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88/14/76

APPROVED  
AUG 14 1976

ACTION

THE WHITE HOUSE  
WASHINGTON  
August 13, 1976

Last Day: August 23

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON *Jm*  
SUBJECT: H.J. Res. 738 - Tule Elk Preservation, California

Attached for your consideration is H.J. Res. 738, sponsored by Representative McCloskey.

H.J. Res. 738 expresses the sense of Congress that the restoration and conservation of a Tule elk population in California of at least two thousand is an appropriate goal. Although their numbers were once in the thousands, hunting almost eliminated the elk until the State of California moved to protect the current population now totalling about 550.

The bill would provide for Federal participation in the conservation and restoration of the Tule elk population.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Counsel's Office (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.J. Res. 738 at Tab B.

*Posted*  
*8/16/76*  
*Archives*  
*8/16/76*





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

AUG 13 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.J.Res. 738 - Tule elk  
preservation, California  
Sponsor - Rep. McCloskey (R) California

Last Day for Action

August 23, 1976 - Monday

Purpose

Provides for Federal participation in the conservation and restoration of the Tule elk population in California.

Agency Recommendations

|                                  |                       |
|----------------------------------|-----------------------|
| Office of Management and Budget  | Approval              |
| Department of the Interior       | Approval              |
| Council on Environmental Quality | Approval (Informally) |
| Department of Agriculture        | Approval              |
| Department of Defense            | Approval              |

Discussion

The Tule elk, the smallest of the North American elk, is a distinct subspecies which is native only to the central valleys of California. The Tule elk feed on grass and other plant life of the valley floor during the warm season while living in the foothills during winter. Although their numbers were once in the thousands, hunting almost eliminated the Tule elk until the State of California moved to protect the subspecies and the current California population now totals about 550.

H.J.Res. 738 would express sense of Congress that the restoration and conservation of a Tule elk population in California of at least two thousand is



an appropriate national goal. The enrolled bill directs the Secretaries of the Interior, Agriculture, and Defense to cooperate with the State of California in making the lands under their respective jurisdictions reasonably available for the preservation and grazing of Tule elk as may be consistent with Federal law.

H. J. Res. 738 would require the Secretary of the Interior to report annually to Congress concerning the size and condition of the Tule elk herds including the nature and condition of their habitats. This report would include a determination as to whether or not changes in land use or land management practices on lands owned by Federal, State or local agencies pose any threat to the Tule elk. The Secretary's report would also set forth recommendations for Federal action necessary to preserve herd populations at their existing levels or at other levels as may be determined by the State of California.

Finally, the enrolled bill would direct the Secretary of the Interior to coordinate and develop a plan for Tule elk restoration and conservation, including habitat management in California. This plan would be integrated with comparable plans of State and local authorities.

In reporting to Congress on this legislation, both Interior and Agriculture opposed the resolution because it is duplicative of existing authority and programs. In addition, the agencies expressed the concern that it represents an unnecessary preemption of California's right and responsibility to coordinate planning and actions to conserve the Tule elk.

However, in its report on H. J. Res. 738, while the Senate Committee on Commerce took note of the Administration's position, it expressed the belief that the resolution:

" ... is necessary to focus the attention of Federal agencies on the urgency of this matter and to provide for a comprehensive and coordinated framework under which conservation of the Tule elk can proceed."

While the agencies generally note in their enrolled bill letters that they continue to view this legislation unnecessary, all recommend approval. In this regard, Interior observed that:

"...With the exception of the preparation of an annual report to Congress, the Department of the Interior is presently engaged in the type of activities called for in H.J.Res. 738. The Department is developing suitable sites for Tule elk and has been cooperating with the State in programs for the conservation and protection of Tule elk. To date, we have been pleased with the work that California has done in restoring the Tule elk."

*James M. Frey*  
Assistant Director for  
Legislative Reference

Enclosures

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 13

Time: 400pm

FOR ACTION: George Humphreys *oh*  
Max Friedersdorf *oh* cc (for information):  
Ken Lazarus *oh*

Jack Marsh  
Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 13

Time: 600pm

SUBJECT:

H.J. Res. 738-Tule Elk preservation, California

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

\_\_\_\_\_  
K. R. COLE, JR.  
For the President



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

AUG 11 1976

Dear Mr. Lynn:

This is in response to your request for the views of this Department on H.J. Res. 738, a resolution "Providing for Federal participation in preserving the Tule elk population in California."

We recommend that the President approve the enrolled bill.

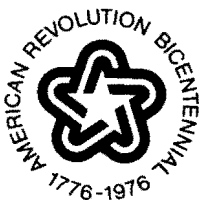
H.J. Res. 738 calls for cooperation with the State of California by the Secretaries of Agriculture, Defense, and Interior for the preservation of Tule elk to an extent consistent with existing Federal law. The resolution authorizes the Secretary of the Interior to develop a plan for Tule elk restoration and conservation to be integrated with comparable plans of State and local authorities in California. An annual report to Congress in March of each year is to describe the Secretary's progress in the development and implementation of such plans.

Even though the authority provided in this resolution is not necessary because it duplicates existing authority, this Department has no objection to the joint resolution. With the exception of the preparation of an annual report to Congress, the Department of the Interior is presently engaged in the type of activities called for in H.J. Res. 738. The Department is developing suitable sites for Tule elk and has been cooperating with the State in programs for the conservation and protection of Tule elk. To date, we have been pleased with the work that California has done in restoring the Tule elk.

Sincerely yours,

  
Assistant Secretary of the Interior

Honorable James T. Lynn  
Director  
Office of Management and Budget  
Washington, D. C. 20503





DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

August 11, 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget

Dear Mr. Lynn:

As requested by your office, here is our report on the enrolled enactment H.J. Res. 738, a resolution "Providing for Federal participation in preserving the Tule elk population in California."

We have some concerns about the need for this legislation and its intrusion into State jurisdiction over resident wildlife. However, from the standpoint of this Department's responsibilities for wildlife management within the National Forest System, we recommend that the President approve the enactment. We defer to the Department of the Interior on the appropriateness of the Federal role in coordinating management of this species and on the advisability of singling out Tule elk for special Federal attention.

