

**STATEMENT OF
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INDIAN AFFAIRS
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS**

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Good afternoon, Chairman Schatz, Vice Chairman Murkowski, and members of the Committee. My name is Jason Freihage, and I am the Deputy Assistant Secretary of Management for Indian Affairs at the Department of the Interior (Department). Thank you for the opportunity to present testimony on S. 2783, “*Miccosukee Reserved Area Amendments Act*,” S. 3406, “*Technical Corrections to the Northwestern New Mexico Rural Water Projects Act, Taos Pueblo Indian Water Rights Settlement Act, and Aamodt Litigation Settlement Act*,” and S. 3857, “*Jamul Indian Village Land Transfer Act*.”

S. 2783, Miccosukee Reserved Area Amendments Act

S. 2783 would amend the Miccosukee Reserved Area Act by authorizing expansion of the Miccosukee Reserved Area to include Osceola Camp (Camp), which is situated within the boundary of Everglades National Park. The bill would uphold the sovereignty of the Miccosukee Tribe of Indians and ensure the Camp remains within the landscape of Everglades National Park in perpetuity. The NPS currently authorizes management of the Camp through a Special Use Permit; this bill would ensure permanence and protection of the Camp and eliminate the need for recurring permit approval. Additionally, the bill would authorize appropriations of such sums as necessary, but not more than a total of \$14,000,000, to safeguard structures within the Camp from flooding events.

The Department supports S. 2783.

S. 3406, Technical Corrections to the Northwestern New Mexico Rural Water Projects Act, Taos Pueblo Indian Water Rights Settlement Act, and Aamodt Litigation Settlement Act

S. 3406 would amend the Omnibus Public Land Management Act of 2009 and the Claims Resolution Act of 2010 to authorize funding for deposit into the Navajo Nation Water Resources Development Trust Fund, the Taos Pueblo Water Development Fund, and the Aamodt Settlement Pueblos’ Fund equivalent to the amounts that would have accrued to the trust funds if the Department had the authority to invest the funds upon appropriation.

In the 111th Congress, four Indian water rights settlements (the Taos Pueblo Indian Water Rights Settlement Act, Pub. L. No. 111-291; the Aamodt Litigation Settlement Act, Pub. L. No. 111-291; the Duck Valley settlement, Pub. L. No. 111-11; and the Crow Tribe Water Rights Settlement Act of 2010, Pub. L. No. 111-291) included provisions authorizing an investment of

monies into the settlement trust funds after the enforceability date. The enforceability date is effective when the Secretary finds that all conditions for the full effectiveness and enforceability of the settlement had occurred and publishes that finding in the Federal Register. The Northwestern New Mexico Rural Water Projects Act, Pub. L. No. 111-11, (Navajo Settlement), also allowed for the investment of monies into the Navajo Nation Resources Development Trust Fund, only upon a specified date certain ten years after the enactment date.

These provisions prohibited the Department from investing trust fund monies before the enforceability date or a date certain. However, the Department mistakenly started investing trust fund monies when they were appropriated, which was before the enforceability date. When the Department discovered this error, the Department's Solicitor's Office determined that the interest amounts earned prior to the date that the funds were authorized to be invested were contrary to the Antideficiency Act and, in accordance with 31 U.S.C. § 3302, must be returned to Treasury. The Department then returned all interest monies accrued prior to the authorized date back to Treasury.

The issue that S. 3406 addresses is a provision in certain Indian water rights settlements that prohibited investment until the enforceability date was reached. This provision is not common in Indian water rights settlements. Similar provisions appeared in other settlements enacted in 2009-2010, including the Crow Tribe Water Rights Settlement Act of 2010; the Taos Pueblo Indian Water Rights Settlement Act; the Aamodt Litigation Settlement Act; and the Navajo-Gallup Water Supply Project and Navajo Nation Water Rights. In each of these settlements, funds were inadvertently invested and returned to Treasury. The Department supported similar legislation to resolve this issue, and thus supports S. 3406 to correct this issue for the Northwestern New Mexico Rural Water Projects Act, the Taos Pueblo Indian Water Rights Settlement Act, and the Aamodt Litigation Settlement Act.

S. 3857, Jamul Indian Village Land Transfer Act

S. 3857 would place approximately 172.1 acres of land located in San Diego, California, and owned in fee by the Jamul Indian Village into trust for the benefit of the Jamul Indian Village. The bill makes the lands part of the reservation for the Jamul Indian Village and includes a prohibition against class II and class III gaming under the Indian Gaming Regulatory Act.

The parcels to be transferred into trust are comprised of: a parcel with Daisy Drive, which is the main access road into the Jamul Indian Village's existing trust land; a parcel that contains a culturally significant church and cemetery; and two parcels that the Jamul Indian Village plans to use for housing development, a clinic, and an administration building.

The Department supports S. 3857. The restoration of Tribal homelands is a priority for the Department and Biden Administration.