will recall that this morning. Today, however, we are determined to work together in innovative ways to pool all relevant information about the land and the resources within the Monument, protect the environment and the special treasures of the Grand Staircase-Escalante, help citizens and local government participate in the management plan, and encourage economic development in the towns surrounding the Monument.

One of our first tasks has been to assemble a monument management team, under the able leadership of Jerry Meredith, one of our finest managers, and a longtime and respected BLM employee from the state of Utah. I asked the Governor if he might be interested in contributing three or four people on his staff to work full time on the BLM's 15 member Monument planning team for the duration of the project, thus giving the State an unprecedented opportunity to contribute from the earliest stages. He offered five: a geologist, a biologist, a paleontologist, an historian, and a community economic development planner. We agreed, and they have already begun to arrive in Cedar City, working side by side with our federal employees.

I also see that Kane County Commissioner Joe Judd is here today. Joe and I met recently, not to highlight our disagreements, but to agree that the time had come to work in partnership for

the interests of all our constituents. When people who have disagreed in the past make good faith efforts to find common ground and move forward together, I think it's important to reward those efforts and encourage them.

Together, we have worked to develop a cooperative agreement with Kane County that will help both the county and the BLM as we move forward to forge a Monument plan that will both protect the resources of the Monument and help the local economy. I hope that a similar cooperative agreement might be established with Garfield County, and that its citizens might benefit from the new spirit of partnership which has already begun next door.

Mr. Chairman, I recommended to the President that the Grand Staircase-Escalante become the first Monument managed by the Bureau of Land Management. I did so for several reasons, none of which reflected any dissatisfaction with the National Park Service, which has a superb record of managing 73 National Monuments across the country.

I believe the time has come to both give a vote of confidence in, and a challenge to, the BLM. In doing so, we are saying that when we decide that special areas of the public lands are deserving of special treatment, we will not always take those lands away from the BLM to be given to another agency. I believe that part of the BLM's mission and capability involves protecting and managing high conservation value lands, including many of the gems of America's public lands.

All of the land contained in the Monument was already publicly-owned and managed by the BLM. By retaining management within the agency, we have hit the ground running, and all those in the area already have a working familiarity with the land managers. By creating the first BLM National Monument, we have a chance to develop a process and a plan tailored to the

circumstances within and surrounding the Grand Staircase-Escalante. Our message to all those who care about these lands is simple: come join us in building an innovative model for land management for the future. We have an enormous opportunity here; it's up to all of us to make the most of it.

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STATEMENT OF BRUCE BABBITT, SECRETARY OF THE INTERIOR S. 357, GRAND STAIRCASE-ESCALANTE NATIONAL MONUMENT BEFORE THE SENATE COMMITTEE ON ENERGY AND NATURAL RESOURCES, SUBCOMMITTEE ON NATIONAL PARKS, HISTORIC PRESERVATION AND RECREATION

May 1, 1997

Mr. Chairman, Members of the Subcommittee, I appreciate the opportunity to testify on S. 357, the Grand Staircase-Escalante Resource Protection Act. I share Senator Bennett's concern for a good beginning for Utah's newest National Monument. However, the Department must oppose this bill not only because it is unnecessary but because it departs significantly from the clearly stated purposes laid out in President Clinton's proclamation, which created the Monument. If enacted in its present form, this legislation could have the ironic effect of affording fewer protections for lands within the Monument than exist on all other BLM lands outside the Monument.

The lands encompassed by the Grand Staircase-Escalante National Monument represent, in the President's words, a "... uniquely American landscape [that] is now one of the most isolated places in the lower 48 states. In protecting it, we live up to our obligation to preserve our natural heritage." A clear statement of President Clinton's vision for the management, protection and use of the Grand Staircase-Escalante National Monument's resources is detailed in that proclamation he signed on the rim of the Grand Canyon on September 18, 1996. The President described the scientific and historic objects that are protected within the Monument, the uses that will continue in the Monument and those that

will not. He also charged the Bureau of Land Management (BLM) with managing the Monument and preparing a management plan.

We have made significant progress in keeping the promises of this National Monument proclamation. Perhaps most encouraging is the very real cooperation between the BLM and the State of Utah in working together to carry out these promises. Our first major task has been to assemble the planning team that will prepare a management plan for the Monument. Governor Leavitt has made available five highly skilled specialists from the State of Utah to work for the next three years under the direction of the BLM Monument Manager in preparing the plan. This represents an unprecedented level of cooperation and participation between State and Federal government in preparing a land management plan. In addition, the Governor will be forming a Community and Economic Development Strategy Team which will address community and economic development concerns, and provide information to the BLM planning team.

In addition to working closely with the State of Utah in preparing the management plan, we have also taken major steps to facilitate involvement of the affected county governments. Soon after the creation of the Monument, both Garfield and Kane counties were offered an opportunity to enter into cooperative agreements with BLM to provide funds to the counties to aid their participation in the planning process. Although Garfield County declined, Kane County and the BLM have completed a cooperative agreement which will provide up to $200,000 from BLM to support activities benefiting both Kane County and BLM. BLM is committed to participation by local governments, and is optimistic that an agreement can soon be reached with Garfield County.

At my direction, interim management guidelines for the Monument were established shortly after the proclamation. These guidelines, which are attached to my testimony, clearly demonstrate our intention to manage the Monument consistent with the President's proclamation and in a manner that allows most traditional uses of these lands to continue on Federal lands inside the Monument's boundaries. These guidelines specifically demonstrate our commitment to respect valid existing rights as promised in the proclamation. For example, Conoco Inc., recently submitted an application for a permit to drill on an oil and gas lease they acquired an interest in on Federal lands inside the Monument. The BLM is processing this application using the established procedures and policies for such requests.

BLM also recognizes the responsibility of the State of Utah for management of fish and wildlife, including regulation of hunting and fishing, on Federal lands within the Monument. To assure that the planning team has a thorough understanding of the State's responsibilities in this area, an employee of the State of Utah's Division of Wildlife Resources is a full time member of the planning team.

Likewise, BLM's management of the Monument recognizes the provisions of the proclamation regarding livestock grazing within the Monument. The proclamation says "nothing in the proclamation shall affect existing permits or leases for, or levels of, livestock grazing on Federal lands in the Monument." This use will be managed under existing laws and regulations. The livestock grazing standards and guidelines currently being developed in consultation with the Utah Resource Advisory Council will be an important tool for future livestock management on Federal lands inside and outside the Monument.

Some provisions in S. 357 accurately reflect the President's vision and promise. We

agree that the Bureau of Land Management should manage the Monument and develop a management plan for it. We welcome the State of Utah's responsibility for managing fish and wildlife within the Monument. Livestock grazing within the Monument should be subject to the standards and guidelines developed in consultation with the Utah Resource Advisory Council.

The President indicated that most multiple uses are entirely consistent with the Monument, and listed "hunting, fishing, hiking, backpacking and grazing" as examples. But the bill's provisions are clearly incompatible with the President's proclamation. First, the term "multiple use" has been misconstrued in the bill as it applies to the Monument. The President clearly intended that some multiple uses should be constrained by the terms of the proclamation. The President said that most multiple uses are "entirely consistent with the Monument," listing the examples of "hunting, fishing, hiking, backpacking and grazing." But the bill distorts the President's statement by referencing generic definitions of "multiple use" and "sustained yield". "Multiple use" does not mean that all conceivable uses must occur on every acre, or that every acre of Federal land must be used for all purposes, nor does it mean that consumptive uses have priority, as the bill suggests. The specific authorization of multiple uses within the Monument should be determined by the proclamation and the land use planning process.

Let us also be clear that the President's proclamation appropriates the Federal lands inside the Monument and withdraws them from all future entry, location, selection, sale, leasing or other disposition under public land laws. The proclamation and the BLM recognize valid existing rights which may exist for mining claims and leases prior to September 18,

1996, but no future mineral location or leasing will take place on Federal lands in the Monument, and we would oppose any attempts to modify the President's action in this regard.

Section 5 (b), which deals with roads and rights-of-way, is unacceptably general and all encompassing. If enacted, this legislation would require improvements of roads and rights of way within the Monument while no such requirement exists for BLM lands outside the Monument. Roads are important for visitors to have a safe and enjoyable experience in the Monument. Decisions on which roads will be maintained and used will have tremendous impact on how all resources are managed and protected in the Monument. Accordingly, such decisions should and will be determined as a part of the Monument planning process. Controversy exists regarding whether or not roads are present in some Wilderness Study Areas and other areas recommended for wilderness designation. Until Congress either designates these areas as wilderness or releases them, maintenance and road construction activities in such areas is generally not permitted. As written, this bill could be construed to direct the Secretary to permit "maintenance and improvement" of right of way assertions under RS 2477 which have not yet been recognized as valid. Legislation responding to the President's promises is not the place to settle longstanding controversies over RS 2477.

Given the considerable Federal and State investment in the large-scale exchange process for state trust lands authorized by Public Law 103-93 (the Utah Schools and Land Improvement Act), and the likelihood that considerable progress could occur in the coming months, the Governor and I have agreed that completing these authorized exchanges is of the highest immediate priority. Section 11 of S. 357 could force work on these exchanges to be deferred. It is also important to note that the exchanges completed under P.L. 103-93 may

provide precedents for and valuable experience for addressing future exchanges involving State trust lands within the Monument. As these P.L. 103-93 exchanges are concluded, the Department intends to work closely with the Governor and the State of Utah to expand broad-scale exchange efforts within the Monument boundaries.

In the meantime, however, the Department will fully consider any proposal for exchange of any lands within the Monument that may be advanced by the State of Utah. Subpart (b) of this section, which discusses valuation of these lands, could interfere with efforts to reach agreement on exchanges. It would require that school trust lands be valued for exchange purposes as if surrounding Federal lands were available for mineral development. This provision conflicts with the principle that federal taxpayers should receive fair market value for the sale or exchange of federal assets. We support the equal-value requirement for land exchanges established in the Federal Land Policy and Management Act (FLPMA) and reiterated in P.L. 103-93, and we will insist that valuations of lands and interests should be established using nationally recognized appraisal standards. We are committed to working with the State to facilitate such exchanges and support the President's directive that "reasonable differences in value" should be resolved in favor of the State.

Additional concerns regarding S. 357 relate to the following provisions:

* Section (4)(a)(4) Economic Sustainability - The term "economic sustainability" is not defined, and yet the language would appear to hold the Federal Government responsible for the economic welfare of unspecified local communities.
* Section 5(a) Exercise of Valid Existing Rights - Valid existing rights are currently controlled by existing terms and conditions of specific authorizations (such as leases

and rights-of-way). The language would limit the BLM's authority to impose reasonable conditions on both existing and new authorizations.

* Section 5(c) Takings - No taking occurred as a result of the designation of the Monument. As a point of law, the United States, not the Secretary, compensates the plaintiff in all cases where a court finds a taking.

* Section 7 Withdrawals - This provision is unnecessary. Section 204 of FLPMA already provides for the process of review and revocation of withdrawals on the public lands, as appropriate.

* Section 8 No Federal Reservation of Water Rights - This provision is unnecessary. The President's proclamation clearly states that the management plan should address the extent to which water is necessary for the proper care and management of the objects of this Monument and the extent to which further action may be necessary pursuant to Federal or State law.

* Section 9 Management Plan - Although this provision requires that the management plan be submitted to Congress, it does not make clear what Congress would do with the plan or whether Congressional approval would be necessary to implement the plan.

* Section 9(c) Notice and Comment - This section is unnecessary because the National Environmental Policy Act already requires public review and comment for land management plans.

* Section 9(d) Utilization of Monument Resources - This section violates the Presentment Clause of the Constitution, in that it would allow Congress acting unilaterally to override the protections given the monuments under the Antiquities Act. It also

contains no standards on which to base a determination of a "national emergency."

* Section 11(c) Analysis of Lost Royalties - Royalties associated with development of valid existing rights are not affected by the Monument's designation. The subject of future mineral values is different from the subject of royalties associated with valid existing rights. Any estimates of future mineral values and therefore future royalties that may be forgone are highly speculative in nature.

* Section 11(d) Access to State Sections - Current law requires that reasonable access to state lands be provided. This section appears to expand this guarantee by limiting the Secretary's authority to impose limited conditions on access as appropriate and as authorized under current law.

* Section 12 Advisory Committee - The Administration generally does not support the establishment of new statutory committees and, in particular, objects to the establishment of this committee whose function would overlap and potentially conflict with the planning process for the Monument. That process will provide for extensive public participation.

* Section 13 Monument Planning Team - This section is unnecessary. At the BLM's invitation, the State is already represented on the planning team.

Mr. Chairman, I have discussed several of the areas where we strongly disagree with the approach taken in S. 357 about planning and managing the Grand Staircase-Escalante National Monument. The bill conflicts with the President's vision for the Monument and could interfere with implementation of the proclamation. I believe that our progress to date demonstrates that the promises of President Clinton's proclamation have been honored.

Mr. Chairman, this concludes my opening statement and I welcome your questions.

Attachments follow.

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TESTIMONY OF BRUCE BABBITT, SECRETARY OF THE INTERIOR, BEFORE THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS REGARDING S. 1059, NATIONAL WILDLIFE REFUGE SYSTEM IMPROVEMENT ACT

July 30, 1997

Mr. Chairman, I appreciate the opportunity to appear before your Committee to express the Administration's support for S. 1059, the National Wildlife Refuge System Improvement Act of 1997. This Committee has played an important role in the development of this legislation. About 4 years ago, it was this Committee which recognized the need for organic legislation and began the effort which has led us to the threshold of consensus represented in S. 1059.

But this effort has not always been so amicable. During the last Congress, the House of Representatives passed legislation over the strong objections of the Administration. This Congress began essentially in the same way. In March, Chairman Young called me before the House Resources Committee where we had a fairly unproductive hearing -- not unlike many others -- where we exchanged our respective, seemingly irreconcilable, positions.

But afterward, outside of the hearing room, Chairman Young and I had a brief conversation and he expressed his desire to talk and try to work out a compromise. I decided to take him up on his offer, and we then invited Congressmen Miller, Saxton and Dingell to each commit their respective staff representatives to a process of focused discussion. We also invited the Wildlife Legislative Fund; the Audubon Society; the International Association of Fish and Wildlife Agencies; and the Wildlife Management Institute.

We met once a week, for about 5 weeks. The environmental community wanted an unequivocal statutory declaration that wildlife conservation is the mission of the Refuge System. The hunting and fishing community and the state wildlife managers wanted statutory recognition that their activities constitute an appropriate use of the National Wildlife Refuge System, recognizing that the decision to allow hunting and fishing on any refuge must be predicated by an individual analysis and determination that the specific hunting or fishing program is compatible with the conservation mission of the system and purposes of the refuge. The result is a bill that will strengthen and improve our National Wildlife Refuge System as it heads into the 21st century.

The House of Representatives approved that bill by a vote of 407-1. With a couple of significant variations, S. 1059 is that same bill and I would like to take a few minutes to explain why it is so important for this Committee and this Senate to consider and pass this bill as soon as possible.

The National Wildlife Refuge System is the world's greatest system of lands dedicated to the conservation of fish and wildlife. It is a system founded in faith, a belief that, in a country as bountiful and diverse as ours, there ought to be special places that are set aside exclusively for the conservation of fish and wildlife resources. These special places are National Wildlife Refuges, where appropriately enough, the conservation needs of wildlife are paramount.

S. 1059 keeps this faith, by recognizing that the central, overarching purpose of the National

Wildlife Refuge System is, and should remain, the conservation of fish, wildlife and their habitat. The bill maintains the crucial distinction between wildlife conservation as the dominant refuge goal and compatible wildlife-dependent recreation as a priority public use. Wildlife conservation is our purpose. The opportunity for compatible recreational uses are the important benefits that flow from this purpose. Appropriately then, the bill recognizes that the use of our refuge lands and waters, to the extent that such use can be allowed, shall be reserved first to those recreational activities which depend and thrive on abundant populations of fish and wildlife. The obligation of the refuge manager is thus clear: wildlife conservation is foremost. Where recreational activity is appropriate, let compatible wildlife-dependent recreation, including hunting and fishing, come first.

This does not mean that other compatible non-wildlife dependant activities cannot also be allowed within a wildlife refuge. Rather, it simply acknowledges that those compatible activities which are truly dependent upon the presence of wildlife should, logically, be accorded a priority within a wildlife refuge over other proposed activities which are not tied to the presence of wildlife. Senator Kempthorne has authored a provision in S. 1059 which clarifies that both wildlife-dependent as well as other uses of refuges -- like grazing for instance -- can be "compatible uses", as long as they do not materially interfere with or detract from the fulfillment of the mission of the System or the purpose of the refuge. This proposed change is acceptable to the Administration.

The bill maintains the strict policy that all refuge uses must be "compatible". It sets up a sensible, consistent and public process for the Service's managers to follow in making

compatibility determinations, and it adopts the Service's longstanding regulatory standard for compatibility.

S. 1059 appropriately defines the specific categories of wildlife-dependent recreation which are to be considered as the "priority public uses" for the refuge system: hunting, fishing, wildlife observation and photography, and environmental education and interpretation. Where compatible, refuge managers are to provide increased opportunities for these uses and enhance the attention they receive in refuge management and planning.

Finally, the bill maintains the historic Refuge System policy that refuges are "closed until open". That is, in order to ensure that wildlife needs come first, existing refuge lands and waters are closed to public uses until they are specifically opened for such uses. However, a new process is established for identifying compatible wildlife-dependent recreational activities prior to the acquisition of new refuge areas, thereby avoiding the temporary closure of on-going compatible recreational activities.

Senator Graham has inserted another notable provision, requiring the Secretary to "monitor the status and trends of fish, wildlife, and plants in each refuge." Improving our biological capability at, and understanding of each refuge is vital to accomplishing our conservation mission. The Fish and Wildlife Service and the Biological Resources Division of the U.S. Geological Survey will be working hand-in-glove to fulfill this requirement and again, you have the Administration's full support.

Another issue which arose during House consideration of the bill concerns utility rights-of-way and other refuge uses which may be authorized for periods of many years. In the case of utility rights-of-way, authorizations are usually granted for periods of 30 to 50 years. Since the bill requires review of each non-wildlife dependent refuge use, at least every 10 years, the utility industry is concerned that these reviews not be interpreted to require a new permit process at each 10 year interval. This is not the case and during House consideration the Administration supported a colloquy to clarify that, in the case of such long-term authorizations, these reviews would examine compliance with permit terms and conditions and would not require a new permitting process. I understanding that some Senate Members may be interested in legislative language to codify this view. Provided language can be drafted that accurately reflects the House colloquy, I believe it would have the Administration's support.

Attached to my written statement is a summary of the key provisions of S. 1059. Mr. Chairman, let me say simply that your bill contains all of the key ingredients that will help improve our refuge system and we should get this legislation enacted as soon as possible.