H.J. Res. 738 would declare it the sense of the Congress that the restoration of a Tule elk population to the level determined by the State of California is an appropriate national goal. Section 2 would direct the Secretaries of the Interior, Agriculture, and Defense to cooperate with the State of California to make Federal lands under their respective jurisdictions reasonably available for the preservation of Tule elk. Section 3 would require the Secretary of the Interior to submit an annual report to Congress on the size and condition of the various Tule elk herds in California, the nature and condition of their respective habitats, and the impact of public land management thereon, together with any recommended Federal action to be taken to preserve the elk herds at the determined level. Section 4 would require the Secretary of the Interior, in consultation with other Federal officers, to develop a plan for Tule elk restoration and conservation which is integrated with comparable plans of State and local authorities in California.

Because of its jurisdiction over resident wildlife, the State of California has maintained the lead role in cooperative efforts to provide for the perpetuation of Tule elk, and we believe the State has an adequate and active program. Planning and action by the California Department of Fish and Game, in cooperation with the Bureau of Land Management of the Department of the Interior, the Forest Service of this Department, and others have resulted in healthy populations of Tule elk in Owens Valley, California, that are generally suited to the available range. Recognizing that special management emphasis is necessary for the maintenance of free-roaming herds of Tule elk, the Department of Agriculture has cooperated fully with the California Department of Fish and Game to reduce conflict between domestic livestock and Tule elk on National Forest lands.



This cooperation seems to us to represent an appropriate balance of Federal and State interests and responsibilities in wildlife management. Moreover, it is the kind and degree of cooperation that Congress confirmed through passage of P.L. 93-452 which provided statutory reinforcement of cooperative agreements that exist between Federal land management agencies and State wildlife agencies. The cooperation called for in this recent act benefits all wildlife species on the public lands, including the Tule elk.

H.J. Res. 738 would, in effect, merely affirm existing cooperative arrangements between the Forest Service and the State of California to protect the Tule elk. The resolution would not place significant new requirements on the Forest Service or commit National Forest System lands. Therefore, notwithstanding our concerns that H.J. Res. 738 represents a degree of intrusion in the State's jurisdiction over resident wildlife, this Department would have no objection to approval of the enactment.

Sincerely,

A handwritten signature in cursive script that reads "Earl L. Butz". The signature is written in black ink and is positioned above the typed name and title.

**Earl L. Butz**  
**Secretary**

DEPARTMENT OF THE AIR FORCE  
WASHINGTON, D.C. 20330



OFFICE OF THE SECRETARY

12 AUG 1976

Dear Mr. Director:

Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to the enrolled enactment of H. J. Res. 738, 94th Congress, an Act "Providing for Federal participation in preserving the Tule elk population in California." The Secretary of Defense has delegated to the Department of the Air Force the responsibility for expressing the views of the Department of Defense.

The Act requires the Secretary of Defense to cooperate with the State of California to make lands under Department of Defense jurisdiction reasonably available for the preservation and grazing of Tule elk in such manner and to such extent as may be consistent with Federal law.

The Department of the Air Force, on behalf of the Department of Defense, recommends the approval and signature by the President of H. J. Res. 738.

This report has been coordinated within the Department of Defense in accordance with the procedures prescribed by the Secretary of Defense.

Sincerely,

A handwritten signature in cursive script that reads "Nita Ashcraft".

Nita Ashcraft  
Assistant Secretary of the Air Force  
Manpower and Reserve Affairs

Honorable James T. Lynn  
Director  
Office of Management and Budget



## THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 13

Time: 400pm

FOR ACTION: George Humphreys  
Max Friedersdorf *RKW*  
Ken Lazarus

cc (for information):

Jack Marsh  
Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 13

Time: 600pm

SUBJECT:

H.J. Res. 738-Tule Elk preservation, California

## ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

## REMARKS:

please return to judy johnston, ground floor west wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

C. Curran  
1964

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 13

Time: 400pm

FOR ACTION: George Humphreys  
Max Friedersdorf  
Ken Lazarus

cc (for information):  
Jack Marsh  
Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 13

Time: 600pm

SUBJECT:

H.J. Res. 738-Tule Elk preservation, California

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

please return to judy johnston, ground floor west wing

*I request approval -  
jth*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Date: August 13

Time: 400pm

FOR ACTION: George Humphreys  
Max Friedersdorf  
Ken Lazarus

cc (for information):

Jack Marsh  
Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: August 13

Time: 600pm

SUBJECT:

H.J. Res. 738-Tule Elk preservation, California

## ACTION REQUESTED:

- |   |   |
|---|---|
| <input type="checkbox"/> For Necessary Action         | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief     | <input type="checkbox"/> Draft Reply              |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks            |

## REMARKS:

please return to judy johnston, ground floor west wing

8/13/76

No objection

BRK /m KL

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

10  
J. Cannon  
8-13-76  
4:00 P.M.



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

AUG 13 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.J.Res. 738 - Tule elk  
preservation, California  
Sponsor - Rep. McCloskey (R) California

Last Day for Action

August 23, 1976 - Monday

Purpose

Provides for Federal participation in the conservation and restoration of the Tule elk population in California.

Agency Recommendations

|                                  |                       |
|----------------------------------|-----------------------|
| Office of Management and Budget  | Approval              |
| Department of the Interior       | Approval              |
| Council on Environmental Quality | Approval (Informally) |
| Department of Agriculture        | Approval              |
| Department of Defense            | Approval              |

Discussion

The Tule elk, the smallest of the North American elk, is a distinct subspecies which is native only to the central valleys of California. The Tule elk feed on grass and other plant life of the valley floor during the warm season while living in the foothills during winter. Although their numbers were once in the thousands, hunting almost eliminated the Tule elk until the State of California moved to protect the subspecies and the current California population now totals about 550.

H.J.Res. 738 would express sense of Congress that the restoration and conservation of a Tule elk population in California of at least two thousand is

## TULE ELK PRESERVATION ACT

MARCH 12, 1976.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mrs. SULLIVAN, from the Committee on Merchant Marine and Fisheries, submitted the following

### REPORT

[To accompany H.J. Res. 738]

The Committee on Merchant Marine and Fisheries, to whom was referred the joint resolution (H.J. Res. 738) providing for Federal participation in preserving the Tule elk population in California, having considered the same, report favorably thereon with amendments and recommend that the joint resolution as amended do pass.

