

STATEMENT OF MICHAEL J. ANDERSON, DEPUTY ASSISTANT SECRETARY FOR INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, AT THE HEARING BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS ON H.R. 700, A BILL TO REMOVE THE RESTRICTION ON THE DISTRIBUTION OF CERTAIN REVENUES FROM THE MINERAL SPRINGS PARCEL TO CERTAIN MEMBERS OF THE AGUA CALIENTE BAND OF CAHUILLA INDIANS

July 8, 1998

Good morning, Mr. Chairman and members of the Committee. Thank you for the opportunity to present the views of the Department of the Interior on H.R. 700, a bill to remove the restriction on the distribution of revenues from the Mineral Springs parcel B to certain members of the Agua Caliente Band of Cahuilla Indians. The Department supports enactment of this bill.

In 1959, Congress determined that a true equalization of allotments to the Agua Caliente Band could not be made due to the issuance of some high value allotments and the Band's interest in having a tribal reserve. (S. Rep. No. 866, 86th Cong., 1st Sess. 2, 1959; H.R. Rep. No. 903, 86th Cong., 1st Sess. 2, 1959). To address the discrepancy in the value of the allotted lands, Congress limited any distribution of the revenues and profits of "parcel B" of the Mineral Springs lot to those enrolled members and their heirs who were entitled to an equalization allotment on the date of the Act (September 21, 1959). Congress did not mandate that the Tribe make a distribution to those eligible for equalization under the Act, however, and to this date, the Tribe has made no distribution of funds from the revenues of parcel B.

In implementing the Act, the Department determined that a value of \$335,000 was the correct equalization amount. In 1961, the Secretary of the Interior approved a schedule of equalization allotments for the 85 members of the Agua Caliente Band who were entitled to receive such an allotment. The individuals received land or cash or both to reach the determined equalization value of \$335,000. In 1983, the Secretary rescinded the regulations governing the equalization of allotments under the Act since the requirements of the Act had been met and the regulations were no longer necessary.

The Department believes that all of the members of the Agua Caliente Band who were entitled to receive an equalization allotment have received such an allotment and that the purposes of the 1959 Act -- to equalize the value to the extent practicable of all allotments issued as of September 21, 1959, to the Band -- have been met. Since the purposes of the Act have been fulfilled, the restrictions on the distribution of revenues from parcel B are no longer necessary. In fact, these restrictions have hampered the Tribe's ability to provide assistance to members of the Band who would benefit from a distribution. The administration supports the Senate Committee's amendment to H.R. 700 that would enable the Tribe to make per capita distributions to all members of the Tribe.

As we stated before the House Committee on Resources in June of 1997, the Department continues to rely upon the legal analysis made by the Justice Department on the version of this bill that was passed by the House during the 104th Congress, then numbered H.R. 3804. In that analysis, the Department of Justice found that the bill would eliminate an inchoate interest in real property that has not ripened into a vested interest. Furthermore, the Department based its analysis on the following: 1) the 1959 Act does not require that the Band distribute revenues derived from parcel B; 2) the distribution provision is more in the nature of a government benefit, and nothing in the 1959 Act suggests that Congress intended to create an interest independent of Congress' continuing authority to alter that benefit to address the needs of the Tribe and individual allottees in furtherance of the federal trust responsibility to Indians; 3) the Band, by not making a distribution over the past 39 years, has not independently created an interest in such a distribution; and 4) the bill merely expands the number of tribal members who are eligible for a distribution of the revenues from parcel B and, as such, falls within Congress' broad authority to expand

the beneficiaries of allotment schemes.

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