

**STATEMENT
OF
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DIRECTOR, BUREAU OF INDIAN AFFAIRS
DEPARTMENT OF THE INTERIOR
BEFORE THE
SENATE COMMITTEE ON INDIAN AFFAIRS
FOR THE HEARING
ON
S. 1003, THE NAVAJO HOPI LAND SETTLEMENT ACT OF 1974
AMENDMENTS**

JULY 21, 2005

Mr. Chairman and members of the Committee, my name is William P. Ragsdale. I am the Director of the Bureau of Indian Affairs (BIA). I am pleased to be here today to provide the Department's views on S. 1003, a bill to amend the Navajo Hopi Land Settlement Act of 1974. We applaud Senator McCain for his efforts to bring this 150 year dispute to a close. Although, we cannot support the bill as written, we would like to work with the Committee to achieve a favorable result.

Background

On December 16, 1882, President Chester Arthur signed an Executive Order that set aside approximately 2.5 million acres of land in northern Arizona for the Hopi Tribe and "such other Indians as the Secretary may see fit to settle thereon." At the time of the 1882 Executive Order, there was a small but indeterminate number of Navajos residing on the portions of the reserved lands. Throughout the 1890's and to this day, members of the Hopi tribe and the Navajo Nation have disputed the right to occupy lands within the 1882 reservation. In 1962, the Federal District Court ruled that both the Hopi Tribe and the Navajo Nation had joint rights to use the 1882 Executive Order Reservation lands. The joint use proved unworkable. In 1974, Congress enacted legislation to resolve the joint use rights by partitioning the land and relocating members of each Tribe from lands adjudicated to the other Tribe. The 1974 Act provided relocation benefits to Tribal members residing on lands partitioned to the other Tribe, and established the Navajo and Hopi Relocation Commission to provide those benefits. To date, all Hopi families that were residing on Navajo land have been relocated and approximately 90 Navajo families are in some stage of the relocation process.

S. 1003

The Department has several concerns with S. 1003. S. 1003, proposes to terminate the Navajo and Hopi Indian Relocation Office (Relocation Office) in 2008 and transfer any remaining responsibilities of the Relocation Office to the BIA. At this point, as the Relocation Office is an independent agency, we are uncertain what responsibilities would be transferred or the policies in effect at the Relocation Office and therefore, we do not

know exactly how this legislation would impact the BIA. In addition, in light of not knowing the universe of responsibilities that the BIA would be responsible for, we are concerned that the BIA does not have the necessary expertise or resources to complete the work of the office. We have recently started a dialogue with the Relocation Office to determine the work the Office has accomplished and the manner in which it operates. We expect to learn the funding details for these activities from the Relocation Office which will assist us in identifying any limitations.

Furthermore, any transition would take time and could further delay any relocation activity. There are currently about 90 families that are in some phase of the relocation process. Eight of these families are resistant to signing an accommodation agreement, and a number of appeals are also in various phases of the appeals process. Any agreements will require significant coordination with the Navajo Nation. It is difficult to predict how many of these cases will be resolved prior to relocating and then ultimately terminating the Relocation Office, especially considering the complex history of this relocation effort. Although under the Commission's published regulations the time for filing applications for relocation assistance has expired, applications continue to be filed. Therefore, we suggest specific deadlines be included in the bill of when applications for new housing and any appeals have to be filed. Without some specific timeframe, it will be extremely difficult to assess the BIA's future workload.

The BIA is also concerned with building houses for the relocated families. The BIA has a very small program to assist tribes in their pursuit of funding for housing repairs or renovations. We would suggest including the Department of Housing and Urban Development in any discussions pertaining to housing assistance.

The Administration objects to the proposed language which would provide enhanced retirement benefits to Office of Navajo and Hopi Relocation employees as this is unfair compared to the benefits available to other similarly-situated federal employees. The legislation also does not keep the Retirement Trust Fund whole for the increased cost of these benefits. In addition to the Administration's objection to the retirement provisions, the Administration also has concerns with the new separation pay authorized in Section 202. S. 1003 cites an outdated section of title 5 (5 U.S.C. 5597), which was the Department of the Defense's (DOD) original authorization to provide separation incentives without Office of Personnel Management approval. DOD has since updated their Voluntary Separation authority under the National Security Personnel System law, 5 U.S.C. 9902 (see P.L. 108-136, sec. 1101). Instead, existing voluntary separation authority under 5 U.S.C. 3523, recently updated under the Homeland Security Act (P.L. 107-296, sec. 1313), should be used. This updated separation authority gives the agency head the option of offering \$25,000 or less for separations and provides the agency flexibility in determining how, when, and under what conditions these incentives will be offered – with OPM approval.

Finally, we request that great care be taken to ensure that property interests are not impacted by any changes contained in the legislation.

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