The amendments are as follows:

Strike out the preamble and insert the following in lieu thereof:

Whereas, although Tule elk once roamed the central valleys of California in vast numbers, the species became nearly extinct during the latter part of the last century as a result of its native habitat being developed for agricultural purposes and urban growth; and

Whereas, although around 1870 the Tule elk population reached a low of approximately thirty animals, through the dedicated efforts of various citizen groups and individual cattlemen, the population has slowly recovered to a total of approximately six hundred animals, the majority of which may be found in free-roaming herds in the Owens Valley, at Cache Creek in Colusa County, California, a small number which are captive in the Tupman Refuge in Vern County, California; and

Whereas in 1971, the California Legislature, recognizing the threat to the Tule elk as a species, amended section 332 and enacted section 3951 of the Fish and Game Code which provide for the encouragement of a statewide population of Tule elk of not less than two thousands, if suitable areas can be found in California to accommodate such population in a healthy environment, and further fixed the population of the Tule elk in the Owens Valley at four hundred and ninety animals, or such greater number as might thereafter be determined by the California Department of Fish and Game, in accordance with game management principles, to be the Owens Valley holding capacity; and

Whereas the Tule elk is considered by the Department of the Interior to be a rare, though not endangered, species by reason of the steps taken by the State of California; and

Whereas the protection and maintenance of California's Tule elk in a free and wild state is of educational, scientific, and esthetic value to the people of the United States; and

Whereas there are Federal lands in the State of California (including, but not limited to, the San Luis National Wildlife Refuge, the Point Reyes National



Seashore, various national forests and national parks, and Bureau of Land Management lands located in central California, as well as lands under the jurisdiction of the Secretary of Defense such as Camp Pendleton, Camp Roberts, and Camp Hunter Liggett) which, together with adjacent lands in public and private ownership, offer a potential for increasing the Tule elk population in California to the two thousand level envisioned by the California Legislature: Now, therefore, be it

*Resolved*, That it is the sense of Congress that the restoration and conservation of a Tule elk population in California of at least two thousand, except that the number of Tule elk in the Owens River Watershed area shall at no time exceed four hundred and ninety or such greater number which is determined by the State of California to be the maximum holding capacity of such area, is an appropriate national goal.

SEC. 2. The Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense shall cooperate with the State of California in making the lands under their respective jurisdictions reasonably available for the preservation and grazing of Tule elk in such manner and to such extent as may be consistent with Federal law.

SEC. 3. The Secretary of the Interior shall submit, on or before the first of March of each year, a report to the Congress as to the estimated size and condition of the various Tule elk herds in California and the nature and condition of their respective habitats. The Secretary shall include in such report his determination as to whether or not the preservation of the Tule elk herd at its then-existing level is, or may be, endangered or threatened by actual or proposed changes in land use or land management practices on lands owned by any Federal, State, or local agency, together with his recommendations as to what Federal actions, if any, should be taken in order to preserve the Tule elk herds at the then-existing level or such other level as may be determined from time to time by the State of California.

SEC. 4. The Secretary of the Interior, in coordination with all Federal, State, and other officers having jurisdiction over lands on which Tule elk herds are located or lands which would provide suitable Tule elk habitat, shall develop a plan for Tule elk restoration and conservation, including habitat management, which shall be integrated with the comparable plans of State and local authorities in California. The Secretary's annual report to Congress shall describe the development and implementation of such plan.

#### PURPOSE OF THE BILL

The purpose of this legislation is to assist in providing for the preservation of the Tule elk.

In accomplishing this purpose, the bill would direct the Secretaries of the Interior, Agriculture and Defense to cooperate with the State of California (the home of the Tule elk) in making lands under their respective jurisdictions reasonably available for the preservation and grazing of Tule elk to the extent consistent with Federal law. In addition, the Secretary of the Interior, would be required—in coordination with all Federal, State, and local officers having jurisdiction over lands on which Tule elk herds are located or over lands which would provide suitable Tule elk habitat—to develop a plan for Tule elk restoration and conservation which would be integrated with the comparable plans of State and local authorities in the State of California.

#### LEGISLATIVE BACKGROUND

On March 16, 1970, the Committee held its first, of a series of hearings, on legislation designed to assist in the preservation of the Tule elk. The 1970 legislation provided for a study on the desirability of establishing a National Wildlife Refuge for Tule elk.

In 1973, the Committee held additional hearings on legislation that would provide for the establishment of a wildlife refuge for Tule elk in Owens Valley, California. The refuge would consist of the Federally owned lands in the Owens Valley area.

In 1975, three days of hearings were held by the Committee on legislation similar to that on which the 1973 hearings were held. These bills were introduced in the form of H.J. Res. 154, H.J. Res. 362, and H.J. Res. 501, all of which were identical. They were introduced by Mr. Dingell and 25 other Members of the House. Also, identical bills were introduced by Mr. Phillip Burton, in the form of H.J. Res. 339, and Mr. Talcott, in the form of H.J. Res. 344.

A bill on the same subject was introduced by Mr. Ketchum in the form of H.J. Res. 522. This bill would designate a portion (761 acres) of the San Luis National Wildlife Refuge as the Tule Elk National Wildlife Refuge and would require the Secretary of the Interior to establish additional herds of Tule elk on other Federal and State lands in the State of California suitable for Tule elk.

The 1975 hearings, on the predecessor legislation, were held on June 24 and 25, 1975, in Washington, D.C., and on October 17, 1975, in Bishop, California. H.J. Res. 738, the legislation ordered reported by the Committee, was introduced on December 2, 1975, by Mr. McCloskey as an outgrowth of the Committee hearings. It represents a compromise approach to the problem of how best to provide for the preservation of the Tule elk.

