

TESTIMONY OF

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U. S. DEPARTMENT OF THE INTERIOR

BEFORE THE

HOUSE COMMITTEE ON RESOURCES

**H.R. 1239, TO ESTABLISH A MORATORIUM ON APPROVAL BY THE SECRETARY OF THE
INTERIOR OF RELINQUISHMENT
OF A LEASE
OF CERTAIN TRIBAL LANDS IN CALIFORNIA**

October 17, 2001

Mr. Chairman and Members of the Committee, thank you for the opportunity to provide the Department's view on H.R. 1239, a bill to establish a moratorium on approval by the Secretary of the Interior of relinquishment of a lease of certain tribal lands in California.

The Department opposes this legislative solution as it purports to provide the Secretary with authority to interfere with the operations of a not-for-profit corporation organized under state law, pursuant to the choice of the tribal members of the corporation.

Background:

In 1981, the Cuyapaibe (pronounced "Kwee-ah-pie) Indian Tribe of San Diego County, California, along with seven other tribes (Barona Band, Campo Band, Jamul Band, LaPosta Band, Manzanita Band, Sycuan Band and Viejas Band) formed the Southern Indian Health Council, Inc. ("Council" or "SIHC"), a not-for-profit corporation (C1127659 filed on 10/18/1982), to serve the basic medical needs to tribal members. The corporation was formed under the laws of the State of California. A clinic was originally located on the Sycuan Reservation but relocated to the Barona Reservation in 1984, and subsequently relocated to land

acquired by the Cuyapaibe Tribe 1986. The Sycuan Band has since withdrawn from the Council.

In 1986, the Cuyapaibe Tribe acquired title, in trust, to a parcel of land comprised of 8.6 acres located along Interstate 8 in the County of San Diego in the State of California. The purchase of the land was made with private funds and the acquisition was approved by the Secretary on April 1, 1986.

The Department of Housing and Urban Development had awarded four Indian Community Development Block Grants (ICDBG) from 1985 to 1993 to the Southern Indian Health Council for construction and expansion of a health care facility. Statements have been made that a portion of the ICDBG grant funds were used to purchase the 8.6 acres. However, a letter dated December 12, 2000, from the Deputy Assistant Secretary for Native American Programs for HUD states that funds for the purchase of the land did not come from the ICDBG program.

In February 1997, the Secretary approved a 25-year lease with an option for one additional 25-year period between the Cuyapaibe Band and the Council for the purpose of constructing and operating a health care facility.

In October 1997, the Cuyapaibe acquired an additional 1.42 acres of land in trust. The land is contiguous to the previously acquired 8.6 acres. The purpose of the acquisition was to establish a "Pinto Home for Girls, a drug abuse facility" and the acquisition was approved by the Secretary on October 29, 1997.

In October 1997, the Secretary approved a 25-year lease with an option for one additional 25-year period between the Cuyapaibe Band and the Council for the newly acquired 1.42 acres of land.

In December 2000, the Cuyapaibe Tribe and Council submitted documents to the Bureau of Indian Affairs for a partial relinquishment of the leased premises lease.

Proposed Legislation:

The legislation proposes that the Secretary obtain enacted tribal resolutions from each of the seven Indian tribes who comprise the SIHC prior to taking any action to approve a relinquishment of the lease.

The Department believes that the imposition of such a requirement infringes upon the internal workings of a legitimate corporation organized under state corporations law, as well as the choices made by the Tribes that are members of the SIHC. As previously noted, the SIHC is a not-for-profit corporation comprised of seven tribal members, which elected to organize the corporation under California law. Every corporation has articles of incorporation and by-laws that govern how the corporation is run and how internal disputes are settled, which must be in accordance with the law of the jurisdiction where the corporation is organized. Accordingly, as long as any request for relinquishment of the lease complies with the SIHC's by-laws and relevant California State law, its action is legal and is the legitimate action of the corporation.

Although the Department would want to confirm that any request for relinquishment by SIHC and/or the Cuyapaipe accurately reflect the desires of the parties to the lease, and that the decision was reached in accordance with SIHC's by-laws. Federal legislation should not attempt to interfere with those requirements, which govern the corporation's actions under state law, pursuant to the choice of the tribal members of the SIHC.

Let me assure this committee, however, that the Department of the Interior and the Bureau of Indian Affairs would not take a request for relinquishment of this lease lightly. We would examine the request closely, as we do every leasing decision, in accordance with the authority granted to the Secretary by Congress and the United States' trust responsibility to the Cuyapaipe and the tribal members of the SIHC. Our mandate is to make leasing decisions that are in the best interest of a tribe. We take that mandate very seriously and would do so in making any

lease decision affecting the Cuyapaïpe and the seven member Tribes of the SIHC in this case, as well.