Mr. Chairman, we have today an opportunity to enact historic legislation that embodies the principle that whether they cast a line, pitch a decoy, or click a shutter, the 30 million Americans who annually visit and enjoy our refuges have one common and enduring interest -- the conservation of fish, wildlife and their habitat. Ultimately, that is what the National Wildlife Refuge System is about and that is what this bill will promote and ensure.

I look forward to working with the Committee to enact this legislation as soon as possible. I am happy to answer any questions that you may have.

ATTACHMENT

Key Provisions of S. 1059

The National Wildlife Refuge System Improvement Act

The National Wildlife Refuge System Improvement Act represents a consensus among diverse constituencies with interests in the management and use of the Refuge System. Negotiations leading to the development of the nearly-identical bill passed by the House involved Interior Department Secretary Bruce Babbitt; the legislation's sponsors, including Congressmen Don Young, John Dingell, Jim Saxton, and George Miller; and representatives of environmental and sportsmen's groups.

This legislation strengthens protections for individual refuges and for the National Wildlife Refuge System. Its main components improve on the National Wildlife Refuge System Administration Act of 1966 by amending it to include a unifying mission for the Refuge System and a new process for determining compatible wildlife-dependent public uses of refuges.

Key provisions of S. 1059 mirror those found in President Clinton's Executive Order 12996, Management and General Public Use of the National Wildlife Refuge System, signed in March 1996. Provisions coinciding with the Executive Order are the mission statement, priority public uses, and a requirement that the environmental health of the Refuge System be maintained.

Mission

- The legislation establishes a strong and singular conservation mission for the National Wildlife Refuge System:

  "To administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife and plant resources and their habitats within the United States for the benefit of present and future generations of Americans."

- The legislation requires the Secretary of the Interior to ensure that the mission of the National Wildlife Refuge System and purposes of the individual refuges are carried out. It also requires the Secretary maintain the biological integrity, diversity, and environmental health of the Refuge System.

Priority Public Uses

- The legislation establishes certain wildlife-dependent recreational uses as priority public uses where compatible with the above mission and the purpose of individual refuges. These uses are hunting, fishing, wildlife observation and photography, and environmental education and interpretation.

- The legislation establishes these wildlife-dependent recreational uses as "legitimate and appropriate" public uses of the Refuge System. It states that these uses should be facilitated where compatible but does not mandate them.

- The legislation retains refuge manager's authority to use their professional judgment to determine compatible uses and whether or not they will be permitted. It establishes for the first time a statutory process for determining what constitutes a "compatible use," and retains the regulatory definition of "compatible use" currently used by the U.S. Fish and Wildlife Service, the Interior Department agency responsible for managing the National Wildlife Refuge System.

- The legislation authorizes the Secretary of the Interior to temporarily suspend the compatibility standard to cope with an emergency on a refuge threatening public health and safety or that of any wildlife population.

Public Involvement

- The legislation requires public involvement in any decisions to allow new uses and renew existing uses.
- The legislation requires public involvement in the development of comprehensive refuge management plans and requires that such plans be prepared for every refuge.

Other provisions

- The legislation's new compatibility process exempts uses by other federal agencies with primary jurisdiction over the land on which a refuge is located and use of airspace over a refuge (which is regulated by the Federal Aviation Administration). The legislation also provides for continuation of existing uses of refuge lands by other agencies under applicable laws and agreements.

- The legislation maintains the status quo with respect to all aspects of water rights.

- The legislation maintains the status quo with respect to state management of resident wildlife outside of refuge lands.

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STATEMENT OF BRUCE BABBITT
SECRETARY OF THE DEPARTMENT OF THE INTERIOR
BEFORE THE COMMITTEE ON RESOURCES
UNITED STATES HOUSE OF REPRESENTATIVES
ON FIRE AS A MANAGEMENT TOOL

SEPTEMBER 30, 1997

Mr. Chairman and members of the Committee, it is a pleasure for me to appear before the Committee today to discuss the Department of the Interior's wildland fire management program. My remarks and my written statement will be primarily focussed on the fuels management aspect of the program, particularly the use of fire to restore and maintain healthy, sustainable natural systems and to reduce the risk of catastrophic fire. I do want to remind the Committee, however, that the preparedness and suppression aspects of the Department's fire program remain essential for protecting public safety and unacceptable loss of natural resources. Both the preparedness/suppression and the fuels management portions of the Department's program are closely coordinated with the USDA-Forest Service.

Wildland Fire Management Policy

As a result of several severe fire seasons culminating with the tragic 1994 series of fatalities, then-Secretary of Agriculture Mike Espy and I convened a comprehensive review of federal wildland fire policies to ensure that we had common and consistent policies in both Departments and to ensure that those policies are based on good science and resource management practice. The result, the Federal Wildland Fire Management Policy and Program Review Final Report, was accepted by Secretary Glickman and me in 1995 and established joint fire management policy for both of our Departments. I am pleased that Administrator Browner, along with James Lee Witt, the Director of the Federal Emergency Management Agency, joined in their support of the policy.

Our joint policy is based on several established guiding principles, including:

- Firefighter and public safety is the first priority in every fire management activity;
- The role of fire as an essential ecological process and natural change agent will be incorporated into the planning process;
- Fire management plans, programs, and activities support land and resource management plans and their implementation;
- Fire management programs and activities are based on the best available science;
- Fire management plans and activities incorporate public health and environmental quality considerations.

The set of policies contain a number of key elements, including:

- Protection of human life is reaffirmed as the first priority in wildland fire management, with protection of property and natural/cultural resources being considered jointly the second priority, with protection decisions based on values to be protected and other considerations.
- The role of wildland fire as an essential ecological process and natural change agent must be reintroduced into the ecosystem. This will be accomplished across agency boundaries, using the best available science.
- Where wildland fire cannot be safely reintroduced because of hazardous fuel build-ups, some form of pretreatment must be considered, particularly in wildland/urban interface areas.
- Wildland fire decisions must be closely linked to resource management goals and objectives and must have the flexibility to select from a full array of appropriate management actions on an unplanned ignition. The options will include full and immediate suppression where there are significant values to be protected to allowing fires to burn where they can fulfill their natural ecological role without risk to human safety, property or other values to be protected.
- Wildland fire management requires participation of all partners, and that all partners have compatible programs and activities.
- The Federal agencies are partners in managing wildland fire in the urban interface, but the primary responsibility for structural protection rests with tribal, state and local governments.
- Federal agencies must place more emphasis on educating internal and external audiences about how and why we use and manage wildland fire.
- Good fire management requires a sound scientific knowledge of fire ecology, good technical support from common information systems, and cooperative efforts to provide the technical tools for analyzing fire management problems.

I am pleased that since Secretary Glickman and I announced these policies over two years ago we have made significant progress in implementing them on the ground. Today I would like to report on why we feel these policies are critical for improving the quality of our forests and ranges and how we are realizing our goals of joint federal policies.

Terminology

One of the essential tasks for strengthening our common policies and their implementation is to agree upon terminology. In recent months the National Wildfire Coordinating Group has agreed upon some common terms. In order to minimize confusion today, and in future discussions, I want to outline some of the key terms and their definitions:

- **Wildland Fire Program** - refers to the full range of activities and functions necessary for planning, preparedness, emergency suppression operations, emergency rehabilitation, and prescribed fire operations, including non-activity fuels management to reduce risks to public safety and to restore and sustain ecosystem health;
- **Wildland Fire** - any non-structure fire, other than prescribed fire, that occurs in the wildland;

- **Prescription** - measurable criteria which guide selection of appropriate management response and actions. Prescription criteria include safety, economic, public health, environmental, geographic, administrative, social, or legal considerations;
- **Appropriate Management Response** - specific actions taken in response to a wildland fire to implement protection and fire use objectives;
- **Prescribed Fire** - Any fire ignited by management actions to meet specific objectives; a written, approved prescribed fire plan must exist;
- **Wildfire** - An unwanted wildland fire; this term will be primarily used in conjunction with fire prevention activities and is not a separate type of fire for management purposes.
- **Fuels Management** - use of fire, mechanical removal, or a combination of techniques to reduce fuels in order to protect firefighter or public safety or to restore or maintain healthy, sustainable natural systems.

Fuels Management and Scope of the Problem

The accumulation of dead and live fuels to unnatural and hazardous levels is one of the greatest challenges facing wildland fire management today. One hundred years of fire suppression have contributed to this growing problem. By successfully suppressing up to 98 percent of wildland fires while they are small, we have allowed dead fuels to accumulate on the forest floor, chaparral fields to become dense and filled with dead branches, and young trees to invade forests in overabundance. The dense invasion of young trees in Western ponderosa pine forests provides fuel ladders that allow fires to reach into the canopy of forests that were almost immune to crown fires in pre-European settlement times. This unhealthy situation in our forest, range and chaparral ecosystems is producing the large, catastrophic fires that have become all too familiar on the news. The only way to reduce the loss of life and property from these fires is to attack the root of the problem - reduce fuels to more manageable levels and restore wildland fire to its natural ecological role.

Fire is a natural force in the development of forest and range ecosystems. It has played an important role, and attempts to exclude it have frequently altered the vegetation to a less favorable condition. Fires ignited by people or through natural causes have exerted a significant influence on numerous ecosystem functions. Fire recycles nutrients, reduces biomass, influences insects and disease populations, and is the principal change agent affecting vegetative structure and density, composition, and biological diversity. As humans alter fire frequency and intensity, many plant and animal communities are experiencing a loss of species diversity, site degradation, and increase in the size and severity of wildland fires. These changes are adversely affecting grazing, watersheds, forest product utilization and recreation.

In addition, grasslands are becoming stagnant and invaded by shrubs and weeds. Forests are becoming overstocked with trees that have no market value, insect and disease infestations are increasing, and in many cases excessive fuel accumulations are occurring. There is inadequate reproduction of desirable shade-intolerant tree species which require openings created by periodic fires. It is impossible to completely exclude fire from the landscape. Therefore, we must use fire judiciously so we can work with natural systems more economically and rationally, rather than

trying to force the system into unstable patterns.

It will take decades to fully reverse hazardous fuel accumulations and unnatural ecosystem changes through the use of prescribed fire. Many areas will require 3 to 5 treatments using both mechanical activities and prescribed fire before fuels and ecosystem components stabilize within the natural range of variability. Managers must balance a suppression program with a program of prescribed fire applied on a landscape scale if we are to meet stewardship responsibilities. To accomplish this will require consistent commitment to long term funding and reasonable expectations of what can be accomplished on a year to year basis.

It is estimated that 55 million acres of lands managed by the Department of the Interior require periodic treatment by fire. This equates to nearly 2 million acres per year needing treatment at an average $25-30 per acre in current dollars. The best case scenario for an ambitious expansion of the fuels treatment program will get us only half way to this goal within the next four years. Clearly, reducing catastrophic fire occurrence and restoring fire to its proper role in ecosystem health will require a dedicated, long term commitment of resources and the ability to overcome many of the political, regulatory, technological and policy constraints of the past.

Interagency Planning and Cooperation

Because wildland fire respects no "man made" boundaries, uniform Federal policies and programs are essential. The Federal Wildland Fire Management Policy ensures that the fire management programs of the Departments of Agriculture and Interior are uniform, cooperative and cohesive. While unique agency missions may result in minor operational differences, the policy provides an "umbrella" to ensure effective and efficient operations across administrative boundaries, and improves our capabilities to address the landscape-scale problems posed by current wildland fire conditions. Therefore, the agencies are working to ensure that fire is fully addressed in the formulation of their land use plans both within discrete agency lands and across interagency boundaries. The use of fire as a tool will never be risk free. To reduce risk, however, all management activities will require that a Fire Management Plan be developed prior to the use of fire to achieve on-the-ground objectives consistent with safety and values to be protected.

Moving Beyond Small Treatment Blocks

The strategy for implementing this fuels management initiative requires developing more landscape scale treatments across administrative boundaries. In the past, most prescribed burning focused on treating small, fragmented blocks of land within individual jurisdictions and fuels generated by timber harvesting, grazing, wildlife enhancement and other land management activities. Fragmented small-scale treatments never allowed interagency efforts to reach the "critical mass" necessary to reverse the overall increase in hazardous fuels across the landscape. Treatments must be linked in time and space to provide effective barriers to the spread of large, intense fires. In other words, units must be treated often enough to continue reducing fuels back to the desired state, and they must be connected in a systematic way so that they will reduce the opportunities for fires to grow in intensity and spread across large areas.

Treatment priorities will focus on the wildland/urban interface and the reduction of risks to life and property. In many instances these treatments will be accomplished by mechanical means to eliminate risks from the use of prescribed fire in urban settings. Priority will also be given to the use of fire to restore and maintain healthy forests, grasslands and wetlands.

Constraints on Policy Implementation

Air Quality and Visibility Impairment

The Department of the Interior is committed to the goal of clean air and improved visibility. The recently promulgated National Ambient Air Quality Standards will be good for the public lands and resources for which the Interior Department has stewardship responsibilities. I support the recommendations of the Grand Canyon Visibility Transport Commission to protect and enhance the visual qualities of the Colorado Plateau. At my request a joint task force of Interior and Forest Service staff are developing recommendations and a plan to implement the fire-related recommendations of the Commission.

To date, prescribed fires have not been a significant cause of non-attainment of air quality standards. In many areas our land managers have been working with state and local regulatory agencies to minimize emissions from prescribed fires. We recognize that the amount of burning that will take place in the next several years to begin restoration of healthy, sustainable ecosystem and to reduce the risk of catastrophic fire, could have significant impact on air quality in some areas. Representatives from the Department of the Interior are currently working with those from the Forest Service, the Department of Defense, the EPA, and the states to develop a national policy that will accommodate both increased burning and meet the National Ambient Air Quality Standards.

Within the land management community there are steps that we can take to minimize adverse impacts on air quality. Through improved land and resource management planning we can better document and articulate where fire is a necessary management action and can consider non-fire alternatives in order to reduce smoke emissions. Smoke management plans are often very successful in reducing emissions through control features such as:

- burning in weather patterns which disperse smoke away from sensitive areas;
- reducing the amount of available fuel prior to ignition;
- limiting the tons of fuel which can be burned in a given time period within a geographic area; and
- designing site specific burn prescriptions which limit the types of fuels consumed, thereby reducing total ignition time and total smoke emissions.

In the long term, as prescribed fire treatments enter the maintenance phase through repeated burning, emissions will be significantly reduced from those experienced at the start of the program since the amount of fuel (both on the ground and standing) will be enormously reduced.

In nearly every area of the country, forests and ranges will burn as a result of natural

(lightning) ignitions or, in some cases, through negligence of human activities. Thus, an important consideration in examining the relationship between air quality and fire is the circumstances under which emissions from fire take place. In many instances smoke emissions will have less impact if fires take place under controlled circumstances (prescribed fire) rather than in times, places, and conditions beyond our control (wildland fire). Recent interagency environmental studies conclude that, in general, wildland fire impacts on air quality may be significantly greater than emissions from prescribed burning. Although an aggressive fuels management program may increase the amount of smoke from prescribed burning in the short-term, overall emissions from wildland fires will be reduced over the long-term as fewer large, intense fires occur and the overall amount of forest fuels is reduced. Mechanical forest thinning in lieu of prescribed burning also can contribute to reduced emissions in some areas, although it has limitations as discussed below.

It is also important to note that wildland fire emissions are artificially low due to aggressive wildland fire suppression over the past 100 years. The regulation of fuel loading by naturally occurring fire has effectively been reduced, resulting in the unanticipated consequences of poorly functioning ecosystems and costly and destructive wildland fires. A reconditioning or catch-up period will be required to return many fire dependent ecosystems to a properly functioning status through management intervention. This period will undoubtedly increase emissions beyond current levels. The critical task is to manage these emissions to reduce impacts as much as possible. A consistent program of cyclical prescribed burning will help establish a predictable and manageable smoke emissions load from year to year. In contrast, the current evolution toward a cycle of widespread, intense wildland fires in some years and few fires of any type in other years leads to a boom and bust cycle in smoke emissions with little capability to manage impacts. Our fuels reduction and ecosystem prescribed burning initiative will eventually restore wildland fire smoke emissions to more natural, pre-settlement levels.

Successful cooperation between Federal land managers and air quality regulators is not only essential, it is already happening, as illustrated by the following two examples. First, Sequoia and Kings Canyon National Parks, along with the BLM, USFS, Fish and Wildlife Service, California Department of Forestry, and California State Parks, have signed a memorandum of understanding with the San Joaquin Valley Unified Air Pollution Control District to jointly manage smoke from prescribed burns. This smoke management plan recognizes the smoke impact reduction features of the park's burn program as satisfying best available control technology requirements. This agreement allows a substantial increase in prescribed burn acreage to be achieved by the park even as the District continues its program to improve air quality overall. Second, the state of Arizona, Federal land managing agencies, and other burners in Arizona have established a process for scheduling prescribed burns and controlling emissions to minimize impacts on surrounding communities, providing a mechanism to restrict or even postpone burns in order to protect surrounding communities.

Aversion to Risk Taking and Public Acceptance

The reintroduction of fire to the landscape is one of the highest risk activities practiced by land management agencies. The first and foremost of our guiding principles is that firefighter and

public safety is the highest priority in every fire management activity. If this consideration cannot be met, the use of fire as a management tool will not be considered. However, this does not mean that the use of fire must be totally risk free. It does mean that risks and uncertainties relating to prescribed fire management activities need to be understood, analyzed, communicated, and mitigated to the extent practical.

Some managers are unwilling to accept the potential risks of fire use. Through appropriate training and experience these fears can be reduced. The severe fire seasons in 1994 and 1996, proved that a no-action approach carries an enormous risk to human safety and property. An aggressive fuels management program is the only way to address these risks. Accepting risks of large scale fuels management programs will require educating the public and land managers on the impacts of the status quo action versus the benefits of using fire to improve forest and rangeland health for the use by present and future generations.

Fire Use Prescription Windows

Prescribed burning is significantly controlled by variances in weather conditions. Limiting weather factors include wind speed, temperature, and relative humidity. Also, for any given area, favorable burning conditions are limited to certain periods of the year. In very wet and dry years the amount of prescribed burning is severely limited. Burning only under predefined weather and fuel conditions ensures that the application of fire meets resource management objects without excessive risk for the burn to escape. To maximize achievement of ecological as well as hazardous fuel reduction goals, prescribed fires may have to be lit under weather conditions normally associated with the fire season. As both prescribed fire and wildland fire suppression require the use of similar equipment and personnel, there occasionally may be conflict with suppression activities. However, the use of prescribed fire is expected to result in a long term decrease in fire suppression funding needs.

All aspects of fire and smoke management require timely, site specific and state-of-the-art weather forecasting. This service is available from the National Weather Service with the exception of non-Federal non-wildfire land management requirements. Its specialized fire weather forecasters have provided spot forecasts and long-range predictions for large suppression efforts as well as for prescribed burning operations. As the use of prescribed burning expands, the need for this type of forecasting support will grow on Federal and other lands where fire is being used in resource management. As the need for meteorological support grows, we need to determine how to best obtain that support, including use of the National Weather Service, private contractors, and in-house capabilities.