Department reports on the predecessor legislation were received from the Departments of the Interior and Agriculture. Both Departments opposed the legislation on the grounds that it was not necessary and that sufficient authority existed under present law to adequately provide for the preservation and protection of the Tule elk. No Departmental reports were received on H.J. Res. 738, since it was introduced subsequent to the conclusion of the Committee hearings.

As ordered reported, H.J. Res. 738 has the endorsement of the Committee for the Preservation of the Tule Elk, the Los Angeles Department of Water and Power, the California Department of Fish and Game, and, in general, conservationists throughout the country. Although the Departments of the Interior and Agriculture opposed the predecessor legislation, the Committee is of the opinion that they would not oppose H.J. Res. 738, as ordered reported by the Committee.

After giving thorough consideration to the evidence presented at the hearings and the Departmental reports, the Committee, by voice vote, unanimously ordered reported to the House H.J. Res. 738, with amendments. The amendments would strike out the preamble and all that follows after the resolving clause and insert new language.

#### BACKGROUND AND NEED FOR THE LEGISLATION

The Tule elk—*Cervus Elaphas nonnodes*—which was native only to the central valleys of California, is recognized as a distinct subspecies. It is the smallest of North American elk, with mature bulls weighing up to 680 pounds. The average cow will weigh about 380 pounds. In contrast, the Roosevelt elk, North America's largest, will weigh as



much as 1,200 pounds. Life history studies indicate about 25 acres of good habitat is required for each Tule elk.

In the early 1800's, Tule elk numbered in the thousands and roamed the San Joaquin and Sacramento Valleys in California. Their range extended from Butte County, 80 miles north of Sacramento, south to the Buena Vista Lake Region near Bakersfield in Kern County, and from the foothills of the western slope of the Sierra across the Great Valley to the Coast Ranges. These animals are primarily nonmigratory creatures of the valley floor and feed on forbs and grass in the low elevations and swamp lands. However, they move up into the foothills among the evergreen trees for their winter range and come down to the open valley floor during the summer.

The decline of the Tule elk which began in the late 1800's, was brought about by the harvesting of these animals by trappers and gold miners for food and hides. The great herds dwindled to such an extent that they were finally all exterminated except for a small herd which managed to hide itself in the Tule marshes north of Buena Vista Lake. According to legend, only a single pair remained to elude the gunner. These last few remnants of a race by good fortune happened to be on the Kern County ranch, owned by Henry Miller—of the Miller and Lux Company—a true conservationist.

To assist in the rejuvenation of the Tule elk, in 1873, the State of California passed a law making the killing of a Tule elk felony punishable by imprisonment for a term of up to two years. In 1904, the Miller and Lux Company donated the Tule elk herd on its lands to the Federal Government and the first transplants took place when about 30 elk were placed in a fenced area in the Sequoia National Park. Eventually, these elk escaped and none remained in the Park. During the next 15 to 20 years, the Miller and Lux Company continued to donate transplants to other areas within the State, but most of them died.

In the early 1920's, it was decided to introduce Tule elk into the Yosemite National Park and the Del Monte Park. Also, a number of elk were shipped to a Colusa County area, which subsequently became the Cache Creek herd. It was during this time that the National Park Service developed a policy against exhibiting caged animals within a park. In view of the fact that fencing had not proved satisfactory in preserving the Tule elk—since so many of them would kill themselves by dashing against the fences—it was subsequently decided to transplant a number of Tule elk in the open spaces of the Owens Valley area on land owned by the City of Los Angeles, (the owner of most of the bottom land of Owens Valley). In subsequent years, transplanting continued in the Owens Valley area until Tule elk began to stabilize numbering around 300.

In 1943, the first legal hunt was held in which 43 bulls were killed. This was the first legal hunt allowed since 1873 when a law was passed protecting them. These hunts continued over the years until 1969, when Life Magazine published an article on the annual hunt of Tule elk. The hunt was supposedly carried out for the purpose of reducing excessive herd size and eliminating the old, sick, and lame animals. It was the hunt, in 1969, that prompted the introduction of legislation to provide for the protection and preservation of the Tule elk.

The Secretary of the Interior presently has authority under the Endangered Species Act of 1973 to carry out programs for the conservation, protection, and restoration of endangered and threatened species of fish and wildlife. Specific procedures are provided in the Act for determining whether or not a species is either endangered or threatened. In making such determination, the Secretary is directed to consider such factors as the present or threatened destruction, modification or curtailment of the species' habitat or ranges; diseases or predation; overutilization for commercial, sporting, scientific, or educational purposes; the inadequacy of existing regulatory mechanisms; or other natural or manmade factors affecting the species' continued existence. Based upon a consideration of the foregoing factors, the Secretary has determined that the Tule elk is not an endangered or threatened species. The Secretary has classified it as a rare species.

A number of mammalogists and conservationists have reached a different conclusion from that of the Secretary and insist that the Tule elk should be classified as a threatened or endangered species. In fact, it is fairly well established criteria among conservationists that any species with less than 2,000 in number is a vanishing species and one that is highly subject to extinction, particularly, should an epidemic of a large magnitude occur. Already, two races of the North American elk have become extinct; the Eastern elk, formerly found from the St. Lawrence River to North Carolina and westward to Iowa; and the Mexican elk of Arizona and New Mexico. The Tule elk of California almost met the same fate around 1870. The Committee strongly feels that legislative action of some sort—such as that envisioned by H.J. Res. 738—must be taken if the Tule elk is to be prevented from meeting the same fate as the North American and Eastern elk.

Over the past several years the Fish and Wildlife Service, the Bureau of Land Management and the National Park Service have worked closely with the U.S. Forest Service and the California Department of Fish and Game as well as Oregon, Nevada and Arizona State wildlife agencies in surveys of potential transplant sites and the development of suitable management techniques. On the basis of this effort, these agencies believe a number of small, separate herds will afford more assurance of preservation than would a few large herds.

The initial study of potential transplant sites in 1971 identified four areas as offering the greatest potential for developing additional capacity for Tule elk. Each of these four areas, with the exception of Point Reyes National Seashore, now have herds established. The Department has plans to introduce the Tule elk on Point Reyes, but the introduction of such elk will not take place until a fence has been built across the peninsula.

There are presently some 107 animals on the Cache Creek-Swanson Range.

