

THE WHITE HOUSE

WASHINGTON

February 16, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: H.R. 2898 -- Utah Paiute Trust Lands
and Economic Development Act

Richard Darman has asked for comments by close of business today on the above-referenced enrolled bill. This bill would transfer 4,770 acres of Federal land to the Utah Paiute Tribe, and establish a \$2.5 million fund for the economic development of the Tribe. Public Law 96-227, enacted in April of 1980, authorized the transfer of 15,000 acres to the Tribe. Problems have arisen with that contemplated transfer, and this bill authorizes an alternative acceptable to all interested parties. The bill specifies that the 4,770 acres and \$2.5 million "shall be in complete fulfillment of the provisions of Public Law 96-227."

Of the miscellaneous provisions in the bill the only one raising legal issues is section 3(a), designed to preserve rights of the Paiute to use the land in question for religious purposes. The provision precludes the Secretary of Agriculture from denying the Paiutes the right to use the land on a nonexclusive basis for religious ceremonies, and on an exclusive basis for such purposes during four specified weeks. Under the Supreme Court's misguided and confused Establishment Clause jurisprudence, I can see someone articulating a credible challenge to this provision. For four weeks each year Federal law would deny to others possible use of the national forest land, for the explicit purpose of permitting religious rites to take place. I do not think such a challenge should succeed, in light of the special status of Indian trust lands, and in any event section 3(a) is probably severable from the remainder of the Act.

The bill passed both Houses by voice vote. OMB, Interior, and Agriculture recommend approval, Treasury has no objection, and Justice defers to Interior. I have reviewed the memorandum for the President prepared by OMB Assistant Director for Legislative Reference James Frey, and the bill itself, and have no objection to the President approving the bill.

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

- ☐ OUTGOING
☐ INTERNAL
☒ INCOMING
Date Correspondence Received (Y/MM/DD)

Name of Correspondent: Richard Darman

☐ MI Mail Report

User Codes: (A)

(B)

(C)

Subject: HR 2898 - UTAH PAUTE TRUST
Lands and Economic Development Act

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)

Action Code

Tracking Date
Y/MM/DD

Type of Response
Code

Completion Date
Y/MM/DD

CUHOLL

ORIGINATOR

84-02-75

Referral Note:

CUAT18

D

84-02-75

84-02-76

Referral Note:

C.O.B.

Referral Note:

Referral Note:

Referral Note:

ACTION CODES

- A - Appropriate Action
- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet
- G - Do not use as Enclosure

- I - Info Copy Only/No Action Necessary
- R - Direct Reply w/Copy
- S - of Signature
- X - Interim Reply

DISPOSITION CODES

- A - Answered
- B - Non-Special Referral
- C - Completed
- S - Suspended

FOR OUTGOING CORRESPONDENCE:

- Type of Response Code
- Initials of Signer
- Completion Date
- Date of Outgoing

Comments:

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Always return completed correspondence record to Central Files.
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WHITE HOUSE STAFFING MEMORANDUM

DATE: 2/15/84 ACTION/CONCURRENCE/COMMENT DUE BY: c.o.b. TOMORROW, 2/16

SUBJECT: H.R. 2898 - UTAH PAIUTE TRUST LANDS AND ECONOMIC DEVELOPMENT ACT

	ACTION FYI			ACTION FYI	
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	McFARLANE	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	McMANUS	<input type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	OGLESBY	<input checked="" type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>
DARMAN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	SPEAKES	<input type="checkbox"/>	<input type="checkbox"/>
FELDSTEIN	<input type="checkbox"/>	<input type="checkbox"/>	SVAHN	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FIELDING	<input type="checkbox"/>	<input type="checkbox"/>	VERSTANDIG	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FULLER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	WHITTLESEY	<input type="checkbox"/>	<input type="checkbox"/>
HERRINGTON	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
HICKEY	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>
JENKINS	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	<input type="checkbox"/>

REMARKS:

Please provide any comments/recommendations by c.o.b. tomorrow, February 16th.

Thank you.

RESPONSE:

1984 FEB 15 PM 1:48

Richard G. Darman
Assistant to the President
Ext. 2702



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

FEB 15 1984

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 2898 - Utah Paiute Trust Lands and
Economic Development Fund
Sponsor - Rep. Marriott (R) Utah

Last Day for Action

February 21, 1984 - Tuesday

Purpose

- (1) Provides that approximately 4,770 acres of public land in the State of Utah be held in trust for the Utah Paiute Tribe and
- (2) establishes a \$2.5 million trust fund for the Tribe.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Department of Agriculture	Approval (Informally)
Department of the Treasury	No objection (Informally)
Department of Justice	Defers to Interior

Discussion

In April of 1980 the Utah Paiute Tribe was restored to federally-recognized status by the Paiute Indian Tribe of Utah Restoration Act, P.L. 96-227. The Act also authorized the transfer of up to 15,000 acres of land to the Utah Paiute Tribe to be held in trust by the United States. Following extensive tribal consultation with Federal, State and local officials, it was apparent that obtaining the 15,000 acres called for in P.L. 96-227 would be problematical.

H.R. 2898 represents a compromise, supported by the Executive branch, Congress, the Paiutes, the State of Utah, and interested local citizens, that would (1) transfer 4,770 acres of Bureau of Land Management land to the Tribe, (2) ensure that the Paiutes have access to their religious sites in the National Forest at Fish Lake on a non-exclusive basis year-round, and on an exclusive basis for two, two week periods a year, and (3) establish a \$2.5 million Paiute Indian Tribe of Utah Economic Development and Tribal Government Fund for economic development and tribal government purposes. H.R. 2898 prohibits any distribution of (1) trust fund principal to the Tribe or its members and (2) accrued interest for per capita payments. In addition not

more than five percent of such funds may be used by the Tribe for the payment of legal counsel. The trust fund was included in H.R. 2898 in lieu of the additional lands that were authorized by P.L. 96-227, but unavailable for transfer to the Tribe.

The enrolled bill clearly stipulates that the land transfer, coupled with the establishment of the trust fund, fully meets the requirements of P.L. 96-227 regarding enlargement of the Paiutes' reservation. Consistent with most Indian reservation enlargement legislation, H.R. 2898 stipulates a number of technical terms and conditions regarding how the Secretary of the Interior will administer the Act.

Finally, the enrolled bill would approve two plans for judgment distributions awarded by the U.S. Court of Claims to the Creek Nation and the Sisseton-Wahpeton Sioux. However, as Interior notes in its enrolled bill views letter, this authority is no longer needed because these plans were approved administratively, under the Judgment Fund Distribution Act, in January.

As enrolled, H.R. 2898 incorporates the Administration's recommended amendments. H.R. 2898 passed both Houses of the Congress by voice vote.

(Signed) James M. Frey

Assistant Director for
Legislative Reference

Enclosures