The Role of Timber Harvesting, Thinning and Mechanical Fuels Removal

Many plant communities evolved with recurring fire and therefore are dependent on recurring fire for establishment and continued growth. This effect cannot be duplicated by mechanical manipulation of fuels and leaves prescribed fire or a combination of prescribed fire and mechanical treatments as the tool of choice for ecosystem maintenance.

Commercial timber harvest is often discussed as one silvicultural alternative to prescribed fire. There are areas where this tool is practical. For example, the Mescalero Reservation in New Mexico recently treated 27,000 acres in a multi-product forest health project. This project included salvage of insect-killed trees, commercial thinning, and on-site chipping of smaller trees for paper product manufacturing. An associated benefit of this operation was the reduction of fuel loadings, allowing reintroduction of fire and the long-term reduction in suppression costs. However, environmental factors and economics are often limiting factors to its use. Although some trees needing removal have an economic value, it is typically not these trees that cause the catastrophic fire hazard. Rather, the hazard comes from the nonmerchantable trees which have resulted from a long history of fire exclusion. These dense, nonmerchantable stands now dominate a large percentage of our western forests and reduce the potential to grow merchantable trees. Therefore, while silvicultural tools such as thinning can be economic and viable alternatives, their use can only be assessed at a site specific rather than a landscape level. Silvicultural treatment alone cannot restore ecosystem health on a scale identified as needing treatment.

Mechanical fuels removal can be a preferred alternative in areas where the risks of prescribed fires are currently too high. Mechanical fuels removal can also be used for site preparation prior to applying fire when it is necessary to secure boundary areas or to manage emissions by reducing fuel loadings prior to ignition of fires.

Prescribed fire is by far the least expensive method of treating hazard fuels. The cost of using prescribed fire can vary widely between rangeland and forest burning, with additional variation occurring based on existing fuel conditions. Average national costs run about $20-$30 per acre, while mechanical fuel reduction or multiple treatments in forest types can cost $500-$1,500 per acre.

The Department has several experimental treatment projects which will be used to assess the relative cost and benefits of broad-scale tree removal prescribed burning.

On Federal lands in Northern Arizona, Northern Arizona University is attempting to restore natural fuel loadings and stand structure in Ponderosa pine forests by using a combination of commercial thinning followed by prescribed fire. This forest restoration system generates income through the sale of timber which can be used to partially pay for the treatments, and which can be beneficial to the local economy. Similar approaches are being tried in other parts of the country. Assessments are needed to determine whether these techniques are applicable at the landscape scale needed to address the hazard fuels problem found throughout the west.

The Mineral King Risk Reduction Project in Sequoia National Park, California is designed to assess the feasibility of using prescribed fire on a landscape scale to restore a natural ecological balance without mechanical pre-treatment. The area to be treated encompasses 50,000 acres with a high degree of risk to private developments, public safety, and natural resources from catastrophic fire. Extensive mechanical fuel removal is infeasible because of the steep rugged terrain, poor road access, and the need to preserve wilderness values. The focus of this

experiment is to determine whether the broad scale application of fire in an area from which fire has been largely excluded for over 120 years can be accomplished with minimal risk of fire escape and acceptable smoke impacts on local communities.

In both of these examples the relative costs and benefits are being assessed through extensive research and monitoring programs.

Fire Sciences Initiative

The proposed 1998 wildland fire appropriation includes an initiative to greatly expand the Department's fire sciences program in conjunction with the U.S. Forest Service. Up to a combined total of $8 million per year will be used to establish a sound scientific basis for the fuels management program in the two departments.

The House Appropriations Committee Report specifically expressed the concern that both Interior and the Forest Service lack adequate information about the fuels management situation and workload, including information about fuel loads, risk, flammability potential, fire regimes, location of hazards, and priorities for treatment. It directed that the principal purposes of the fire sciences initiative should be to:

- establish and implement a comprehensive approach for fuels mapping and inventory that includes the location and condition of fuels, the appropriate treatment frequency, and priorities for treatment;
- evaluate various treatment techniques for cost effectiveness, ecological consequences and air quality impacts;
- develop long-range schedules that describe the sequencing of treatments, such as commercial or pre-commercial thinning and prescribed burning;
- establish and implement protocols for monitoring and evaluating fuels treatments techniques in a manner that measures performance over time and determines whether the treatments are effective in meeting program goals and objectives.

In particular these funds will be used to provide enhanced technical support for evaluating and treating fuels across agency boundaries. Remote sensing imagery and computer modeling will be used to assist fuels managers in identifying priority areas for fuels treatment. Accurate mapping and modeling of fire behavior will allow hazard fuel treatments to expand rapidly while at the same time minimizing the risks of fire escape.

The two Departments are preparing a plan for Congress to be presented January 1, 1998, which will outline the process for implementing the fire sciences initiative. It will include an assessment of the current state of knowledge about fuels conditions, a coordinated approach to improved fuels mapping and inventory, an approach for program monitoring and evaluation, and an approach for setting treatment priorities. It also will evaluate the relative effectiveness of prescribed burning and non-fire treatments in different types of hazard areas.

Budgetary Concerns and the 1998 Budget Initiative

Although 1997 has been a relatively light season, the long-term problem of catastrophic fires has not decreased. Recent trends indicate that 2 out of 3 years result in moderate to extreme fire years. It is imperative that we take advantage of less severe fire years, like 1997, to make significant progress toward reducing threats to public and firefighter safety, and to resources from the next severe fire season in the future. In my preceding remarks, I have outlined our strategy for achieving this goal.

The 1997 fire season to date compares to the two most recent severe years as follows:

	1997	1996	1994
Number of Fires (all USA)	52,366	95,579	79,107
Acres Burned (all USA)	2,733,794	6,017,163	4,073,579
Organized 20-person Crews Mobilized	87	1,345	1,632
DOI Suppression Costs	$67,174,000	$196,612,000	$183,187,000

Years with minimal fire suppression activity, like 1997, present especially good opportunities to engage in prescribed fire and fuels management activities. However, our fire management budget has not had the flexibility to allow emphasis to shift easily. Our 1998 fire management budget request, developed jointly by Secretary Glickman and me, is designed to ensure that there is flexibility and opportunity to undertake fuels treatment activities.

The fire management appropriation consists of two activities: Wildland Fire Preparedness and Wildland Fire Operations. Through 1997, the Preparedness program allowed us to maintain our suppression preparedness resources at near optimal levels so that we will be ready to respond to the workload in an average fire season as well as funding fuels management activities. The Operations activity focused entirely on suppression of fires and a small emergency rehabilitation program. Under our 1998 Wildland Fire Management Appropriation, fuels management activities will be funded in the Wildland Fire Operations activity rather than Preparedness. The Wildland Fire Operations activity provides a more flexible source of funds to implement the full array of operational fire activities including suppression, emergency rehabilitation, and fuels management projects -- all of which have unpredictable and unplanned characteristics that are more appropriately funded in this activity. This new approach will provide funding to support an expanded prescribed fire and mechanical treatment program.

The Interior bureaus are developing plans to utilize appropriate management tools, including

silvicultural treatments and the use of fire, to reduce fuels to a more natural condition. As part of this program, the bureaus have projected an increase in acres treated from 298,000 acres in 1996 to 1,100,000 acres in 2001. This represents an approximate 25% annual increase over the next five years.

Conclusion

In conclusion, the new policy establishes a balance between strong suppression capability and fire use for ecosystem health and fuels management. This cultural shift will require re-education within the fire community as well as the public. Until this re-education is completed, there will undoubtedly be misunderstandings between local administrative units, the press and the public over the direction of wildland fire management. Full implementation of the new policy and seamless interpretation of policy initiatives will be an evolutionary process. 1998 will be a transition year during which these initiatives will begin to bear fruit. It is critical that the bureaus do not sacrifice or reduce suppression response capabilities while focusing on the long term problem of fuels management. The risk of catastrophic fire will remain high for many years until fuel loadings are reduced to acceptable levels. The threat of fire will always be with us, and in fact will expand because of the increasing population and increasing encroachment of human development into wildlands. However, this program provides an effective means to manage this threat. At the same time we must ensure that we do everything that we can to minimize the public health and welfare effects of increased prescribed fire activity. We will be using non-fire treatments whenever and wherever possible and employing smoke management techniques to minimize emissions. In the long run, increasing our investments in fuels management and suppression capability will reduce the total cost of fire management and resource losses along with the risks to life and property, as well as minimizing adverse impacts on air quality.

This concludes my prepared statement. I would be happy to answer any questions the Committee may have.

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STATEMENT OF SECRETARY BRUCE BABBITT
BEFORE THE SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS
OCTOBER 30, 1997

I am glad to have an opportunity to set the record straight on the Hudson casino matter. Let me start with some plain facts that should dispel in fair minds the clouds of unwarranted suspicion that have been raised about it.

First, I had no communications with Harold Ickes or anyone else at the White House about the Interior Department's consideration of a request by three Wisconsin Chippewa tribes that the United States acquire a parcel of off-reservation land in Hudson, Wisconsin so that the tribes could open a casino on it in partnership with a failing dog racing track. I had no communications with Mr. Ickes or anyone else at the White House about either the substance or the timing of the Department's decision. I have since been told that Mr. Ickes' subordinates communicated with my subordinates on three occasions. I was not aware of those communications before the Department's decision on July 14, 1995. I do not believe that those communications involved any attempt by the White House to exert influence on the Department's decision in the Hudson case.

Second, I had no communications with Donald Fowler or anyone else at the Democratic National Committee concerning the Hudson matter.

Third, I did not personally make the decision to deny the Hudson application, nor did I participate in Department deliberations relating to the application. The decision, however, was made on my watch, and I take full responsibility for it. Furthermore, I agree with it.

Fourth, the Department based its decision solely on the criteria set forth in Section 20 of the Indian Gaming Regulatory Act. Let me be very clear why this decision was made, and could not properly have been made any other way. Under the Indian Gaming law, and this is a very important point, if tribes wish to place a casino off their own reservations, as in the Hudson case, then the law imposes stringent tests for Departmental approval. The law requires a finding that the casino would not be detrimental to the surrounding community. This determination must be made after consultation with local officials, including officials of other nearby Indian tribes. With respect to this criterion, the Department in this Administration has adhered to a policy that off-reservation gaming will not be imposed on communities that do not want it. In this case, the three Chippewa tribes requested that we acquire off-reservation land to open a casino located within the City of Hudson, which is 85 miles from the nearest of their three reservations. So we had to consider the application under the stringent rules for off-reservation casinos. Under Department policy, the only fair way to make this determination is to give great weight to the view of local elected officials and tribal leaders. In this case, the City Council of Hudson passed a resolution opposing an Indian casino in Hudson. The City Council of Troy, Wisconsin, a nearby community, also passed a resolution opposing an Indian casino in Hudson. The elected state representative from that district in Wisconsin strongly opposed it, as did the Congressman representing the district. Many other elected officials from the region also weighed in against the casino, including Senator Feingold of Wisconsin, Senator Wellstone of Minnesota, and Congressmen Oberstar, Sabo, Vento, Ramstad, Peterson, Minge and Luther, all of Minnesota. In addition, a tribe which has an on-reservation casino within 50 miles of Hudson strongly opposed the proposal.

This virtually unanimous opposition of local governments, including the nearby St. Croix tribe, required the Department to reject the application. This was the recommendation of the senior civil servant responsible for the matter, and I fully support the decision that was made on the basis of that recommendation. (A copy of the decision is attached.)

Fifth, it is not true, as some have alleged, that political appointees in the Department overruled a career civil servant recommendation that the Department approve the Hudson application. In fact, the eighteen-year career civil servant who headed the Indian Gaming Management Staff received both favorable and unfavorable recommendations from his subordinates and reached his own conclusion that the Department should deny the application in view of the strong community opposition. He made that recommendation to the Deputy Assistant Secretary for Indian Affairs who, in consultation with the Solicitor's Office and others in the Office of the Secretary, agreed with the recommendation and issued a decision to that effect.

Sixth, I had no knowledge as to whether lobbyists on one side or the other of the Hudson issue had sought the help of the Democratic National Committee on this matter. But to whatever extent this happened, I can say with conviction that it did not affect the substance or the timing of the Department's decision.

In sum, the allegations that there was improper White House or DNC influence and that I was a conduit for that influence are demonstrably false. There is no connection at either end of the alleged conduit. At one end, as I have stated, I did not speak to Mr. Ickes or anyone else at the White House or at the DNC; and, at the other end, I did not direct my

subordinates to reach any particular decision on this matter, although during my watch the Department's policy has been not to approve off-reservation Indian gaming establishments over the objections of reluctant communities. The Hudson decision reflected that policy and nothing else.

That should end this matter, and I suppose it would have ended the matter had I not muddied the waters somewhat in my letters to Senators McCain and Thompson in describing a meeting I had with Mr. Paul Eckstein on July 14, 1997. This is what happened:

Mr. Eckstein and I had been colleagues in law school and law practice. After I became Secretary, Mr. Eckstein, who practiced in Phoenix, came to represent clients in Wisconsin who supported the Hudson application. On July 14, Mr. Eckstein was visiting other offices at the Department to urge the Department to delay a decision in the Hudson case, which was ready to be made and released that day. Mr. Eckstein then asked to meet with me. Against my better judgment, I acceded to Mr. Eckstein's request. When he persistently pressed for a delay in the decision, I sought to terminate the meeting. I do not recall exactly what was said. On reflection, I probably said that Mr. Ickes, the Department's point of contact on many Interior matters, wanted the Department to decide the matter promptly. If I said that, it was just an awkward effort to terminate an uncomfortable meeting on a personally sympathetic note. But, as I have said here today, I had no such communication with Mr. Ickes or anyone else from the White House.

It has been reported that Mr. Eckstein recently made the additional assertion that I also mentioned campaign contributions from Indian tribes in this context. I have no recollection of doing so, or of discussing any such contributions with anyone from the White

House, the DNC, or anyone else.

If my letters to Senators McCain and Thompson caused confusion, then I must and do apologize to them and to the Committee. I certainly had no intention of misleading anyone in either letter. My best recollection of the facts is as I have just stated them.

The bottom line is that the Department's decision on the Hudson matter was based solely on the Department's policy not to approve off-reservation Indian gaming applications over community opposition. The record before the Department showed strong, official community opposition to the Hudson proposal. And there was no effort by the White House, directed toward me or, to my knowledge, to others in the Department, to influence the substance or even the timing of the Department's decision.

I hope I have clarified this issue. I would be pleased to answer your questions.

United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, D.C. 20240

TAKE PRIDE IN AMERICA

JUL 14 1995

Honorable Rose M. Gurnoe
Tribal Chairperson
Red Cliff Band of Lake Superior Chippewas
P.O. Box 529
Bayfield, Wisconsin 54814

Honorable Alfred Trepania
Tribal Chairperson
Lac Courte Oreilles Band of Lake Superior
Chippewa Indians
Route 2, Box 2700
Hayward, Wisconsin 54843

Honorable Arlyn Ackley, Sr.
Tribal Chairman
Sokaogon Chippewa Community
Route 1, Box 625
Crandon, Wisconsin 54520

Dear Ms. Gurnoe and Messrs. Trepania and Ackley:

On November 15, 1994, the Minneapolis Area Office of the Bureau of Indian Affairs (BIA) transmitted the application of the Sokaogon Chippewa Community of Wisconsin, the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin, and the Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin (collectively referred to as the "Tribes") to place a 55-acre parcel of land located in Hudson, Wisconsin, in trust for gaming purposes. The Minneapolis Area Director recommended that the decision be made to take this particular parcel into trust for the Tribes for gaming purposes. Following receipt of this recommendation and at the request of nearby Indian tribes, the Secretary extended the period for the submission of comments concerning the impact of this proposed trust acquisition to April 30, 1995.

The property, located in a commercial area in the southeast corner of the City of Hudson, Wisconsin, is approximately 85 miles from the boundaries of the Lac Courte Oreilles Reservation, 165 miles from the boundaries of the Red Cliff Reservation, and 188 miles from the boundaries of the Sokaogon Reservation. The St. Croix Band of Chippewa Indians, one of the eight Wisconsin tribes (not including the three applicant tribes), is located on a reservation within the 50-mile radius used by the Minneapolis Area Director to determine which tribes can be considered "nearby" Indian tribes within the meaning of Section 20 of the Indian Gaming Regulatory Act (IGRA).

Section 20 of the IGRA, 25 U.S.C. § 2719(b)(1)(A), authorizes gaming on off-reservation trust lands acquired after October 17, 1988, if the Secretary determines, after consultation with appropriate State and local officials, including officials of other nearby tribes, and the Governor of the State concurs, that a gaming establishment on such lands would be in the best interest of the Indian tribe and its members and would not be detrimental to the surrounding community.

The decision to place land in trust status is committed to the sound discretion of the Secretary of the Interior. Each case is reviewed and decided on the unique or particular circumstances of the applicant tribe.

For the following reasons, we regret we are unable to concur with the Minneapolis Area Director's recommendation and cannot make a finding that the proposed gaming establishment would not be detrimental to the surrounding community.

The record before us indicates that the surrounding communities are strongly opposed to this proposed off-reservation trust acquisition. On February 6, 1995, the Common Council of the City of Hudson adopted a resolution expressing its opposition to casino gambling at the St. Croix Meadows Greyhound Park. On December 12, 1994, the Town of Troy adopted a resolution objecting to this trust acquisition for gaming purposes. In addition, in a March 28, 1995, letter, a number of elected officials, including the State Representative for Wisconsin's 30th Assembly District in whose district the St. Croix Meadows Greyhound Track is located, have expressed strong opposition to the proposed acquisition. The communities' and State officials' objections are based on a variety of factors, including increased expenses due to potential growth in traffic congestion and adverse effect on the communities' future residential, industrial and commercial development plans. Because of our concerns over detrimental effects on the surrounding community, we are not in a position, on this record, to substitute our judgment for that of local communities directly impacted by this proposed off-reservation gaming acquisition.

In addition, the record also indicates that the proposed acquisition is strongly opposed by neighboring Indian tribes, including the St. Croix Tribe of Wisconsin. Their opposition is based on the potential harmful effect of the acquisition on their gaming establishments. The record indicates that the St. Croix Casino in Turtle Lake, which is located within a 50-mile radius of the proposed trust acquisition, would be impacted. And, while competition alone would generally not be enough to conclude that any acquisition would be detrimental, it is a significant factor in this particular case. The Tribes' reservations are located approximately 85, 165, and 188 miles respectively from the proposed acquisition. Rather than seek acquisition of land closer to their own reservations, the Tribes chose to "migrate" to a location in close proximity to another tribe's market area and casino. Without question, St. Croix will suffer a loss of market share and revenues. Thus, we believe the proposed acquisition would be detrimental to the St. Croix Tribe within the meaning of Section 20(b)(1)(A) of the IGRA.