There are a minimum of 380 Tule elk in the Owens Valley. The Owens Valley herd is composed of 6 smaller herds as follows: Bishop with 93 animals; Tinenaha, 85; Goodale Creek, 56; Independent, 61; Lone Pine, 80; and Mt. Whitney 5.

The San Luis National Wildlife Refuge a 7,400 acre area in Merced County, California, was purchased in 1967 with Duck Stamp Funds for the benefit of migratory waterfowl. A Tule elk management plan

was prepared for the area, and as a result, cattle grazing was terminated in December 1972 in anticipation of elk introduction. A 760 acre tract of land in the refuge has been fenced to prevent depredation on private lands. It is estimated this area of the refuge can support 40 to 50 animals. Twenty-five animals are presently on the refuge.

The State of California Tupman Elk Preserve presently supports some animals. The State is considering, among other things, acquisition of an area north of San Luis for Tule elk and recreation purposes. A \$2.5 million bond issue has been passed, but only about \$200,000 has been appropriated, and a portion of these funds would be used for the Tule elk acquisition. Neither the exact size of this proposed area nor the number of elk it could support has been made known by the California authorities.

To summarize, the Department of the Interior estimates there is a minimum of 552 Tule elk on four areas in California. In addition, there are some 42 animals in zoos in this country and abroad.

Available to assist in the conservation and restoration of the Tule elk in the Owens Valley is approximately 800,000 acres of public domain lands. These lands were withdrawn during the early 1930's by the Department of the Interior for the purpose of supplying water to the City of Los Angeles via the Los Angeles Aquaduct. In addition, the City of Los Angeles has acquired, in fee, approximately 302,000 acres in the Owens Valley as part of its water supply program. These lands also contain valuable Tule elk habitat.

In addition to using these lands for water purposes, both the City of Los Angeles and the Bureau of Land Management have leased these lands for livestock grazing. The Owens Valley Tule elk also range into the Inyo National Forest, surrounding the valley, and these too are lands on which the Federal Government has issued grazing permits. The issuance of these permits for domestic livestock by the two Federal agencies and the City of Los Angeles has increased competition between livestock and Tule elk for the range. Although there is considerable controversy over whether livestock and Tule elk compete for the same forage, it appears that the carrying capacity of the range for Tule elk has been severely limited because of the increased emphasis on grazing permits over the years.

Tule elk are presently protected by State law. The California Code (31 Cal. Code 332) prohibits taking of these animals until the herd "exceeds 2,000," except that sick or inferior animals may be culled or destroyed by California Fish and Game personnel when needed "for protection, enhancement, and health increase of the species." (31 Cal. Code 3951).

#### WHAT THE BILL DOES: SECTION-BY-SECTION ANALYSIS

As indicated in the legislative background of this report, the Committee ordered reported to the House H.J. Res. 738, with amendments.

#### PREAMBLE

The preamble to the legislation points out that Tule elk once roamed the central valleys of California in great numbers. However, because of the destruction of much of its native habitat for agricultural and

urban purposes, during the late 1800's its population reached a low of around 30 animals.

Because of the dedicated efforts of various citizen groups and individual cattlemen, and because of the action taken by the California Legislature in 1971, the Tule elk population has slowly recovered to where it presently stands at approximately 60 animals.

The action taken by the California Legislature provides that there could be no more taking (hunting) of Tule elk until the State-wide population exceeds 2,000, provided suitable areas could be found in California to accommodate such a population in a healthy condition, and provided further, that with respect to the Owens Valley area, the number of Tule elk could not be permitted to exceed 490 unless the holding capacity of the Valley—as determined in accordance with game management principles—would permit a greater number.

The preamble further pointed out that the Department of the Interior considers the Tule elk to be a rare, rather than an endangered species; that to protect and maintain Tule elk in a free and wild state is of educational, scientific, and esthetic value to the people of the United States; and that there are a number of Federal, State, County, City, and private lands in the State of California which offer a great potential for assisting in the Tule elk population to reach the goal of 2,000 in number.

#### SECTION 1

Section 1 of the bill would, in essence, make the goal established by the California Legislature in 1971 a national goal as well. In this regard, section 1 would provide that it is the sense of Congress that the restoration and conservation of a Tule elk population in the State of California of at least 2,000 in number would be an appropriate goal and that, in achieving this goal, the number of Tule elk, in what is known as the Owens River Watershed area, should at no time exceed 490 unless it is determined, at some future date that the maximum holding capacity of such area could accommodate a greater number.

#### SECTION 2

Section 2 of the bill would make it clear that the Secretaries of the Interior, Agriculture, and Defense would be required to cooperate with the State of California in making lands under their respective jurisdictions reasonably available for the preservation and grazing of Tule elk provided that, in doing so, such actions are consistent with Federal law.

The Committee is well aware that these agencies have under their respective jurisdictions lands that contain valuable Tule elk habitat. It is the intent of the Committee that these lands be utilized to the extent feasible to assist in attaining the goal of 2,000 in number. At the same time, a home for Tule elk at various locations throughout the State would be provided.

#### SECTION 3

Section 3 of the bill would require the Secretary of the Interior to submit an annual report to the Congress, which would be due on the first of March each year. To be included in the report would be his estimate as to the size and condition of the various Tule elk herds throughout the State of California and the condition of their respec-

tive habitats. Also, the Secretary would be required to include in the report his assessment as to whether or not actual or proposed changes in land use or land management practices on lands owned by any Federal, State, or local agency would threaten or endanger the conservation of the Tule elk herds at their then existing level. In addition, the Secretary would be required to make recommendations as to what Federal action, if any, should be taken in order to preserve the Tule elk herds at their then-existing level or such other level as may be determined from time to time by the State of California.

In this regard, it should be stressed that the Committee intends for the Secretary of the Interior and the other Federal agencies concerned to take all necessary steps to see that the goal of 2,000 Tule elk or more in the State of California is achieved at the earliest possible date or such other number as may be determined by the State of California from time to time.