We have also received numerous complaints from individuals because of the proximity of the proposed Class III gaming establishment to the St. Croix National Scenic Riverway and the potential harmful impact of a casino located one-half mile from the Riverway. We are concerned that the potential impact of the proposed casino on the Riverway was not adequately addressed in environmental documents submitted in connection with the application.

Finally, even if the factors discussed above were insufficient to support our determination under Section 20(b)(1)(A) of the IGRA, the Secretary would still rely on these factors, including the opposition of the local communities, state elected officials and nearby Indian tribes, to decline to exercise his discretionary authority, pursuant to Section 5 of the Indian Reorganization Act of 1934, 25 U.S.C. 465, to acquire title to this property in Hudson, Wisconsin, in trust for the Tribes. This decision is final for the Department.

Sincerely,

Michael J. Anderson

Michael J. Anderson
Deputy Assistant Secretary - Indian Affairs

cc: Minneapolis Area Director
National Indian Gaming Commission

FINAL COPY

BRUCE BABBITT

THURSDAY, JANUARY 29, 1998

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I APPEAR IN RESPONSE TO YOUR REQUEST TO DISCUSS THE RECORD OF THE HUDSON CASINO MATTER. THE COMMITTEE HAS EVERY RIGHT TO LOOK INTO THIS RECORD, AND WE AT THE DEPARTMENT OF THE INTERIOR HAVE EVERY RIGHT TO A FAIR AND IMPARTIAL HEARING.

SOMEONE ONCE SAID THAT "FACTS DO NOT CEASE TO EXIST BECAUSE THEY ARE IGNORED."

MR. CHAIRMAN, THERE ARE THOSE WITH A VESTED FINANCIAL INTEREST IN THIS MATTER WHO WOULD HAVE YOU AND MEMBERS OF THE COMMITTEE TURN A BLIND EYE TO THE FACTS OF THIS CASE SO THEY CAN PEDDLE THEIR HALF-BAKED THEORY OF IMPROPER POLITICAL INFLUENCE AND INTRIGUE.

THEY WOULD LIKE YOU TO IGNORE THE VOLUMINOUS RECORD, THE HOURS OF SWORN TESTIMONY BY DEDICATED AND HARD-WORKING CIVIL SERVANTS IN THE INTERIOR DEPARTMENT, AND HAVE YOU BELIEVE A CONSPIRACY THEORY WORTHY OF OLIVER STONE.

BUT EFFORTS TO OBSCURE THE TRUTH WILL NOT CHANGE THE FACTS. THE FACT IS THAT THE DECISION IN THE HUDSON CASINO MATTER WAS FIRMLY GROUNDED IN THE LAW, CONSISTENT WITH DEPARTMENT PRACTICE AND BASED ON THE MERITS OF THE CASE.

THE FACT IS, IT WAS THE RIGHT DECISION, MADE THE RIGHT WAY, AND FOR THE RIGHT REASONS.

THIS WAS NOT, AS SOME HAVE PORTRAYED IT, A "RICH TRIBE, POOR TRIBE" SAGA. THIS CASINO APPLICATION WAS A BUSINESS PROPOSITION DEVELOPED BY A WELL-FINANCED OUT OF-STATE GAMBLING COMPANY.

THAT GAMBLING COMPANY, ITSELF HEADED BY A DEMOCRATIC PARTY CONTRIBUTOR,

HIRED ITS OWN LOBBYISTS AND TRIED TO CAPITALIZE ON AN OLD FRIENDSHIP WITH ME TO PUSH THROUGH A DEFICIENT APPLICATION OVER THE LEGITIMATE OBJECTIONS OF THE SURROUNDING COMMUNITY.

THEY WANTED TO MAKE THE FEDERAL GOVERNMENT A PARTICIPANT IN THEIR SCHEME TO ADD A MONEY-MAKING CASINO TO A MONEY-LOSING DOG TRACK. THE DECISION TO REJECT THEIR PLAN WAS REACHED ENTIRELY ON THE MERITS, AND IT WAS ENTIRELY REASONABLE.

BOTH THE PROPONENTS AND OPPONENTS OF THE CASINO TRIED TO USE INTERMEDIARIES WITH SPECIAL ACCESS TO INFLUENCE THE DECISION. ONE SIDE ALLEGEDLY TRIED TO MISUSE ITS POLITICAL CONTACTS OUTSIDE THE INTERIOR DEPARTMENT.

THE OTHER SIDE TRIED TO MISUSE PERSONAL ACCESS TO ME. I CONSIDER BOTH APPROACHES INAPPROPRIATE.

POLITICAL AFFILIATION SHOULD HAVE NOTHING TO DO WITH A DECISION LIKE THIS, AND IT DIDN'T.

CAMPAIGN CONTRIBUTIONS SHOULD HAVE NOTHING TO DO WITH A DECISION LIKE THIS, AND THEY DIDN'T.

A PERSONAL RELATIONSHIP WITH THE SECRETARY OF THE INTERIOR SHOULD HAVE NOTHING TO DO WITH A DECISION LIKE THIS. AND IT DIDN'T.

AT THIS COMMITTEE'S REQUEST, THE DEPARTMENT HAS PRODUCED THOUSANDS OF DOCUMENTS ABOUT THIS CASE AND HOW THIS DECISION WAS MADE.

IF YOU LOOK AT THAT RECORD AS A WHOLE, AND DO NOT TAKE SNIPPETS OF CONVERSATIONS OUT OF CONTEXT, YOU WILL SEE THAT RESPONSIBLE GOVERNMENT OFFICIALS -- WHO HAD NO PERSONAL STAKE IN WHETHER A FLORIDA GAMBLING EMPIRE SHOULD BE ALLOWED TO ADD A MONEY-MAKING CASINO TO A MONEY-LOSING DOG TRACK -- CAME TO A CONSENSUS DECISION BASED ON THE LAW AND

DEPARTMENT PRACTICE. AND THEY GOT IT RIGHT.

AS SECRETARY, I AM ULTIMATELY ANSWERABLE FOR THE DEPARTMENT'S DECISIONS. IF YOU DISAGREE WITH ONE OF THEM, YOU HAVE EVERY RIGHT TO CRITICIZE ME.

BUT IT CROSSES THE LINE OF FAIRNESS AND COMMON DECENCY TO ATTACK THE INTEGRITY OF THE STAFF OF THIS DEPARTMENT, ESPECIALLY THE CIVIL SERVICE STAFF.

THEY ARE DEDICATED AND HONORABLE MEN AND WOMEN. THEY ACTED PROPERLY AND MADE THEIR RECOMMENDATIONS ON THE MERITS. THERE IS NOT AN IOTA OF CREDIBLE EVIDENCE SUGGESTING OTHERWISE.

THE MYTHS ABOUT THE HUDSON DECISION

A NUMBER OF MYTHS HAVE BEEN DELIBERATELY CREATED ABOUT THIS DECISION. LET ME DISCUSS SOME OF THEM.

MYTH NUMBER 1: IT WAS UNIQUE FOR THE DEPARTMENT TO DISAGREE WITH THE APPROVAL RECOMMENDATION THAT CAME FROM THE BUREAU OF INDIAN AFFAIRS AREA OFFICE IN MINNEAPOLIS.

THE REALITY IS THAT THE REVIEW OF THE LOCAL DECISION WAS ROUTINE.

MY REPUBLICAN PREDECESSOR, MANUEL LUJAN, REQUIRED THE DEPARTMENT TO REVIEW ALL OFF-RESERVATION GAMING APPLICATIONS IN WASHINGTON TO INSURE UNIFORM AND CONSISTENT APPLICATION OF THE LAW AND DEPARTMENT PRACTICE. WE HAVE CONTINUED THAT PRACTICE.

THEREFORE, IT WAS ABSOLUTELY ROUTINE TO REVIEW THE AREA OFFICE RECOMMENDATION AND NOT UNUSUAL FOR THE DEPARTMENT IN WASHINGTON TO HAVE A DIFFERENT OPINION.

IN FACT, OF THE NINE OFF-RESERVATION APPLICATIONS APPROVED BY A BIA

REGIONAL OFFICE SINCE THE INDIAN GAMING REGULATORY ACT WAS PASSED IN 1988, ONLY ONE HAS LED TO THE CREATION OF AN ACTIVE OFF-RESERVATION CASINO. IN THAT CASE, UNLIKE HUDSON, THE CASINO WAS SUPPORTED BY THE SURROUNDING COMMUNITY.

WHERE THERE IS SUBSTANTIAL AND WELL-FOUNDED COMMUNITY OPPOSITION, INSTEAD OF SUPPORT, OUR PRACTICE IS TO REJECT THE APPLICATION.

IN 1992, ALTHOUGH THE LOCAL BIA OFFICE RECOMMENDED APPROVAL, SECRETARY LUJAN DENIED AN APPLICATION BY THE SANTEE SIOUX TRIBE OF NEBRASKA, WHICH WANTED TO OPEN A CASINO IN A COMMUNITY THAT HAD DEMONSTRATED SUBSTANTIAL OPPOSITION.

WE HAVE NEVER APPROVED AN APPLICATION IN THIS ADMINISTRATION THAT DID NOT HAVE COMMUNITY SUPPORT.

MYTH NUMBER 2: THE HUDSON APPLICATION WAS HEADED FOR DEPARTMENT APPROVAL BUT "DERAILED."

THE REALITY IS THAT THE DECISION TO REJECT THE APPLICATION WAS BASED ON THE LAW, CONSISTENT WITH DEPARTMENT PRACTICE AND WAS NEVER OPPOSED BY ANY STAFF MEMBER IN THE DEPARTMENT'S WASHINGTON HEADQUARTERS.

THE LAW PASSED BY CONGRESS PROPERLY MAKES IT MORE DIFFICULT FOR AN OFF-RESERVATION CASINO TO BE APPROVED. IT ALSO REQUIRES US TO GIVE GREAT WEIGHT TO THE SENTIMENTS OF THE LOCAL COMMUNITY.

AND BECAUSE OF THE LAW, THIS APPLICATION WAS CONTROVERSIAL AND TROUBLED FROM THE MOMENT ITS CONSIDERATION BEGAN AT THE DEPARTMENT.

YOU HAVE HEARD THE TESTIMONY OF THE DEPARTMENT OFFICERS WHO PARTICIPATED IN MAKING THE DECISION. AS THESE OFFICIALS HAVE TESTIFIED TO YOU:

NOT A SINGLE PERSON IN THE WASHINGTON OFFICE EVER RECOMMENDED APPROVAL OF THE HUDSON CASINO APPLICATION. AND NO ONE IN THE WASHINGTON OFFICE EVER WROTE A MEMORANDUM RECOMMENDING APPROVAL OF THE CASINO.

THE DECISION TO REJECT THE APPLICATION WAS IN FULL ACCORD WITH THE RECOMMENDATION OF THE SENIOR CAREER CIVIL SERVANT, GEORGE SKIBINE.

FOR MR. SKIBINE AND OTHERS AT INTERIOR IN WASHINGTON, THE PRINCIPAL REMAINING ISSUE WAS NOT WHETHER TO DENY THE APPLICATION BUT WHETHER TO REST THE DENIAL ON THE INDIAN REORGANIZATION ACT, THE INDIAN GAMING REGULATORY ACT, OR BOTH.

DEFICIENCIES IN THE APPLICATION WERE ALSO APPARENT TO THE NATIONAL INDIAN GAMING COMMISSION, A QUASI-INDEPENDENT BODY NOT SUBJECT TO MY REVIEW:

THREE WEEKS BEFORE THE DEPARTMENT DECISION, THE NIGC SENT THE FLORIDA GAMBLING COMPANY AND THE APPLICANT TRIBES A LETTER STATING THAT THE APPLICATION DID NOT CONTAIN SUFFICIENT INFORMATION TO WARRANT APPROVAL.

THE DECISION TO DENY THE APPLICATION WAS ALSO CONSISTENT WITH DEPARTMENT PRACTICE. WE DO NOT ALLOW A TRIBE TO PLACE A CASINO FAR FROM ITS OWN RESERVATION IN A COMMUNITY WHERE THERE IS SUBSTANTIAL AND WELL-FOUNDED OPPOSITION TO IT.

I AM GRATIFIED TO LEARN FROM THE RECORD OF THESE HEARINGS TO DATE THAT THIS COMMITTEE, REPUBLICANS AND DEMOCRATS ALIKE, AGREE WITH THIS PRACTICE.

IN THE HUDSON CASE THE OPPOSITION OF THE SURROUNDING COMMUNITY WAS WIDESPREAD, LEGITIMATE AND BIPARTISAN.

COMMUNITY POLITICAL LEADERS, INCLUDING MANY MEMBERS OF CONGRESS,

EXPRESSED THEIR OPPOSING VIEWS. IN CONTRAST TO THIS OPPOSITION, TO MY KNOWLEDGE NOT A SINGLE MEMBER OF CONGRESS WENT ON RECORD IN SUPPORT OF THE HUDSON APPLICATION.

THE GAMBLING INTERESTS FINANCING THE APPLICATION KNEW ABOUT THE DEFICIENCIES IN THEIR APPLICATION. BUT THEY COULD NOT OVERCOME THE COMMUNITY OPPOSITION PROBLEM BECAUSE THEY WERE ANCHORED TO HUDSON BY THEIR INTEREST IN BAILING OUT THEIR FAILING DOG TRACK.

WE TOOK THE VIEWS OF COMMUNITY POLITICAL LEADERS INTO CONSIDERATION, WHICH WAS ENTIRELY APPROPRIATE IN THE DECISION-MAKING PROCESS -- AS I AM SURE THE MEMBERS OF THIS COMMITTEE WOULD AGREE.

MYTH NUMBER THREE: THE "DERAILMENT" WAS CAUSED BY IMPROPER POLITICAL INFLUENCE.

THE REALITY IS THAT THE PARTICIPANTS INSIDE THE DECISION-MAKING PROCESS BASED THEIR DECISION ON THE MERITS OF THE CASE, AND THE QUESTIONABLE BEHAVIOR OF LOBBYISTS ON BOTH SIDES OF THIS ISSUE DID NOT AFFECT THE DECISION.

IF THE ALLEGATIONS ARE CORRECT THAT THE LOBBYISTS WHO OPPOSED THE APPLICATION ATTEMPTED TO INJECT IMPROPER POLITICAL CONSIDERATIONS INTO INTERIOR'S DECISION-MAKING PROCESS, THEY FAILED.

AS THE TESTIMONY BEFORE YOU HAS SHOWN, THE INTERIOR OFFICIALS INVOLVED IN THE DECISION WERE UNAWARE OF, AND THEREFORE COULD NOT POSSIBLY HAVE BEEN INFLUENCED BY, ANY OF THE IMPROPER POLITICAL ARGUMENTS THAT ADVOCATES OF THE OPPOSING TRIBES ARE REPORTED TO HAVE MADE.

I WAS PERSONALLY UNAWARE OF ANY SUCH IMPROPER POLITICAL EFFORTS BY THE OPPOSING TRIBES, AS WERE THE OTHER INTERIOR OFFICIALS WHO ACTUALLY PARTICIPATED IN DECIDING THE HUDSON MATTER. ANY IMPROPER POLITICAL

MESSAGE SIMPLY DID NOT GET THROUGH.

TO BE SPECIFIC, I WAS UNAWARE OF COMMUNICATIONS THE LOBBYISTS FOR THE OPPOSING TRIBES ARE ALLEGED TO HAVE HAD WITH THE PRESIDENT AND HIS ADVISORS IN THE WHITE HOUSE.

I DID NOT HEAR ABOUT THEM FROM THE OPPOSING TRIBES' LOBBYISTS, AND I DID NOT HEAR ABOUT THEM FROM HAROLD ICKES OR ANYONE ELSE AT THE WHITE HOUSE.

NEITHER, AS THEY HAVE TESTIFIED, DID MY PERSONAL STAFF OR THE INDIAN AFFAIRS OFFICIALS, INCLUDING THE CAREER CIVIL SERVANTS, WHO WORKED ON THE MATTER.

THE DEPARTMENT'S OFFICIALS HAVE BEEN DEPOSED AND RE-DEPOSED UNDER OATH. GEORGE SKIBINE, FOR EXAMPLE, A CAREER CIVIL SERVANT OF IMPECCABLE REPUTATION, WAS DEPOSED TWICE AND APPEARED BEFORE THIS COMMITTEE, AND THE SENATE COMMITTEE, FOR A TOTAL OF 16 HOURS OF SWORN TESTIMONY.

THEY HAVE ANSWERED THE SAME QUESTIONS AGAIN AND AGAIN, AND THEIR TESTIMONY CONFIRMS WHAT I SAY.

MYTH NUMBER 4: THE WHITE HOUSE INQUIRIES INTO THIS MATTER WERE ATTEMPTS TO INFLUENCE THE HUDSON DECISION.

THE REALITY IS THAT THESE WHITE HOUSE INQUIRIES, WHICH CRITICS OF MY DEPARTMENT HAVE MISCHARACTERIZED TO FURTHER THEIR CONSPIRACY THEORY, WERE ENTIRELY BENIGN AND UTTERLY ROUTINE.

THEY INVOLVED STATUS CHECKS MADE BY STAFF ASSISTANTS.

THE STAFF AT INTERIOR RECOGNIZED THE STATUS CHECKS AS ROUTINE, AND TREATED THEM AS SUCH. I WAS UNAWARE OF THESE INQUIRIES AT THE TIME.

WHEN I ANSWERED THE JULY 1996 LETTER FROM SENATOR MCCAIN, MORE THAN A YEAR AFTER THE HUDSON DECISION, I ATTACHED A STAFF MEMO DESCRIBING SUCH

INQUIRIES.

MYTH NUMBER 5: I WAS THE CONDUIT BY WHICH WHITE HOUSE INFLUENCE WAS TRANSMITTED TO THE INTERIOR DECISION-MAKERS.

THE REALITY IS THAT THE CONDUIT THEORY IS A FANTASY. I NEVER COMMUNICATED WITH ANYONE AT THE WHITE HOUSE OR DEMOCRATIC NATIONAL COMMITTEE ABOUT THE HUDSON MATTER.

AND, BECAUSE I HAD PREVIOUSLY DELEGATED MY AUTHORITY IN SUCH GAMING MATTERS TO SUBORDINATES, I DID NOT PARTICIPATE IN THE DEPARTMENT'S DECISION.

THUS, AS I HAVE SAID PREVIOUSLY, THE CONDUIT THEORY FAILS BECAUSE THERE WAS NO CONNECTION AT EITHER END OF THE ALLEGED CONDUIT. THE SPECULATION AND INNUENDO ABOUT MY ROLE CANNOT SURVIVE AN EXAMINATION OF THE FACTS.

MR. CHAIRMAN, THE RECORD REGARDING THE DEPARTMENT'S HUDSON CASINO DECISION SHOWS THAT IT WAS SUBSTANTIVELY AND PROCEDURALLY CORRECT.

BUT I MUST ACKNOWLEDGE MY OWN MISTAKE IN WHAT I SAID ABOUT IT WHEN I GRANTED THE CASINO LOBBYIST'S LAST-MINUTE REQUEST TO MEET WITH ME.

ON JULY 11, 1995, AS THE DEPARTMENT WAS CLOSE TO ANNOUNCING THE DECISION TO DENY THE APPLICATION, I RECEIVED A TELEPHONE CALL FROM AN OLD FRIEND AND FORMER LAW PARTNER, PAUL ECKSTEIN, WHO HAD BEEN HIRED BY THE GAMBLING COMPANY SUPPORTING THE APPLICATION. MR. ECKSTEIN ASKED TO MEET WITH ME.

I ASKED ONE OF MY COUNSELORS, JOHN DUFFY, TO MEET WITH HIM. MR. DUFFY MET WITH MR. ECKSTEIN ON JULY 14, THE EARLIEST DATE MR. ECKSTEIN COULD GET TO WASHINGTON. LATER THAT DAY, MR. ECKSTEIN ASKED TO SEE ME WITHOUT AN APPOINTMENT.

WHEN I RELUCTANTLY AGREED TO MEET WITH HIM, HE TOLD ME THAT MR. DUFFY HAD SAID THE REJECTION DECISION WAS IMMINENT.

HE THEN ASKED ME TO DELAY IT SO THAT HIS CLIENTS COULD MAKE A FINAL PRESENTATION TO ME. I DECLINED.

UNFORTUNATELY, I MADE UP AN EXCUSE IN AN EFFORT TO END THE MEETING. TO THE BEST OF MY RECOLLECTION, I SAID THAT HAROLD ICKES WANTED OR EXPECTED THE DEPARTMENT TO MAKE A DECISION PROMPTLY.

IT WAS INDULGENT OF ME TO SEE MR. ECKSTEIN AND IT WAS A MISTAKE TO INVOKE HAROLD ICKES' NAME.

THE FACT IS I NEVER SPOKE WITH MR. ICKES ABOUT THE HUDSON MATTER, AND I SHOULDN'T HAVE GIVEN MR. ECKSTEIN ANY REASON TO SUPPOSE THAT I HAD. I REGRET THE REMARK. IT WAS A MISTAKE. BUT THAT'S ALL IT WAS.

MR. CHAIRMAN, LET ME NOW TURN TO MY OWN PRIOR STATEMENTS ABOUT THIS MATTER, BECAUSE THEY HAVE BEEN THE BASIS FOR SOME UNFAIR AND UNSUPPORTABLE ACCUSATIONS THAT HAVE BEEN LEVELLED AT ME.

I TOLD THE TRUTH WHEN I WROTE TO SENATOR MCCAIN ABOUT THIS MATTER. I TOLD THE TRUTH WHEN I WROTE TO SENATOR THOMPSON.
I TOLD THE TRUTH WHEN I TESTIFIED BEFORE THE SENATE GOVERNMENTAL AFFAIRS COMMITTEE.

AND I'M TELLING THE TRUTH TODAY.

THE LETTERS TO SEN. MCCAIN AND THOMPSON ARE CONSISTENT ON THE CENTRAL POINT OF THIS INQUIRY AND TRUTHFUL ON THE DIFFERENT ISSUES THEY ADDRESS.

BOTH LETTERS STATE THAT I NEVER DISCUSSED THE HUDSON MATTER WITH HAROLD ICKES. IN THE MCCAIN LETTER, I DISPUTED MR. ECKSTEIN'S VERSION OF OUR CONVERSATION.

IN THE THOMPSON LETTER, I PROVIDED MY OWN RECOLLECTION OF THAT CONVERSATION.

THE CONTEXT OF THE TWO LETTERS WAS DIFFERENT AND ACCOUNTS FOR THE DIFFERENT LANGUAGE IN THE DOCUMENTS.

AS I HAVE TESTIFIED, I NEVER SPOKE WITH HAROLD ICKES OR ANYONE ELSE AT THE WHITE HOUSE ABOUT THE HUDSON MATTER. WHEN I WROTE SEN. MCCAIN IN AUGUST 1996 ABOUT THE ECKSTEIN MEETING -- 13 MONTHS AFTER IT OCCURRED -- THAT IS WHAT I TOLD SENATOR MCCAIN.

THAT IS ALSO WHAT I TOLD SEN. THOMPSON IN MY LETTER OF OCTOBER 10, 1997. THAT WAS MY SWORN TESTIMONY ON OCTOBER 30, 1997.

MR. CHAIRMAN, THE VOLUMINOUS RECORD IN THIS MATTER DEMONSTRATES THAT DENYING THE APPLICATION WAS THE RIGHT DECISION MADE THE RIGHT WAY FOR THE RIGHT REASONS.

I HAVE BEEN IN PUBLIC SERVICE FOR 23 YEARS. I'VE WORKED HARD TO EARN A REPUTATION FOR INTEGRITY AND INDEPENDENCE.

THE ATTACKS ON MY INTEGRITY ARE UNCALLED FOR AND UNWARRANTED -- AND I RESENT THEM.

I AM DETERMINED TO DO EVERYTHING I CAN TO PREVENT MY REPUTATION -- AND THE REPUTATION OF GEORGE SKIBINE, MIKE ANDERSON AND OTHER DEDICATED INDIVIDUALS IN THE DEPARTMENT -- FROM BEING TARNISHED BY A CONTROVERSY, MANUFACTURED BY THE LOSERS, TO TAKE ADVANTAGE OF THE CORROSIVE POLITICAL ATMOSPHERE THAT SURROUNDS THIS CITY AT THIS TIME.

THE TEST OF THE DEPARTMENT'S ACTIONS IN THE HUDSON DECISION SHOULD NOT BE WHAT WAS SAID OR DONE <u>OUTSIDE</u> THE DECISION-MAKING PROCESS BY PRIVATE INDIVIDUALS WHO HAD A VESTED INTEREST IN THE DECISION.

THE TEST SHOULD BE WHAT WAS SAID AND DONE <u>INSIDE</u> THE PROCESS BY THOSE WHO HAVE A RESPONSIBILITY TO SERVE THE PUBLIC INTEREST.

THOSE INDIVIDUALS HAVE TESTIFIED BEFORE YOU AND HAVE VOUCHED FOR THE INTEGRITY OF THEIR ACTIONS IN THE HUDSON MATTER.

MR. CHAIRMAN, AND MEMBERS OF THE COMMITTEE, WITH A CLEAR AND CERTAIN CONSCIENCE, SO DO I.

THANK YOU.

STATEMENT OF BRUCE BABBITT
SECRETARY OF THE INTERIOR
BEFORE THE SENATE COMMITTEE ON
ENERGY AND NATURAL RESOURCES

MARCH 5, 1998

I am pleased to appear today to discuss the fiscal year 1999 budget for the Department of the Interior.

This budget is a significant one for the Department. It will mark and celebrate the Department's 150th year. It will also set the course for the Department's entry into the 21st Century.

The history of the Department of the Interior has been one of change. In 1849, the Department was established to be the country's Home Department--a miscellaneous collection of domestic agencies, including the Patent Office and the Census Bureau. The largest, and most expensive, agency was the Pension Bureau. As the country developed and the needs of the American people changed, the Department assumed new functions and shed others. At least seven of the current Cabinet departments can trace their lineage, in whole or significant part, to functions at one time conducted by the Department of the Interior.

Today the principal missions of the Department are the conservation and management of America's natural and cultural resources, the protection and encouragement of Indian self-determination, and the fulfillment of Federal trust responsibilities to American Indians. These missions originate with two of the Department's original components--the General Land Office and the Indian Office. However, they have evolved dramatically since 1849.

Frederick Jackson Turner declared the frontier closed in 1893 and the last great wave of homesteading ended by 1920. The automobile, and later the Interstate highway system, have brought increasing numbers of visitors to parks, refuges and public lands. Development has pushed right up to the boundaries of many reserves and the interrelationship of the components of ecosystems that John Wesley Powell identified a century ago have become increasingly obvious. The land management challenges we face today are far different and more complex than those of 1949, let alone 1849. When Chester Lindsley was appointed as Superintendent after the establishment of the National Park Service in 1916, Yellowstone may have been the uncomplicated place pictured in Northern Pacific Railroad tourist posters. The Yellowstone of today receives nearly three million visitors annually, six times the number who visited the entire National Park system in 1916. The Park has an aging infrastructure and is profoundly affected by developments throughout the 11.7 million-acre Greater Yellowstone ecosystem.

The evolution of Indian programs has been equally dramatic. The Indian Reorganization Act of the 1930's and the Indian Self-Determination Act of the early 1970's have given Tribes their rightful role in the management of Federal Indian affairs. Our challenge today is to deliver services and operate trust activities within the context of a program that promotes self-determination and protects tribal sovereignty.

The budget that I present today reflects the continuing evolution of the Department's mission. As have each of President Clinton's budgets, the 1999 budget protects base operating funds for the Department's programs, including parks, refuges and public lands, natural resource science, reclamation programs, and Native American programs, while providing the funding needed to meet increasingly complex challenges.

Budget Overview. The President has proposed a balanced budget for 1999, three years earlier than agreed to in last year's Bipartisan Budget Agreement. Within the framework of the balanced budget, the President's request seeks a total of $8.1 billion for the Department in funds subject to annual appropriation by the Congress. An estimated $2.4 billion will be provided by permanent appropriations.

The 1999 request is a decrease of $41 million in current budget authority from total appropriations provided in the 1998 Interior and Related Agencies Appropriations and Energy and Water Development Acts. If the Department's $532 million share of the special 1998 Land and Water Conservation Fund appropriation is excluded, the request is an increase of $491 million in current authority. More than 20 percent of this increase will go for pay and other uncontrollable cost increases.

Our ability to propose a budget that includes programmatic increases is due to the President's commitment to the environment and programs for Native Americans and to our aggressive efforts over the last five years to streamline the Department, reducing headquarters staffs and management layers, and to reengineer our processes and improve the efficiency and effectiveness of our customer services. As of the end of fiscal year 1997, we had reduced our overall employment level by over 15 percent below the 1993 baseline.

Landscape Focus. The President's Northwest Forest Summit in April 1993 opened a new chapter in conservation and resource history. For 150 years, the Nation has been caught between two polar visions. One vision was of the great natural resources of our country as commodities to be exploited for economic gain. The other vision was of a deep ethical obligation to preserve and care for nature's creations. The new vision that crystallized in Portland in 1993 serves both nature and our economic future. By understanding that landscapes are complex, living and integrated systems, we can find better ways of living on, and prospering from, the land, while at the same time protecting species and preserving nature's special places.

We learned three lessons in developing the Forest Plan. We cannot solve pressing natural resource problems by focusing on postage stamp size management units. We must treat them on a landscape scale. Second, in seeking solutions we must look across, and beyond, agency boundaries. We need to involve all the relevant Federal agencies, as well as States, local and tribal governments, industry, non-profit groups, and concerned ordinary citizens in efforts to move from conflict to cooperation. Third, our goal should be restoration, so as to ensure the long term ecological and economic health of communities.

The 1999 budget continues support for the Forest Plan, as well as for the landscape scale restoration projects in South Florida and the California Bay Delta:

- Our request for the Forest Plan is $68 million. That this is a slight decrease from 1998 reflects the success of the Forest Plan. We have in place the structure to maintain and restore late successional and old-growth forests, water quality, and fish and wildlife habitat, while allowing a sustained timber harvest of 1.1 billion board feet per year. An aquatic conservation strategy has been implemented to maintain the health of watersheds. We are working with non-federal land owners to balance species protection through habitat conservation plans and planned implementation of the 4(d) rule.

- For the Everglades, we propose an appropriation of $144 million, including $12 million for scientific research, $14 million for the Modified Water Delivery System, and $81 million for land acquisition. This request is an increase of $8 million over 1998. Total Federal funding requested for the Everglades is $282 million, an increase of $54 million. This funding, together with the contributions of the State of Florida, will keep us on track to solutions that restore the Everglades in ways that recognize the inextricable link between the health of the natural watershed and the growth and continued prosperity of Miami, Ft. Lauderdale, and all of the cities of the coastal ridge.

- The request for the California Bay-Delta Ecosystem Restoration Program is $143 million, the full amount authorized by the California Bay-Delta Environmental Enhancement Act and an increase of $58 million over the 1998 enacted level. As in Florida, this funding will help to implement plans developed by the whole range of stakeholders, including the State, urban and agricultural water districts, farmers, environmentalists and industry. And, also as in Florida, the State is making a major financial contribution. With the bipartisan support from the Governor and the legislature, the people of California approved a restoration bond issue in 1996 that included over $450 million for ecosystem restoration efforts.

In South Florida, we "drained the swamps" and nearly killed the Everglades. The great campaign in the Central Valley of California, a basin of complex river systems that extends from Mr. Shasta near the Oregon border to the

Tehachapi Mountains north of Los Angles, was to "water the desert." The desert valley bloomed with vast tracts of irrigated agriculture, but the great salmon runs on the San Joaquin and other rivers have disappeared and salt water has begun to invade the Delta.

By next October, CALFED, the consortium of Federal and State agencies with management and regulatory responsibilities in the Bay-Delta, will release its final programmatic EIS, and we will be ready to accelerate the efforts already underway to bring the rivers and wetlands of the Central Valley back to life. With the funds requested in 1999, we will be restoring healthy riparian habitats along river channels, screening diversions to protect migrating fish, modifying levees so that rivers are reconnected with their natural flood plains, and acquiring water to restore and maintain instream flows.

Based on lessons learned in the Pacific Northwest, South Florida and California, the budget also contains modest increases to address landscape scale issues in two other areas of the country.

- At the 1993 Forest Summit, the President directed BLM and the Forest Service to develop a scientifically sound and ecosystem-based management strategy for Federal lands east of the Cascades in the Columbia River Basin, the upper Klamath Basin and the northern Great Basin. Two EISs and preferred management alternatives are nearing completion. To begin to implement whichever management alternative is selected to restore the long-term ecological integrity of the Federal land within the 144 million acre region, we are asking for increases of $7 million in BLM and $1.5 million in the Fish and Wildlife Service. The BLM increases will support implementation of integrated weed management plans, fish and wildlife habitat restoration projects, and use of prescribed fire to restore range and forest land, among other projects. The FWS increase will support streamlined ESA consultations on the model of the Forest Plan.

- In the desert Southwest, increases totaling $4 million in BLM and FWS will support efforts to unsnarl the tangle of litigation surrounding conflicts between traditional industries such as logging and grazing, the resource demands of explosive urban and suburban growth, and the survival of a number of species, including the Mexican spotted owl, southwestern willow flycatcher, and cactus pygmy owl. This funding is critical to preempting gridlock that will benefit neither the species or the economy of the region.

Watershed Restoration. It is not a coincidence that the restoration projects I have discussed revolve around watersheds. Water connects the landscape. Rivers link upland forests and meadows to river valleys and lowlands. The water reveals everything, right or wrong, that we do within the entire watershed. The health of the headwaters affects the biological and economic health of communities below.

In celebration of the 25th anniversary of the Clean Water Act, the Vice President is leading an effort to fulfill the Act's commitment to protect and restore the Nation's waters. The effort is grounded in a powerful new concept. Communities have begun to see that their river is not just a little slice of reality at the end of town, but that the river reflects everything that happens in the entire watershed; is a communicator, if you will, of actions taken hundreds of miles away. Many of these communities have begun to recapture their history and heritage -- and secure their economic future -- through rebuilding of abandoned waterfronts and restoration of fisheries, whether salmon, shad, or striped bass. On the Stonycreek River in Pennsylvania, the efforts of local citizens, working with State and Federal agencies to address acid mine drainage, are credited with the first reported holdover trout fishery in the river in 80 to 90 years.

In support of the Vice President's initiative, the 1999 budget contains increases in several of our bureaus. If I can generally characterize these increases, they involve helping local communities and watershed councils to find solutions to watershed restoration.

Specific program increases totaling $16.5 million in USGS will focus on enhancing the understanding and data available to Federal agencies, States, Tribes, local governments and private citizens that will be working together to improve watershed conditions throughout the Nation. Improved availability of landscape information coupled with hydrologic and biological data are critical to the success of a watershed-based approach of water restoration. Among other projects, USGS will develop new data handling and serving capabilities including the use of geographic information systems for decision support; evaluate the impacts of pollution sources and non-point pollution management practices in critical watersheds; provide information to assist remediation of acid mine drainage; conduct research on hypoxia in the Gulf of Mexico and pfiesteria in the Chesapeake Bay; and encourage research oriented toward restoring aquatic system health in degraded watersheds through competitive grants to Water Resources Research Institutes. The National Water Quality Program will begin work in two new study units and USGS will conduct cooperative research for the Bureau of Reclamation, NPS, BLM and other Federal agencies.

In BLM, OSM and the Fish and Wildlife Service, we are requesting new funding for partnerships and restoration projects. A proposed increase of $16 million in BLM includes funding for cleanup of drainage from abandoned hardrock mine sites in partnership with Colorado, Montana and other western States and additional funding for riparian restoration projects throughout the West. For OSM, we propose to increase the very successful Clean Streams initiative to $7 million. At this level, OSM will provide seed money for approximately 23 more partnerships to clean up rivers and streams polluted by contaminated runoff from abandoned coal mines. OSM will also use a small amount of funding to transfer the lessons that it has learned in the East to hardrock acid mine drainage projects in the West. The Fish and Wildlife Service will implement additional voluntary watershed health

projects with private landowners with a $2.5 million increase in the Partners for Fish and Wildlife Program and a $3 million increase in the North American Wetlands Conservation Fund.

Fisheries Restoration. A key to the puzzle in many watersheds is private hydro-power dams built in an era when the native fish supply was assumed to be indestructible. Over the next 15 years, one quarter of the private hydro-power dams in America will come up for Federal relicensing. This presents an unparalleled opportunity for communities to work with industry to develop innovative solutions to fish passage. A model for these efforts is the Menominee River, which forms the border of Wisconsin and Michigan's Upper Peninsula north of Lake Michigan. For decades the river and its tributaries have generated electricity through more than 13 dams, but those same dams have disrupted fish migration and spawning runs, degrading the river experience for white water enthusiasts and fishermen alike. The people of Florence and Marinette Counties in Wisconsin and Iron, Dickenson and Menominee Counties in Michigan saw that the strength of their river was more than the sum of its kilowatt hours. It could draw boaters and anglers to broaden and stabilize the tax base. As the deadline for relicensing the dams approached, citizens and elected officials came together with industry to hammer out a landmark plan to balance watershed values of a wilder, more natural river with continued electric power generation.