#### SECTION 4

Section 4 of the bill would require the Secretary of the Interior, in coordination with all Federal, State, and other officers having jurisdiction over lands on which Tule elk herds are located or on which suitable Tule elk habitat exist, to develop a plan for the restoration and conservation of the Tule elk. The plan would be required to be integrated with comparable plans of State and local authorities in the State of California and would be required to include habitat management as well as the management of Tule elk herds.

When the Secretary makes his annual report to the Congress, he would be required to include in such report a description of the development and implementation of such plan.

#### CONCLUSION

The Committee would like to make it clear that in recent years Tule elk have not been given the maximum consideration to which they are entitled. In an effort to improve this situation, the Committee feels that the Tule elk herd should be increased to a minimum of 2,000 in number, unless it is subsequently determined by the appropriate Federal and State agencies that the carrying capacity of the suitable areas for Tule elk in the State of California, in accordance with sound management principles, will not support such a number.

To assist in achieving this goal, the Committee expects the Federal agencies involved to de-emphasize grazing permits for livestock and to reintroduce herds in those areas, particularly Federally-owned areas, where they can be maintained without unduly jeopardizing other wildlife resources. Also, the Committee would like to encourage, in particular, the City of Los Angeles and the State of California to make their lands available to the maximum extent possible in order to assist in achieving this goal.

#### COST OF THE LEGISLATION

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the committee estimates there will be no cost associated

with the enactment of this legislation, other than minimal administrative costs.

#### INFLATIONARY IMPACT STATEMENT

In accordance with clause 2(1)(4) of rule XI, of the Rules of the House of Representatives, the committee assessed the potential for inflationary impact and concluded there is none.

#### OVERSIGHT FINDINGS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives—

(A) No oversight hearings have been held in connection with the subject matter of this legislation; however, hearings on the predecessor legislation were held in the 91st and 93rd Congress. No specific findings or recommendations are available at this time.

(B) Since Section 308(a) of the Congressional Budget Act of 1974 is not yet in effect, no statement under this paragraph is furnished;

(C) No estimate and comparison of costs has been received by the Committee from the Director of the Congressional Budget Office, pursuant to Section 403 of the Congressional Budget Act of 1974; and

(D) The Committee has received no report from the Committee on Government Operations of oversight findings and recommendations arrived at pursuant to clause 2(b)(2) of rule X.

#### CHANGES IN EXISTING LAW

If enacted, this resolution would make no change in existing law.

#### DEPARTMENTAL REPORTS

No departmental reports were received on H.J. Res. 738. However, reports were received from the Departments of Agriculture and Interior on a precursory resolution, H.J. Res. 154. These reports follow herewith:

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
Washington, D.C., June 5, 1975.

HON. LEONOR K. SULLIVAN,  
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives.

DEAR MADAM CHAIRMAN: As you requested, here is the report of the Department of Agriculture on H.J. Res. 154, a joint resolution "To authorize the establishment of the Tule Elk National Wildlife Refuge and the establishment of a Federal-State management program for the conservation, protection, and enhancement of Tule elk and other species, and for other purposes."

The Department of Agriculture recommends that H.J. Res. 154 not be enacted.

H.J. Res. 154 would establish the Tule Elk National Wildlife Refuge. The refuge would consist of all lands within the Owens River

watershed area in Inyo County, California, which were under the jurisdiction of the Secretary of the Interior on January 1, 1975. The Secretary would be directed to undertake to enter into management agreements with other parties owning or administering lands within the Owens River watershed area for the purpose of implementing complementary wildlife management practices on lands within the area that are not under his jurisdiction. The Secretary of Agriculture would be directed to limit, to the extent practicable, grazing and other public uses in areas of the Inyo National Forest which adjoin the refuge, such limitations to be applied in a manner appropriate to achieve the purposes of the joint resolution.

H.J. Res. 154 also directs the Secretary of the Interior to build and sustain a herd of Tule elk within the State of California which at no time numbers less than 2,000. The number of such elk authorized to be maintained within the Owens River watershed area would be limited to 490 or such greater number as may be determined by the Secretary (with concurrence of the State) to be the holding capacity. To achieve a population of 2,000 Tule elk within the State, the Secretary would be directed to relocate elk to other lands under his jurisdiction and to lands under the jurisdiction of any other Federal agency or the State. Relocation to lands under the jurisdiction of other Federal agencies or the State would be subject to their agreement.

The Department of Agriculture recognizes that special management emphasis, such as is now taking place, is necessary for the maintenance of free-roaming herds of Tule elk in view of their relatively few numbers. Planning and action by the California Department of Fish and Game, the Bureau of Land Management of the Department of the Interior, the Forest Service of this Department, and others have resulted in healthy populations of Tule elk in Owens Valley that are generally suited to the available range.

The proper management of wildlife and preservation of wildlife species requires a truly cooperative effort involving many Federal and State agencies; National, State and local conservation groups; and individuals. P.L. 93-452, recently enacted by the 93rd Congress recognized this important principal by providing statutory reinforcement of cooperative agreements that existed between Federal land management agencies, such as the Forest Service, and State wildlife agencies.

Because of its jurisdiction over resident wildlife, the State of California has maintained the lead role in cooperative efforts to provide for the perpetuation of Tule elk. We believe the State has an adequate and active program for the conservation of Tule elk. We therefore do not consider it necessary or prudent for the Federal government to establish a refuge to obtain an objective that can be achieved by the State of California without a Federal Refuge.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL, *Under Secretary.*

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., June 23, 1975.

HON. LEONOR K. SULLIVAN,  
*Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.*

DEAR MADAM CHAIRMAN: This is in response to the request of your Committee for the views of this Department on H.J. Res. 154, a bill "To authorize the establishment of the Tule Elk National Wildlife Refuge and the establishment of a Federal-State management program for the conservation, protection, and enhancement of Tule elk and other species, and for other purposes." We also note that there are pending before your Committee several joint resolutions which are identical to H.J. Res. 154.

We do not recommend enactment of the resolution.