The Fish and Wildlife Service has a critical, supportive role in these locally based efforts. On the Menominee, the Service showed how and where the most cost-effective fish barriers could be installed, protecting not only bass and northern pike, but the hydro projects themselves. For 1999, we propose modest, but important, increases totaling $2 million for the Service to hire additional biologists and hydrological engineers and to demonstrate fish passage restoration techniques.

Endangered Species Act. Just as we have learned better ways to work with natural systems, we have also learned better ways to work with the Endangered Species Act. Five years ago, there was a national perception that the Act was broken. There was a complete impasse in the old growth forests of the Northwest, an impending crisis threatening to shut down home-building in southern California, and another timber industry standoff looming in the longleaf pine forests of the South.

We dusted off the Act and found that it contains much flexibility and potential for innovation. For five years, we have been out on the landscape, working with States, Tribes, communities and private landowners. Habitat conservation plans covering approximately 7.3 million acres have been put in place or are under development. We have developed the "No Surprises" policy and have negotiated "Safe Harbor" agreements with private landowners to encourage them to enhance or improve habitat by providing assurances that their voluntary conservation actions will not result in imposition of additional restrictions.

We have found that these tools can both protect species and permit sound economic development. Why? Because they provide: incentives for landowners to protect and even attract rare native species on their property; certainty for businesses to move ahead; and ways to restore rare and declining species in time to keep them off the endangered list.

I hope that 1998 will see enactment of ESA reauthorization that builds on the lessons that we have learned. For 1999, the President proposes a $39 million ESA increase to expand our use of these tools to more effectively and efficiently implement the ESA and to position the FWS to comply with a reauthorized ESA, should that happen.

Among other things, the increased funding will be used to implement additional candidate conservation agreements to protect 80 species and keep 20 species from being listed; to implement more than 100 additional Habitat Conservation Plans; enter into 100 to 150 safe harbor agreements; and implement an additional 75 recovery plans. Even in the absence of reauthorization, we will need to do these things, as well as to address a growing consultation workload; consider up to 30 additional species reclassifications or delisting actions; and provide support to the Interior Columbia Basin Ecosystem Management Plan, the Southwest Ecosystem initiative; consultation efforts with Indian tribes; and conservation of threatened and endangered species in the Platte River basin.

Science. The initiatives that I have discussed today all have science as an integral component, as do many other aspects of the ongoing operations of the land management agencies. Whether it is improving our knowledge of the hydrology of the Everglades or developing a scientific understanding of the biological, chemical, physical and historical factors leading to avian and fish mortality in the Salton Sea, the work of the U.S. Geological Survey is critical to sound resource management decisions.

The 1999 request for USGS includes a net increase of $49 million over 1998. The request includes the increases supporting the Clean Water initiative that I mentioned earlier, as well as an additional $7 million for greater public access to water quality information, $11 million for species and habitat research and $2.5 million to expand the EROS Data Center's archiving capacity. I am pleased to report that these increases reflect improved orientation of USGS to the research and data needs of land managing agencies, as well as of other Federal, state and local agencies and the public, and expanded synergy between the biological and earth sciences in the "new" USGS.

One increase that I want to discuss specifically is a $15 million request in our budget to implement a Disaster Information Network. The USGS is the national leader in both managing and disseminating spatial data and earth-science information and in monitoring natural hazards such as earthquakes, volcanic eruptions, landslides, and coastal erosion. This new network will be built on existing resources by a multi-

agency Integrated Program Office hosted by USGS. The network will ensure that the timely, reliable information is available to a wide range of users so that losses due to natural disasters can be minimized. The network will take full advantage of new communications technologies and the rapidly growing capabilities of the information superhighway to help communities become more resilient to natural disasters.

Safe Visits. The Department manages an extensive infrastructure in parks and refuges and on public lands and Indian reservations. Many of our facilities are over 100 years old; some were built by the Civilian Conservation Corps in the 1930's; and some were erected in the 1950's and 1960's as part of the Mission 66 program. As use and visitation increases, these aging facilities present serious rehabilitation and repair needs.

To meet these needs, the 1999 budget proposes the first year of a five-year program to address critical health and safety needs in maintenance and construction, as well as needs for ongoing natural and cultural resource protection. This funding will help ensure safe visits for visitors to parks, refuges and public lands. It will also make sure that the 45,000 employees who work daily in NPS, BLM, FWS and BIA facilities have safe work environments and that the 53,000 students who attend BIA schools have safe school environments.

The 1999 budgets for maintenance and construction will total $849 million, which represents a net increase of $68 million over the 1998 enacted level. For maintenance programs, it represents an increase of $82 million, or 18 percent, over 1998 to tackle the most pressing deferred maintenance needs. For construction there will be a decrease of $14 million to better focus efforts during the first year of the five year program. Construction funding will increase in the outyears. Over five years, we will propose maintenance and construction increases that will total $700 million over a straight-lined 1998 base. These amounts will be supplemented by fee revenues. Under the current Fee Demonstration program, NPS will be able to keep $136 million in fee receipts in 1999. The budget proposes to build on this success by permanently authorizing a new fee program. The budget also proposes park concessions reform legislation that will allow NPS to enhance performance and use franchise fee receipts for park improvements.

As the first step of the five year program, we have developed uniform criteria and prioritized lists of critical health and safety and resource projects for 1999. Our goal is to fund the projects posing the greatest risks to the public and employees.

As the next step, the Department will begin to develop a five-year plan to meet maintenance and resource needs to be used to formulate the 2000 budget request. Using agreed upon definitions, we will better identify and categorize our deferred maintenance needs and begin to schedule and fund the highest priority needs. We will also be looking at the appropriate funding levels for routine and cyclic

maintenance to ensure that the inventory of deferred maintenance does not continue to grow.

Law Enforcement in Indian Country. The 1999 budget for the Bureau of Indian Affairs is $1.84 billion, an increase of $142 million above the 1998 enacted level. Included within the increase are funds to pay the costs of increasing school enrollment, to replace three schools, and to support various self-determination programs. Of great importance is a $25 million increase to strengthen core law enforcement functions in Indian country by increasing the number of uniformed police officers and criminal investigators and by strengthening basic detention center services. This initiative responds to the current public safety crisis in Indian country. Crime rates on Indian lands have increased significantly, hindering the efforts of Tribes to establish stability in their communities. The homicide rates on some reservations have equaled or surpassed levels in many large cities. To respond, Indian communities have only 1.3 police officers per 1,000 citizens, compared with an average of 2.9 per 1,000 in non-Indian areas with similar population density. Many Tribes lack adequate funding to provide a basic level of security in their communities, such as 24 hour police coverage.

The law enforcement increase for BIA is part of a larger effort that will provide $182 million in new and redirected Federal funds to support Indian country law enforcement, a 100 percent increase over 1998. To encourage clear communication and continuity between the Federal government and Tribes, BIA will maintain primary responsibility for law enforcement, with important technical assistance and support from the Department of Justice. The Justice budget proposes an increase of $51 million for additional FBI agents and assistant U.S. Attorneys, as well as for several targeted programs on reservations, such as drug testing and treatment, juvenile justice, and assistance to tribal courts. Justice also proposes to direct $52 million in correctional grant funding for detention center construction in Indian country and dedicate over $54 million for Community Oriented Policing Services on reservations.

Trust Programs. The request for the Office of the Special Trustee is $42.0 million, a $8.1 million increase over 1998. The request supports the implementation of portions of the Special Trustee's Strategic Plan that focus on improving the performance of our current responsibilities: acquisition of trust systems, records clean-up, and elimination of trust asset processing backlogs. I'm pleased to report, that significant progress in these areas has occurred over the past year. A comprehensive high-level implementation plan for the Trust Management Improvement Project is being finalized and several sub projects are well underway. In January 1998, OST commenced an 18 month individual Indian money account data clean up contract and this month will award a contract for a commercial off-the-shelf trust fund accounting system.

In BIA, the budget includes an increase of $5 million to address probate and land records processing backlogs. The budget also proposes $10 million for BIA to initiate

a pilot program on one or more reservations to consolidate fractional interests in allotted land. It is not uncommon for as many as 100 to 300 individuals to hold undivided interests in a single allotment. This fractionation taxes the ability of the Government to administer and maintain records and accounts. It also makes it increasingly difficult for Indian owners to put their lands to productive use.

On the authorizing side, the budget assumes enactment of the Administration's tribal trust fund settlement process legislative proposal, which is expected to be submitted to the Congress this month. The proposed legislation is the culmination of a five-year, $21 million effort to reconcile tribal trust fund accounts. The legislation will lay out a process designed to acknowledge and respect tribal sovereignty by using alternative dispute resolution mechanisms.

MMS. The resurgence in Gulf of Mexico leasing activity that we reported in the 1998 budget will continue into 1999. There have been four record-breaking lease sales in the Gulf over the past year and a half and a sustained level of exploration and development activity . Industry's interest and investment in the Gulf are spurred by dramatic advances in technology; the discovery of extremely prolific reservoirs; reductions in exploration and development costs; and the economic incentives provided by the Deep Water Royalty Relief Act.

In response to this resurgence, the Department is requesting a 1998 supplemental appropriation of $6.7 million and an annualized increase of $7.5 million for 1999. These increases will put MMS on firm footing to effectively perform its regulatory responsibilities to ensure continued safe and environmentally sound development of the OCS. This investment, which will be fully offset by increased offsetting receipts, is modest compared to the return it will generate. OCS bonuses, rents and royalties constitute the largest category of the $7 billion in receipts (equivalent to 90 percent of the Department's budget) that the Department collects.

The Millennium Fund. The initiatives that I have discussed all respond to immediate 1999 needs, but also position the Department to meet the challenges of the 21st Century. One proposal in the budget is explicitly a proposal for the 21st Century. The legacy of defining moments in American history is literally fading away in deteriorating archives, crumbling monuments, and moldering leather. The celebration of the turn of the century is an opportunity to showcase the preservation of America's history and culture for ourselves and for the world. To seize this opportunity, the budget proposes a $50 million grant fund to preserve the fabric of America's heritage, ensuring that the citizens of the 21st Century have the same opportunity that we have had to observe and enjoy the Star Spangled Banner, objects gathered by the Lewis and Clark expedition, and instruments in the laboratory of Thomas Edison.

Using the existing legal framework of the National Historic Preservation Act, $25 million is proposed to be distributed to States, Tribes and territories. With the exception of grants to Tribes, this amount will be matched on a 60/40 basis by non-

Federal funding. The remaining $25 million is proposed to be made available to Federal agencies for the preservation of artifacts of national scope and significance.

Conclusion. I believe that the 1999 budget for the Department of the Interior addresses the challenges that we will face in our 150th year. I look forward to working with you on these challenges and on the challenges we will face in the 21st Century.

This concludes my statement. I will be happy to answer any questions you may have.

Statement of

Bruce Babbitt

Secretary of the Interior

before the

Senate Committee on Energy and Natural Resources

on S. 1275

The Covenant Implementation Act

March 31, 1998

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Mr. Chairman, and members of the Senate Committee on Energy and Natural Resources, I am pleased to be here this morning with representatives from the Departments of Labor, Commerce, and Justice, including the Immigration and Naturalization Service, to urge the enactment of S. 1275, the Covenant Implementation Act. In my statement, I will be referring to: letters from the governments of Nepal, Sri Lanka, and the United States Ambassador to the Covenant negotiations, F. Haydn Williams; the Third Annual Report on the Joint Federal-CNMI Initiative on Immigration, Labor and Law Enforcement; the Department of Labor's analysis of the Hay Group report; a Department of the Interior Analysis of Immigration and the CNMI: A Report by the Commission on Immigration Reform; and the Bank of Hawaii's September 1997 Commonwealth of the Northern Mariana Islands Economic Report. I ask that they be entered into the record.

I. THE NEED FOR FEDERAL LEGISLATION

In 1976, the United States and the Northern Mariana Islands entered into a solemn agreement -- the Covenant to Establish the Commonwealth of the Northern Mariana Islands in Political Union with the United States. This Covenant was designed, as was our Constitution, to secure a union based on a mutual commitment to shared values -- fundamental values such as equality, democracy, and human rights. The Northern Mariana Islands representatives stated their commitment during negotiations:

(emphasis added)

> **What will bind the people of the Marianas to the United States is the shared goals of our peoples -- the shared view of the role of the individual in society, the shared respect for law, the shared belief that the democratic way, even if the harder way, is the right way.** The people of the Marianas now stand ready to accept the benefits that the United States bestows upon its people as well as the responsibilities and obligations that go with the right of citizenship. (Statement of Edward Pangelinan, Chairman of the Marianas Political Status Commission, before the Senate Subcommittee on Territorial and Insular Affairs, July 14, 1975)

> Our islands are developed under the American flag. Our children are educated under the American system of education; **our economic development is patterned after the American economic philosophy**. My people cannot comprehend any other political alternative more realistic and consistent than an association with the United States. (Statement of Pedro A. Tenorio, before the Senate Subcommittee on Territorial and Insular Affairs, July 14, 1975)

> [The decision to support the Covenant] was not made in haste. . . . All of our people both young and old, cherished the principles on which the American system is based. -- freedom and opportunity for all **without regard to race, creed, color, or national origin.** (Statement of Herman Q. Guerrero, President, Marianas Popular Party, before the Senate Subcommittee on Territorial and Insular Affairs, July 14, 1975)

> The values are human rights. The people of the Marianas have for too long been dominated by autocratic powers, with little regard for the rights of their own subjects, let alone the people of the Marianas. The coming of the United States, on the other hand, changed all this. **The spirit of two hundred years of democracy, of** a society which practiced the theory **that a government should be "of the people, by the people, and for the people," of the Bill of Rights,** ensuring that every man is created equal under law and **guaranteeing his human rights, of a country which has historically been a refuge for the oppressed and a land of opportunity for all people,** was brought to Micronesia by the United States. (**Statement** of Position, Mariana Islands District Representatives on the Joint Committee on Future Status, Fourth Round of Political Status Negotiations, Koror, Palau, April 1972; also **Resolution** No. 1-1972, First Special Session of the 3rd. Mariana Islands District Legislature; also **Remarks** of Senator Edward DLG. Pangelinan, United Nations Trusteeship Council Hearings, May 1972)

Today, twenty-two years later, this developing union confronts a fundamental challenge. The CNMI is promoting immigration, labor and trade policies that are fundamentally inconsistent with the principles underlying our nation's policies. They inevitably result in conditions that should not exist under the American flag. Local efforts at reform have failed. Increased Federal law enforcement has helped. Federal enforcement of existing law alone, however, cannot solve these problems because they are systemic to both an inherently abusive indentured[1] alien worker program and the promotion of trade loopholes.

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[1]An indenture is a contract. In colonial America, typically, a poor person from Europe would become an "indentured servant" to a more wealthy person living in the British colonies. The wealthy person who held the indenture, was obligated to pay for the indentured servant's passage to the colonies and provide room and board for seven years. The indentured servant was obligated to do the bidding of his or her master or mistress and gained freedom from the indenture after seven years. Indentures fell into disuse in the colonies, in favor of slaves from Africa, because so many indentured servants merely escaped and blended into society in other towns or colonies. Alien workers in the CNMI are indentured because they are in the CNMI solely by virtue of their employment contract with a specific and sole employer or "master," who is in control of the duration of the stay of the indentured alien worker in the CNMI. If the worker displeases the employer/master the contract is terminated and the employee must leave the CNMI.

Therefore, the question before the Committee today is: Should the United States Congress exercise its right, under the Covenant, to extend Federal immigration and minimum wage laws, and close these trade loopholes? The CNMI government continues to say emphatically, "No!" But it has failed to seriously address the problems after many years of urging by Federal authorities. Moreover, the problems are beyond the CNMI's capacity to correct and are inherent in the system that it has created. The Administration urges the Congress to fully implement the terms of the Covenant and bring immigration and labor policies in the CNMI into conformance with our national values and Federal law. S. 1275 will begin the transition process of ending the problems inherent in an economic system based on the massive importation and rotation of low-paid, indentured alien workers in permanent jobs.

The Administration also urges the Congress to close the trade loopholes through which foreign manufacturers, using foreign fabric and foreign workers, but sewing in a "Made in the USA" label, ship hundreds of millions of dollars of garments to the mainland each year contrary to the intent of Federal customs laws, including quota, tariff, and country of origin laws. The Covenant authorized the Congress to extend Federal immigration and minimum wage laws in 1986. The Congress did not do so then to enable a period of transition. Now is the time for the Congress to complete its unfinished business.

Twelve years ago, the Reagan Administration expressed to the then-Governor of the Commonwealth, Pedro P. Tenorio, its concern about the immigration, labor and trade policies being adopted by the CNMI. It declared that the situation "cannot be tolerated" and threatened to recommend to Congress that Federal law be enacted to end the abuses. Three and a half years ago, in hearings before this Committee, Governor Froilan Tenorio promised to solve these problems. Now, this Administration, after expending millions of dollars and many years of effort, concludes that the CNMI lacks both the will and the capability to implement the reforms necessary to deal with the causes of its immigration, labor, and trade problems. Federal legislative action is necessary for several reasons.

First, local control of immigration and the minimum wage was intended to be transitional. Congress was specifically authorized in Covenant section 503 to extend Federal immigration and wage laws in 1986. However, despite expressions of concern by three Federal Administrations, the Marianas continue to use its control of immigration and the minimum wage to structure its economy on a massive, low-wage, indentured alien worker program. Aliens now hold over 90 percent of the private sector jobs in the Commonwealth. Twenty-eight thousand United States citizens are outnumbered by 37,000[2] indentured alien workers and an estimated 7,000 to 10,000 aliens who are illegal under CNMI law. According to the 1995 census, unemployment and poverty rates among local United States citizens were 14.2% and 35%, respectively.