H.J. Res. 154 would authorize the establishment of a national wildlife refuge for Tule elk within the Owens River watershed area in California. The area would be managed in accordance with the laws and regulations relating to refuges. A herd of no less than 2,000 elk would be maintained in the State. No more than 490 elk or such greater number as is determined by the Secretary of the Interior to be in accordance with game management principles would be maintained on this refuge. Tule elk would be transplanted as necessary to other Federal lands and to State lands under mutually agreeable plans. Fish and wildlife on these State lands would be jointly managed. H.J. Res. 154 also would legislatively determine that the Tule elk are threatened with extinction, thus enabling the use of monies from the Land and Water Conservation Fund for acquisition of lands and interests therein for protection of these animals.

We understand the objective of this bill and appreciate its intent, but it is our judgment that this legislation would give to the Secretary no authority not already provided by law. Such authority has been, and is, exercised by this Department in a little-publicized, successful program. In cooperation with the U.S. Forest Service and the California Department of Fish and Game, this Department has conducted a survey of potential transplant sites with a view toward establishing additional herds of Tule elk. On the basis of that survey, we have determined that a number of smaller, separated herds will afford more assurance of preservation of the species than would one or two large herds. Accordingly, Tule elk have been introduced onto the San Luis National Wildlife Refuge. Plans are presently being developed for their introduction onto Point Reyes National Park. A management plan must be approved and a fence built across the peninsula before Tule elk can be introduced onto Point Reyes. We anticipate that all this will be accomplished by this fall. Tule elk herds are now found in four major locations: the Owens Valley, the Cache Creek-Swanson Range area, the California State Tupman Elk Preserve, and San Luis National Wildlife Refuge. The Owens Valley herd is composed of

several smaller herds. The location of and minimum numbers in these herds follows:

|  |         |
|--|---------|
| Owens Valley-----                      | 380     |
| Subherds:                              |         |
| Bishop, Calif., herd-----              | 93      |
| Tinenaha, Calif., herd-----            | 85      |
| Goodale Creek, herd-----               | 56      |
| Independence, Calif., herd-----        | 61      |
| Lone Pine, Calif., herd-----           | 80      |
| Mt. Whitney area herd-----             | 5       |
| Cache Creek-Swanson Range herd-----    | 107     |
| California Tupman Elk Preserve-----    | 40      |
| San Luis National Wildlife Refuge----- | 21      |
| <br>Total -----                        | <br>548 |

Except for the establishment of the nucleus herd at San Luis, there has not been any significant change in the number of Tule elk.

While the Endangered Species Act requires the Secretary to carry out a program of conserving, protecting, restoring, and propagating selected species of native fish and wildlife that are threatened with extinction and while Tule elk can be considered rare, it is generally the opinion of mammalogists and conservationists that this resident species is not threatened with extinction. We believe that to classify the Tule elk as threatened when biological evidence does not warrant that classification, would set an undesirable precedent. Further, we believe that our plans insure attainment of the objective or preserving the populations of Tule elk. State and Federal land are available for further transplantation, and we do not feel that further acquisition of lands for this purpose is necessary at this time. Further Land and Water Conservation Funds should be spent only for those species that are truly endangered.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

CURTIS BOHLEN,  
*Acting Assistant Secretary of the Interior.*



94TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
No. 94-1120

PRESERVING THE TULE ELK POPULATION  
IN CALIFORNIA

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REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

H.J. RES. 738

PROVIDING FOR FEDERAL PARTICIPATION IN PRESERVING  
THE TULE ELK POPULATION IN CALIFORNIA



AUGUST 5, 1976.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1976

PRESERVING THE TULE ELK POPULATION  
IN CALIFORNIA

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AUGUST 5, 1976.—Ordered to be printed

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Mr. Moss (for Mr. TUNNEY), from the Committee on Commerce,  
submitted the following

## REPORT

[To accompany H.J. Res. 738]

The Committee on Commerce, to which was referred the joint resolution (H.J. Res. 738) providing for Federal participation in preserving the Tule elk population in California, having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

## PURPOSE AND SUMMARY

The purpose of the bill is to provide for the participation of the Federal Government in the conservation and restoration of the Tule elk population in the central valleys of California. To achieve this purpose, the legislation directs the Secretary of the Interior, the Secretary of Agriculture and the Secretary of Defense to make lands under their jurisdictions reasonably available to the State of California for the conservation and grazing of the Tule elk herds. In order to monitor progress in the restoration of populations, the Secretary of the Interior shall submit to the Congress each year a report concerning the estimated size and condition of the various herds. The report shall include an evaluation of the effects of Federal, State and local land use practices on the herds and their habitat, along with recommendations on additional Federal actions which should be taken to protect the Tule elk.

Finally, the Secretary of the Interior, in cooperation with other Federal, State and local officials is directed to develop a plan for the restoration and conservation of the Tule elk and its habitat. A description of such plan's development and implementation shall be included in the Secretary's first annual report, and the Congress is to be kept informed of additional developments in subsequent reports.

## BACKGROUND AND NEED

The Tule elk (*Cervus elaphus nonnodes*), recognized as a distinct subspecies, is the smallest of the North American elk and is native only to the central valleys of California. In contrast to its largest cousin, the Roosevelt elk, which weighs as much as 1,200 pounds, the Tule elk generally weighs up to 680 pounds for a mature bull, and up to 380 pounds for a mature cow. Primarily creatures of the valley floor, Tule elk feed on grass and other plant life in the low elevations and swamp lands. However, during the winter they move up into the foothills among the evergreen trees, to return to the open valley again at the onset of summer.

In the early 1800's Tule elk numbered in the thousands and roamed the San Joaquin and Sacramento Valleys of California. Their range extended from Butte County, 80 miles north of Sacramento, south to the Buena Vista Lake Region near Bakersfield in Kern County, and from the foothills of the western slope of the Sierra across the Great Valley to the coastal ranges. During the late 1800's, however, the populations began to decline because of harvesting by trappers and goldminers for food and hides. A once mighty herd dwindled to a few.

In an effort to restore the Tule elk to its once plentiful number, the State of California passed a law in 1873 which made the killing of the Tule elk a felony punishable by up to 2 years imprisonment. However, in 1943, lawful hunting was reinitiated and continued sporadically until 1971. At that time, the California State Legislature enacted a statute (31 California Code 332) which prohibits the taking of Tule elk until the total Statewide population exceeds 2,000 or until the State Legislature determines that suitable areas cannot be found in the State to accommodate a population of 2,000 in a healthy condition.