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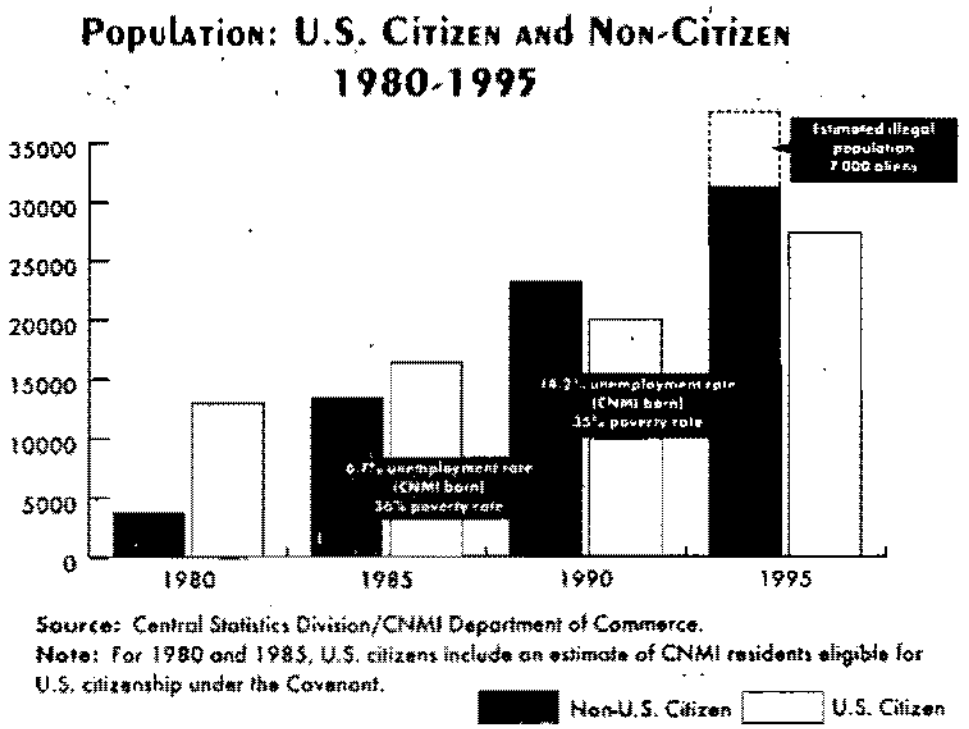
[2]Based on permit information from the CNMI's Department of Labor and Immigration in 1997.

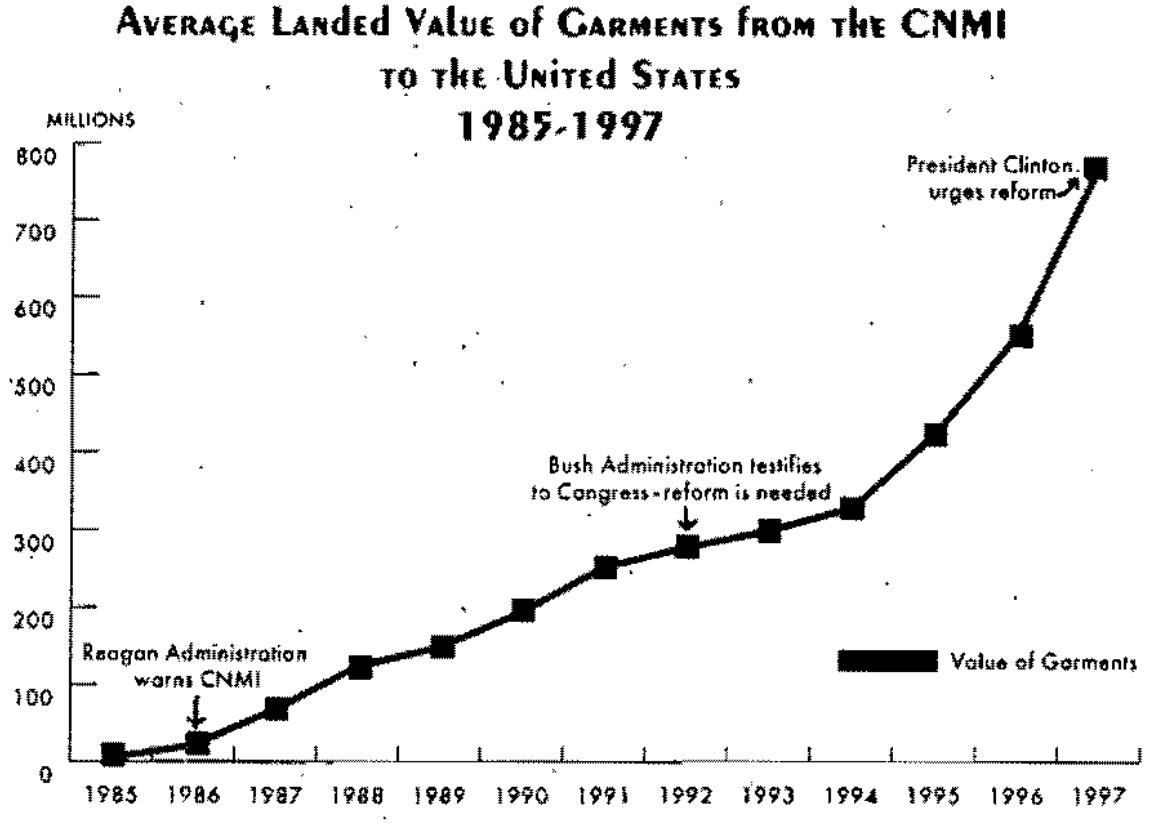


Such an indentured alien worker program is inconsistent with the intent of the Covenant. Local authority over immigration was granted to the CNMI to **restrict** immigration to the CNMI, not to bring in tens of thousands of indentured alien workers. Such a program is antithetical to fundamental American values and Federal immigration and labor policies, which permit the entry of alien workers on a temporary basis to meet temporary employment needs, but not to occupy permanent jobs.

The second reason for Federal legislation is that foreign manufacturers are using about 15,000[3] of these indentured alien workers to misuse the exemption the CNMI enjoys from Federal quota, duty, and labeling laws and regulations. There are some 30 foreign owned garment factories operating in the Commonwealth. Most are linked to the People's Republic of China. These factories are using foreign fabric and foreign workers, but are shipping products to the United States mainland quota-free and duty-free, and often with the "Made in the USA" label. This scheme is an abuse of the trade privileges that were extended to the Commonwealth under the Covenant in order to create employment opportunities for United States citizens. This scheme is creating few opportunities for United States citizens in the Marianas. It is, instead, costing sales, profits, and jobs in the mainland United States. Under this scheme, the CNMI garment industry -- born only in the mid 1980s -- shipped approximately $800 million worth of garments to the United States mainland in 1997,

[3]Based on permit information from the CNMI's Department of Labor and Immigration

thereby avoiding $167.5 million in duties due the United States Treasury. United States imports from the CNMI grew at the alarming rate of 45 percent in 1997, and have more than quadrupled since 1990.



A third reason for Federal legislation is the failure of local reforms and the demonstrated lack of political will to see them through. Since 1986, local efforts apparently intended to slow the trends shown on graphs 1 and 2 have been vacillating, with no tangible positive result. In 1994, following the unsuccessful efforts of the Reagan and Bush Administrations to promote reform, the Congress, in agreement with this Administration, directed the establishment of the joint Federal-CNMI Initiative on Labor, Immigration, and Law Enforcement, and funded the program through an appropriation. This Administration was sincerely hopeful that this joint effort at reform would reverse these trends. Instead of increasing cooperation, however, the Commonwealth, in 1996, repealed its own law capping growth of the garment industry, repealed its wage reform law, and launched an aggressive campaign against any Federal legislative reform.

This was not a unique occurrence. A decade and a half of history shows that more time, and more Federal resources, without extending Federal jurisdiction, will not yield meaningful change.

- **Example:** In June of 1987, Governor Pedro P. Tenorio established a moratorium on the number of factories and the number of garment workers in the CNMI. This was

in response to Reagan Administration concerns, and also the Governor's own study, which concluded that the "garment industry's growth and potential production will cause great concern in Congress that could jeopardize Federal relations, particularly the ability of the CNMI to control its immigration".

In 1996, Governor Froilan Tenorio issued emergency regulations that overrode the moratorium on new garment factories and the moratorium on new indentured alien workers for the garment factories.

- **Example:** In 1992, the Bush Administration expressed concerns over the garment industry. Governor Lorenzo DeLeon Guerrero committed the CNMI to enactment of minimum wage reform legislation and the measure was enacted by the CNMI legislature.

  The CNMI legislature, acting under pressure from the garment industry repealed the law in 1996.

We believe the sincerity and commitment of Governor Pedro P. Tenorio to reform. We will support his efforts. Nevertheless, there remains a need for Federal legislation to assure predictable and permanent reform, and that the reform addresses the causes of the problems -- the low wage, indentured alien worker program and trade loopholes.

The failure to implement effective reform at either the local or Federal level for a decade and a half has resulted in the emergence of serious social problems, which are the inevitable consequences of the CNMI's underlying immigration, labor and trade policies. These social consequences include:

1. High unemployment (14.2 percent) and poverty (35 percent) rates among local United States citizens.

2. An increase in the number of indentured alien worker complaints and the inability of the CNMI to protect the rights and the welfare of the thousands of legal and illegal aliens now in the CNMI. (Examples are recruitment scams, payless paydays, "shadow" contracts which subvert basic United States rights such as the right to engage in political and religious activity, or even to "fall in love." Additionally, we have evidence that at least some of the Chinese workers, when they become pregnant, are given a three-way choice: go back to China, have a back-alley abortion on Saipan, or be fired.)

3. An estimated 7,000 to 10,000 illegal immigrants in the CNMI and the smuggling of hundreds of illegals annually into the United States immigration territory in Guam due to ineffective border control by the CNMI.

4. Adverse impact on the United States mainland apparel industry in lost jobs, profits, and revenue due to the indentured worker system, and, to a lesser extent, the apparent transhipment of foreign garments and other customs fraud involving textiles and apparel through the CNMI to the United States mainland.

5. Increased strain on public services and infrastructure as a result of the 250 percent increase in population from 1980 to 1995.

6. Increased presence of organized criminals among unscreened immigrants in the CNMI with an associated increase in drug, extortion, and prostitution problems.

7. Irritations to relations with other nations whose citizens make up the indentured alien worker population.

8. The potential for a public health crisis emanating from infectious diseases such as tuberculosis among the unscreened indentured alien worker population.

A pattern of ineffective local reforms and vacillating policies by successive Commonwealth Administrations and Legislatures have resulted in the continuing trends you see on graphs 1 and 2, and the emergence of the problems I just noted. Federal legislation is essential for meaningful and permanent reform.

A fourth reason Federal legislation is needed is particular to the issue of immigration. The Immigration and Naturalization Service (INS) and the congressionally established bi-partisan Commission on Immigration Reform (CIR) have determined that the CNMI lacks the institutional capability to operate an effective immigration program. According to these analyses, the CNMI does not have, and cannot be expected to develop, the capability to issue visas abroad and to "double-check" immigrants before they enter the CNMI through the visa process in their home countries and the "watch list" at the United States border. These are requirements for any effective immigration program.

Section 503 of the Covenant authorized and anticipated that the Congress would extend Federal immigration and wage laws upon the termination of the United Nations' trusteeship, which occurred in 1986. In 1975, the predecessor of this Committee, the Senate Committee on Interior and Insular Affairs, approved the Covenant, including Covenant section 503, which included local control of immigration and minimum wages for a transitional period of time. In Senate Report 94-433, the Committee said:

> The reason this provision is included is to cope with the problems which unrestricted immigration may impose on small island communities. . . . It may well be that these problems will have been solved by the time of the termination of the Trusteeship

> Agreement and that the Immigration and Nationality Act containing adequate protective provisions can then be introduced to the Northern Mariana Islands.

Page 65 of the Senate Report, shows that there was an expectation that the Trusteeship Agreement would be terminated in 1980 or 1981. In a recent letter to the President's Special Representative for consultations with the CNMI, Mr. Edward B. Cohen, the United States negotiator of the Covenant, Ambassador Franklin Haydn Williams, wrote:

> The CNMI negotiators expressed grave concern at the time of the negotiations about the threat to their societal values if its doors were to be open to a large infusion of new residents. At that time, the Covenant negotiators, on both sides, had no notion that the privileged and provisional exemptions from the INA and minimum wage laws would be used to develop a massive alien contract worker program in the CNMI. I can only express surprise that action has not been taken sooner by both the CNMI and the Congress to address, in a mutually satisfactory fashion, this important unfinished business in the implementation of the Covenant.

The Administration has set forth in great detail its arguments for Federal legislation in its Third Annual Report on the Joint Federal-CNMI Initiative on Immigration, Labor and Law Enforcement which was submitted to the Committee last July.

There is no longer time for delay. We urge the Committee to act promptly to complete its "unfinished business" by fully implementing the provisions of the Covenant.

II. PROPOSED LEGISLATION

At the request of Chairman Murkowski, the Administration developed legislation to implement the recommendations made in the Third Annual Report on the Joint Federal-CNMI Immigration, Labor and Law Enforcement Initiative.

I wish to thank Chairman Murkowski and Senator Akaka for introducing the Administration's proposal as S.1275. We are pleased that the Chairman apparently shares our concern that these problems need to be addressed. We welcome this opportunity to describe more fully the merits of S. 1275 for the Committee, and to show that this legislation is needed to assure proper and lasting reforms.

S. 1275 was carefully designed to extend the immigration and minimum wage laws of the United States as authorized and anticipated by the Covenant, and to end the abuse of the CNMI's duty-free trade status by the garment industry.

I want to emphasize for the Committee that a guiding principle in our development of this legislation

was to protect the CNMI economy by providing generous transition provisions that would allow for the necessary economic adjustment. I believe we have achieved a fair and responsible phased approach for reform, but we have also told Governor Tenorio that we would consider other transitional measures that he might propose.

S.1275 has three parts, dealing with immigration, wages, and trade, respectively. I will begin with the discussion of immigration.

Immigration

As noted earlier, the Senate Committee on Interior and Insular Affairs, the predecessor to this Committee, in its 1975 report on the Covenant regarding the CNMI's control of immigration said:

> The reason this provision is included is to **cope with the problems which unrestricted immigration may impose** on small island communities. . . . (emphasis added)

In fact, CNMI's immigration law and policy have indisputably failed to meet this objective. It has regrettably sought to circumvent it by importing aliens on a rotating basis so that individuals are prevented from pursuing any rights they may have. United States citizens are now a minority in the CNMI. The 37,000 indentured alien workers and 7,000 to 10,000 undocumented aliens are overwhelming the island's infrastructure and over half of the United States citizens under five years of age were born to non-citizen mothers. It is estimated that there is one illegal alien for every four United States citizens residing in the CNMI. Extension of Federal immigration law is the only means for addressing the serious problems that result from the CNMI's open door policy on immigration. The Administration's bill is designed to address this unhappy state of affairs in a way that will ease the transition to a immigration system with more effective control.

Our proposal contains: (1) full Federal immigration control approximately one year after the effective date of the legislation; (2) a transition period of up to eleven years for the shift from the CNMI's current temporary worker program to full application of the INA; (2) a review after five years, with a report to the Congress, including recommendations, should any adjustments in Federal policy be needed to respond to unanticipated effects of the transition; (3) a "fail-safe" provision that could be invoked by CNMI leaders (with Federal agreement) to obtain additional permanent workers, should it be determined by CNMI officials that sufficient workers are not available to meet the needs of the CNMI economy; and (4) a directive to the Department of the Interior to make its technical assistance funds available for analyzing the CNMI economy and hiring experts to advise on economic options for the Commonwealth.

Immigration and the CNMI: A Report of the Commission on Immigration Reform. The bi-partisan Commission on Immigration Reform recently published a report on immigration in the CNMI. The Administration and the CIR are in complete agreement regarding the deplorable state of immigration affairs in the CNMI. Among other things, the CIR report states that: (1) the CNMI immigration system is antithetical to the principles that are at the core of United States immigration

policy; (2) the CNMI lacks the basic infrastructure to carry out its immigration responsibilities; (3) the CNMI is unlikely on its own to correct the problems inherent in its immigration system; (4) leaving solutions to the CNMI is unlikely to result in significant changes in either immigration policy or implementation; (5) the CNMI government has shown a lack of resolve in implementing immigration reform; (6) high levels of immigration of temporary alien workers to the CNMI perpetuates a dependence on government employment for the indigenous population; (7) the CNMI's immigration system supports an unsustainable economy; (8) alien workers are easily exploited; (9) the CNMI's current system raises serious questions about United States' sovereign control over foreign policy and national security; and (10) the CNMI's alien worker program presents inherent problems for free-market democracies.

The CIR report does raise certain concerns that we believe are addressed in S. 1275. I will briefly discuss these few points of concern. (1) The CIR report states that there is a lack of Federal commitment or resources to ensure adequate enforcement of immigration laws in the CNMI. To the contrary, the problem in the CNMI does not involve a lack of commitment on the part of the Federal government, but rather involve the Federal government's lack of jurisdiction over CNMI immigration and the enforcement of immigration laws in the CNMI. Where it has jurisdiction, the Federal government has demonstrated a strong and increasing commitment to enforcement. The Administration developed S.1275 specifically because it is committed to correcting the CNMI's immigration-related problems.

(2) The CIR report states that the Administration should first attempt to negotiate local reform of the CNMI's immigration laws. In fact, the CNMI refuses to change it's immigration policies, which conflict with the values that underlie long-standing national immigration policy. For a decade and a half, the Executive branch, over three Administrations, has attempted to reach an accommodation with the CNMI to cure the inherent defects in the CNMI's immigration laws, and, more generally, the enforcement of its laws. Despite Federal efforts, substantive change remains elusive. Immigration-related problems are increasing. We believe, therefore, that regardless of the current Governor's commitment to effect genuine change, these problems are no longer amenable to local cure.

(3) The CIR report recognizes that the CNMI, due to its small size and its lack of sovereign status, lacks the institutional ability to conduct an effective immigration program, but nevertheless recommends that the Administration renew its efforts to find other ways, short of extending Federal immigration law to the CNMI, to address the CNMI's inability to adequately enforce its local immigration laws. The CIR's basic premise that the CNMI cannot conduct an effective immigration program confirms the need for Federal control over immigration. To ensure a return to adequate immigration control, the Administration's bill provides for extension of the INA, full INS presence, and initiation of the normal State Department visa issuance system approximately one year after enactment of the legislation. The bill takes into account, however, the unique circumstances in the CNMI, and provides for a generous, decade-long, transition period and other special features to wean the CNMI from its current indentured alien worker program.

(4) The CIR report also expresses concern that phasing-out of the CNMI's indentured alien worker program could cause disruptions in the CNMI economy. Because the CNMI's basic social, economic and political institutions have become so dependent on and intertwined with the importation of indentured alien workers, particularly those in the garment industry, the phasing-out of the CNMI's indentured worker program will inevitably cause certain disruptions. On the other hand, the phasing out of that program will lessen its burden on the community as a whole. As I noted earlier, S. 1275 was carefully drafted to mitigate the impact of this necessary transition.

Mr. Chairman, with proper policies and leadership, the CNMI economy can shift to another, more desirable track that exploits the CNMI's natural strengths, including its fine climate and beautiful beaches, its marine resources, and its location near the vast markets of East Asia. The Federal government has offered, and is prepared, to assist the CNMI in making this transition. In fact, S. 1275 specifically calls for the Departments of the Interior and Labor to aid in the recruiting and training of qualified United States and freely associated states (FAS) workers for work in the CNMI. Such workers would help meet the needs of the tourism industry, and would aid existing and future CNMI industries in complying with the 50 percent United States-related labor requirement we have proposed for General Note 3(a)(iv) eligibility.

Additionally, rather than rejecting Federal immigration authority out of hand, CNMI officials could focus on the ways that the Immigration Nationality Act can serve CNMI needs. The INA is intended to attract those aliens that the Congress has determined to be the most desirable for the economic and social well-being of this country. For example, the INA provides for the temporary entry of professionals (H-1B nonimmigrants). Managers, executives and certain other employees with specialized knowledge of multinational companies can be admitted as L-1 nonimmigrants. Additionally, treaty traders (E-1 nonimmigrants) and investors (E-2 nonimmigrants) and their employees would give the CNMI access to substantial markets like Japan and Taiwan. Furthermore, nonprofessional temporary workers can be brought in for temporary jobs where the need is seasonal, intermittent, peak-load, or one-time (H-2B nonimmigrants). Guam has used the H-2B category successfully, particularly in the construction industry. Temporary agricultural workers can also be admitted under the H-2A category. In addition, all the other many nonimmigrant categories under the INA would be available to the CNMI, including those for exchange visitors, students, and trainees.

Further, should the CNMI need even more workers, the INA allows for employment-based permanent immigration of a variety of workers, including some who will perform unskilled labor. In fact, under certain exceptional circumstances, CNMI employers may be able to obtain the permanent services of such unskilled workers on an expedited basis. Of particular interest to the CNMI should be the INA's special program for immigrant investors, under which aliens who invest a certain amount of capital and create at least ten full-time positions for United States workers may obtain lawful permanent resident status. In short, the INA would provide the CNMI with many tools for designing its own economic destiny.

In addition to these features, we must not forget that extending the INA to the CNMI would finally introduce Department of State visa, and INS immigration controls, thereby dramatically improving

the ability to exclude inadmissible aliens, such as criminals and those with contagious diseases such as tuberculosis and HIV, from the CNMI.

Finally, because the INA contains annual per country and other limitations on the immigration of family members (other than the spouse, minor dependent children, and certain parents of U.S. citizens), the CNMI need not fear that it will be overwhelmed by family-based immigration to the Commonwealth.

Wages

The second major provision of S. 1275 would essentially implement the minimum wage phase-in originally enacted into law by the CNMI, but later repealed under pressure from the garment industry. Other CNMI industry groups such as the Contractors Association and the Hotel Association had supported increasing the minimum wage, although they have since changed their position. This provision in S. 1275 would halt repeated instances of back-sliding in the CNMI legislature on the wage issue. Increases in the minimum wage would be predictable and would progressively make the private sector more appealing to local United States citizens. A higher minimum wage would create entry-level private sector job opportunities for United States citizens who now must choose to compete against alien workers willing to accept $3.05 an hour or less for almost every kind of job, or going on welfare and waiting for a public sector job in the already bloated CNMI government. The CNMI government pays wages 3 to 4 times above the minimum wage and employs an astounding 56% of the United States citizen workforce! (By comparison, the Washington, D.C. government employs a relatively high 20% of the local workforce, and all public sector employment in the United States accounts for only about 13.3 percent of the United States workforce.)

The Hay Report. The CNMI's repeal of its wage reform legislation was rationalized in a report by the Hay Group in the Spring of 1997, for which the former governor paid a reported $1.5 million. The Hay report reached the conclusion that the CNMI minimum wage should be frozen for at least three years. This conclusion fits Hay's vision of a CNMI economic growth model based on low skills, low wages and dependence on alien workers, rather than one in which efforts are directed toward stimulating sectors that may make a long-term contribution to the CNMI economy. In short, the report would sacrifice long-term economic growth to benefit the garment industry, whose work force consists almost exclusively of indentured alien workers earning the CNMI minimum wage.

A critical defect in the Hay report is its reliance on an "inter-industry model" supposedly of the CNMI economy. A review of the Hay report prepared by Department of Labor economists finds that its model is "not credible due to violation of I/O (input/output) accounting conventions, sparse matrix content, failure to consider the multiplicand, failure to consider the low-cost apparel industry environment, and the use of inconsistent and questionable data."

No economist with whom we consulted considered the methodology used in the model to be appropriate. One private economist found "(t)he impact on the apparel industry was counted twice, once in apparel and once in trade. . . . Much of the problem here seems to be in the violation of

input-output accounting conventions. . . ."

Apparently in an effort to give the report some impressive academic credentials, the Hay report includes the following acknowledgment:

> Dr. Robert Lucas, a 1995 Nobel Prize winning economist from the University of Delaware, served as a key advisor in the construction of the study's inter-industry model of the CNMI economy. Professor D. Zenois of Princeton University provided a key optimization algorithm for the inter-industry model.

We were unable to locate either of the academic economists cited in the report. There is no record of a Dr. Robert Lucas at the University of Delaware, past or present. There is, however, a noted Nobel laureate, Dr. Robert E. Lucas, Jr. at the University of Chicago who, being the only Nobel Prize winning economist with that name, appears to have been the person acknowledged in the report. When we called Dr. Robert E. Lucas, Jr. to verify his participation in the study, he stated that he had never heard of the report and had never had any dealings with Economic Systems, Inc, or the authors of the study.

Similarly, there is no Professor D. Zenois of Princeton, nor were we able to establish that there ever was a Princeton professor by that name. The reference may be to a Professor Stavros A. Zenios who obtained a Ph. D. some years ago at Princeton and is now a dean at the University of Cyprus. Dr. Zenios has worked on input/output algorithms and he displayed the same bewilderment as other economists in reviewing the Hay report:

> I have had a look at their citation of our work, and I am really puzzled as to what they have done. It is quite unlikely that they have used my algorithm!... The final, and most sensible, explanation is that they have adopted the MODEL I suggested in one of my papers, but never used the algorithm to build the input/output table. They build the table using available data without any algorithmic massaging to get data consistency.... I am also sorry to say that my attitude is rather sarcastic: if an author knows what he or she is doing he can explain it clearly and precisely. If the explanations are vague then most likely the author himself has no clear understanding of the issues.

Neither professor knew of the Hay report before we called them. Neither was paid out of Hay's reported $1.5 million fee.

Mr. Chairman, the CNMI minimum wage policy, combined with its indentured alien worker program, has creating a two-tiered society that robs United States citizens of private-sector employment opportunities and flies in the face of the American value of promoting a prosperous middle class. Except for the Northern Marianas, all United States territories and commonwealths

either apply the Federal minimum wage or are undergoing a transition to it, pursuant to Federal law. Now is the time to begin that process for the CNMI in a clear and predictable manner.

Trade

The third part of S.1275, set forth in sections 3 and 4, would require the transplanted Asian garment industry in the CNMI to make a choice on whether they want to be treated as "foreign" or as "domestic" garment manufacturers.

The bill provides that if CNMI garment manufacturers want to continue to use the privileges granted to all United States territories and commonwealths of quota-free, duty-free access to the mainland United States, and the privilege to use the "Made in the USA" label, then, after a phase-in period, they must hire at least 50 percent United States labor. This proposal is very generous in that it would allow citizens of the FAS, who enjoy the right of free immigration into the United States including the CNMI, to be counted as United States workers. Moreover, the legislation provides a three-year transition period for manufacturers to meet this new level of United States workers participation in the workforce. There are those who argue that the local CNMI population would be unwilling or unable to work in the apparel sector. We do not believe this is necessarily the case, particularly if wage incentives are improved. The eleven-year transition also could be used to increase recruitment and training efforts among United States and FAS workers. The Department of the Interior recently has offered technical assistance to the Governor to promote such recruitment and training efforts.

Because CNMI law currently requires 20 percent local labor in the garment industry, garment manufacturers need only increase the United States and FAS workforce levels by 10 percent per year for the next three years in order to continue to use these privileges. We do not believe the claims of the garment industry representatives who argue that it would be impossible to meet such a modest requirement. We call your attention to the fact that another United States territory, American Samoa, has a successful garment factory, notwithstanding the fact that local law requires a 50 percent local workforce.

S. 1275 also offers an alternative. If the garment manufacturers do not wish to, or cannot, comply with this requirement of 50 percent United States and FAS labor, S. 1275 would allow them to continue to operate. However, they would not be allowed to use the "Made in the USA" label and would be subject to tariffs on products made with mostly foreign labor.

The rate of growth of the virtually foreign garment industry located in the CNMI indicates that it is very profitable and could continue to operate, even with the payment of duties. Indeed, we understand that Canadian tariffs are paid on CNMI-produced garments sold in Canada, and that the prices of a small sample of garments sold in Canada that we examined are less than the prices of identical garments sold in the United States.

Like previous Administrations, we are concerned about the dominant and growing influence of the

garment industry located in the CNMI. The continued growth of this industry is not in the best long-term interests of the CNMI or the United States. The industry is responsible for about 40% of the indentured alien workers in the islands (about one for every two United States citizens), it creates a major drain on public utilities and services, yet it contributes a relatively small 12 to 15 percent share of government revenues at a cost of $167.5 million to the Federal Treasury in Federal tariff exemptions in 1997. This tariff benefit accorded to the CNMI is equal to more than the entire labor cost of the CNMI garment industry. In other words, it can be argued that the United States taxpayer is paying the meager wages of every one of the 15,000 indentured alien garment workers in the CNMI, as well as contributing to the industry's tax payments to the CNMI Government or contributing to the profits to its foreign owners. Even with that benefit, the level of taxes paid by the industry does not cover its budgetary costs to the CNMI Government. A study conducted by the CNMI in 1994 showed that the garment industry represented a net dollar loss to the CNMI government.

Moreover, with the phase-out of garment quotas in 2005 for members of the World Trade Organization agreement, there will be fewer incentives for Asian garment manufacturers to locate operations in the CNMI to circumvent United States quota limitations. The CNMI garment industry is likely a short-term industry. We fear that as 2005 approaches, large portions of the industry may simply move, leaving thousands of indentured alien workers in the CNMI with no employment. Instead of promoting the rapid expansion of foreign garment manufacturing in the islands and increasing the CNMI's dependence on low wage alien workers, it would be prudent for the CNMI to diversify into other businesses -- businesses that are not labor intensive and do not rely on indentured alien workers. For example, the CNMI became a part of the North American Telecommunications numbering system in 1997 and is being integrated into domestic telecommunications rates. Because it is so close to Asia and within a few time zones of the vast markets of Asia, the CNMI is in an ideal place for Asian and North American businesses to locate regional operations.

The Bank of Hawaii recently completed an economic report on the economy of the CNMI which supports these views. It states:

> ...the Covenant set the stage for an unanticipated consequence, some years later, of what might be called 'a country within a country' with respect to CNMI's population and workforce . . . . To avoid a disruptive conversion, it is perhaps time to concentrate on what CNMI's true comparative economic advantage is, based on its resources and potential for economic growth. In the long run, inexpensive, although willing, alien labor, which presently constitutes an artificial comparative economic advantage, may not be available.

Customs

Since S. 1275 was drafted, another issue requiring legislation has arisen. Previously I mentioned that an emerging issue in the CNMI is the illegal transshipment of garments from Asia, through the

CNMI, into the United States. This abuse of the CNMI's special trade status further contributes to the loss of sales, profits, and jobs by mainland garment and textile manufacturers, and the loss of revenue by the United States Treasury.

Therefore, we urge the addition of authority for the Customs Service to investigate cargo and shipping records in the CNMI for possible United States Customs violations. This would solve the problem encountered by United States Customs officials recently when they sought to inspect containers on Saipan to investigate the possible transshipment of garments and Customs fraud. Local CNMI officials refused the inspection, stating that, according to CNMI law, cargo containers cannot be opened without the permission and presence of the owners. In essence, the fox is guarding the hen house.

We would be pleased to work with the Committee to develop an amendment, perhaps to another legislative vehicle, to provide the United States Customs Service with the authority they need to inspect in the CNMI cargo destined for the United States, and take action to prevent the illegal transshipment of goods through the CNMI.

CONCLUSION

For the past decade and a half, the CNMI has pursued its own immigration, labor, and economic policies in the face of serious and substantive objections from three successive Federal Administrations. These policies have resulted in a two-tiered society based on a low-paid and indentured alien workforce that is disenfranchised and vulnerable to abuse. Such a system is antithetical to American values.

Furthermore, the CNMI's promotion of the garment industry takes away American jobs, business, profits, and revenue by providing a loophole for foreign interests to circumvent United States quota, tariff, and labeling laws.

We need to look again at the objectives of the Covenant regarding the CNMI's economic development. The purpose should not be to make a few people, many of them foreign, rich. Economic development should be geared toward improving the lives and opportunities of United States citizens residing in the Marianas. A poverty rate stuck at 35 percent and an unemployment rate of 14.2 percent among local United States citizens, a bloated public sector, and a private sector dominated by thousands of vulnerable and indentured alien workers is not an economic model that comports with the Covenant, or American values.

Current CNMI policies undermine the relationship between the CNMI and the Federal government, and should no longer be tolerated in a commonwealth that flies the American flag. While CNMI government officials have been promising for the last 13 years to take effective steps to resolve these problems, the history of local attempts at reform are ineffective and vacillating. Our graphs clearly show that overall trends have accelerated, not slowed.

We urge the Committee to take swift action to extend the Federal policy framework recommended in the Administration's proposed legislation. S.1275 is the most effective means to solve the fundamental structural problems in the CNMI with the stability, reliability, and predictability that are critical to a continued close and vibrant political relationship.

The Administration continues to be ready and willing to discuss modifications to this legislation in response to the CNMI's concerns and to assure a smooth transition to Federal law. The President committed to such discussions in proposing the enactment of Federal legislation. Following up on this commitment last August, a team of Federal officials visited the CNMI to seek the input of island political and business leaders to this legislation. However, the group was told that the CNMI political and business community was adamantly opposed to any Federal legislation regarding the Administration's recommendations. Thus, the CNMI seeks to perpetuate the provisions of section 503 of the Covenant, which were intended to be transitional, and opposes the exercise of Federal authority and responsibilities under the Covenant.

When the new Governor was inaugurated in January, he pledged to reopen the United States-CNMI government-to-government talks that had been canceled by the previous governor. These are talks held pursuant to section 902 of the Covenant, which provides for the bi-lateral discussion of matters affecting the Federal-CNMI relationship. We had hoped that these restarted talks would give us the opportunity to discuss with the CNMI the President's decision to urge Congress to extend our immigration and minimum wage laws to the CNMI and to engage the CNMI on ways that the legislation could be modified to assure a smooth transition.

Unfortunately, talks have not yet been held. The President's Representative, Edward B Cohen, placed these issues on the agenda and offered to travel to the CNMI this month. However, the position of the CNMI is that any such discussions have been rendered "moot" because the Administration had already transmitted legislation to Congress, and this hearing was scheduled. The issue, therefore, rests squarely before this Committee.

What purpose would be served in giving the CNMI more time? The Administrations of President Reagan, President Bush, and President Clinton have all urged reform, but to no avail. Moreover, with all the time in the world, there is no reason to believe that the CNMI has the capacity to establish the institutions required to operate an effective immigration program such as a visa issuing system and a data bank to screen for criminals and other inadmissable aliens. And what of the future? The next CNMI Government could, once again, reverse policies.

Mr. Chairman, the issue for the Committee today is not whether the CNMI needs more time and more Federal funds to carry out reforms. We will continue to support the well-intentioned and good faith efforts of Governor Pedro P. Tenorio. However, there is a fundamental disagreement between the Administration and the CNMI on what the scope of those reforms should be, and whether Federal action is needed to make fundamental policy changes permanent.

The CNMI's scope of reforms does not include any significant changes in its policies regarding indentured workers or the garment industry, two issues at the heart of Administration concerns.

This is also not an issue of enhancing Federal law enforcement. It has been suggested that increased Federal law enforcement is the answer to the problems the Administration has identified in the CNMI. For at least three reasons, this is not so:

> First, it is simply unrealistic to believe that the Federal criminal laws could be used effectively to tackle the systemic societal ills that are caused by uncontrolled immigration and an indentured alien worker program of such magnitude. Federal criminal laws cannot even begin to address (nor were they designed to address) all of these problems.
>
> Second, the alien worker program presents significant obstacles to effective Federal law enforcement. Alien workers who cooperate with law enforcement may expose themselves to prosecution or harassment in their home country. In addition, alien workers often disappear from the islands precipitously -- usually sent home by their employers -- making investigations and prosecutions costly and complicated. While we have increased the number of Federal prosecutors and agents in the CNMI, the size and close-knit nature of the community ensure that many people in the CNMI know the identities of the Federal law enforcement officers, know the cars they drive, and know to whom they talk.
>
> Third, it is important to bear in mind that day-to-day law enforcement responsibility is entrusted to CNMI officials, just as it is entrusted to state and local officials throughout the country. For this reason, most crimes are prosecuted by CNMI officials. Moreover, many of the crimes that have been identified in the CNMI are beyond the jurisdiction of the Federal criminal laws.

None of this is to say that enforcement of current Federal law has not made great strides in the CNMI. It has. As we have increased the number of prosecutors and agents, our case filings have increased substantially. Indeed, we are proud of recent successes in narcotics, organized crime, and prostitution cases. While more remains to be accomplished, no one should operate under the illusion that enforcement of current Federal law can resolve the CNMI's problems.

The problems in the CNMI are inherent in, and systemic to, its immigration and labor policies. They are fundamental structural problems. Many of the abuses are simply beyond the reach of Federal law, as it currently applies.

We sincerely believe that the two-tiered economy and society intentionally being imbedded in the CNMI, with its growing dependence on the circumvention of Federal trade laws by the garment industry, and on its massive reliance on low-paid, indentured alien workers, is incompatible with the Covenant we so solemnly entered into, and with basic American values. The British colonies in America abandoned such immigration and labor policies over two centuries ago. It is not a

surprise that the indentured worker system resurrected in the Marianas today, is bringing forth the same problems and abuse that occurred in the British colonies. **Every day** that goes by, poor, vulnerable, indentured alien workers are subjected to recruitment fraud, non-payment of wages, intimidation, and unacceptable working and living conditions. **Every day** that goes by, money that Congress intended for the United States Treasury, goes into the pockets of a few wealthy foreign owners of garment factories with foreign machinery, foreign fabric, and foreign workers. **Every day** that goes by, alien workers return home to China, to the Philippines, to Bangladesh, with a distorted vision of our nation and the values for which it stands. Mr. Chairman, there exists a genuine crisis in the CNMI today. Justice delayed is justice denied. Time is of the essence here.

Mr. Chairman, the Northern Mariana Islands should decide whether its priority is to be a member of the United States political family or to preserve an economic system that is antithetical to United States values. We hope that they will choose continued political union with the United States, but if the Northern Mariana Islands want to preserve sole control over immigration and minimum wage laws, it can do so under its own national sovereignty and it should seek an appropriate political status. If the CNMI sincerely believes that the United States should **never** exercise its right under the Covenant to extend its immigration and labor laws, or that the Congress should **never** end the circumvention of United States' trade laws, then the CNMI should accept the fact that there is **no basis** for a stable and lasting relationship under the Covenant for the integration into the United States political family that the Covenant envisioned. If the CNMI is going to promote this kind of economy, they cannot do it under the American flag.