The current California Tule elk population totals approximately 548. Tule elk herds are now found in four major locations: the Owens Valley in Inyo County (380), the Cache Creek-Swanson Range in Lake and Colusa Counties (107), the California Tupman Elk Preserve (40), and the San Luis National Wildlife Refuge in Merced County (21). According to informal State Fish and Game Department estimates, the combined maximum carrying capacity of these four areas is approximately 800 head. Thus, these lands do not provide sufficient habitat to support the 2,000 head goal envisioned by the California State Legislature. The State is considering acquisition of several areas to provide additional habitat, including an area north of the San Luis National Wildlife Refuge. The State Fish and Game Department has determined even these additional areas are insufficient habitat to support the remaining 1,200 animals. In contrast, Federal lands under the jurisdiction of the Secretaries of Interior, Agriculture and Defense not currently supporting Tule elk could be utilized for this purpose. These include the Point Reyes National Seashore, national forest and park lands, Bureau of Land Management lands located in central California, and areas within Camp Pendleton, Camp Roberts, and Camp Hunter Liggett. H.J. Res. 738 would provide for the conservation of the Tule elk by providing for a plan of coopera-

tion among these Federal land agencies and the State whereby agency lands would be managed to provide and enhance Tule elk habitat.

It is the view of the Administration that Federal land management agencies currently have sufficient authority to manage their lands in cooperation with the States for wildlife conservation purposes and could relocate Tule elk to Federal lands without the specific mandate contained in H.J. Res. 738. For instance, under the authority of the Sikes Act Amendments (P.L. 93-452) the Departments of Interior and Agriculture have made substantial progress toward cooperation with the State and the City of Los Angeles in managing Tule elk herds in the Owens Valley. The Committee welcomes this development and believes that the joint management plan which is being negotiated for the area will provide an adequate framework for continuing Federal-State cooperation in the restoration of herds in the Valley.

However, the Committee also believes that the use of currently available authority has been limited to the Owens Valley. Since 1971 when the State Legislature adopted the 2,000 Tule elk goal, only one relocation of elk to Federal lands outside of the Owens Valley has been completed. (This involved the transfer of 21 elk from State zoos to the San Luis National Wildlife Refuge.) Preparations for introduction of Tule elk to the Point Reyes National Seashore have been underway since 1971. To date, however, no elk have been relocated here, and it appears that no relocations will occur for at least 1 or 2 years. Finally, Federal agencies have made no comprehensive, cooperative studies identifying and evaluating additional potential Tule elk habitat since 1971. The limited number of Tule elk mandates an immediate and intensive effort to locate additional habitat to support these creatures. The Committee believes that H.J. Res. 738 is necessary to focus the attention of Federal agencies on the urgency of this matter and to provide for a comprehensive and coordinated framework under which conservation of the Tule elk can proceed.

## SECTION-BY-SECTION ANALYSIS

*Preamble*

The preamble to H.J. Res. 738 states that while the Tule elk had once roamed the central valleys of California in vast numbers, agricultural practices and urban growth have resulted in the destruction of its native habitat. The species became nearly extinct, reaching a low of approximately 30 animals during the late 1800's. Due to the efforts of citizen groups and cattlemen, however, the population has slowly recovered to a total of approximately 600 animals, the majority of which may be found in the Owens Valley, at Cache Creek in Colusa County, and in the Tupman Refuge in Kern County, California.

The preamble further states that in 1971 the California Legislature enacted legislation which prohibited the taking of Tule elk until the Statewide population exceeds 2,000, provided suitable areas could be found in California to accommodate such a population in a healthy condition. With respect to the Owens Valley, however, the population may not exceed 490 unless the holding capacity of the Valley, as determined in accordance with game management principles, would permit a greater number. Finally, the preamble points out that the



Department of the Interior considers the Tule elk to be a rare species. The protection and maintenance of the herd in a free and wild state is of educational, scientific, and aesthetic value to the people of the United States. The preamble concludes that there are Federal lands in the State of California which, together with adjacent land held in either public or private ownership, offer a potential for increasing the Tule elk population to the 2,000-head level set forth by the California Legislature.

#### *Section 1*

Section 1 of the bill would establish the goal set forth by the California Legislature in 1971 as a national goal: the Tule elk population of California should be restored to a number of at least 2,000 except that in the Owens River watershed area, the population should not exceed 490 or such other number as is determined by the State of California to be the maximum holding capacity of the area.

#### *Section 2*

Section 2 directs the Secretary of the Interior, the Secretary of Agriculture and the Secretary of Defense to cooperate with the State in making lands under their respective jurisdictions available for the preservation and grazing of the Tule elk. Such cooperation shall be in accordance with other Federal law.

#### *Section 3*

Section 3 directs the Secretary of the Interior to submit to the Congress on or before the first of March of each year, a report outlining the progress being made in the restoration of Tule elk. Among the matters to be contained in the report are:

- (1) An estimate of the size and condition of the various Tule elk herds, and the nature and condition of their respective habitats;
- (2) A determination by the Secretary as to whether preservation of the Tule elk herd is or may be threatened by Federal, State, or local land use management practices; and
- (3) Recommendations of the Secretary as to what additional Federal action, if any, should be taken to preserve the Tule elk herds at existing levels, or at such other levels as may be determined by the State of California.

#### *Section 4*

Section 4 directs the Secretary of the Interior, in cooperation with Federal, State, and local agencies which exercise jurisdiction over actual or potential Tule elk habitat, to develop a plan for the restoration and conservation of the Tule elk. The development and implementation of this management plan is to be set forth in the Secretary's annual report to Congress required under section 3 of the Act. The Committee envisions that a full description of the plan's development and implementation be included in the Secretary's first annual report, and that updates on this information be included in subsequent reports.

An integral part of the Tule elk management plan to be developed under section 4 is the identification and evaluation of lands with potential for use as Tule elk habitat. Thus, the Secretary's annual

report to Congress is expected to include information on the availability, present and planned, of additional habitat for Tule elk in excess of the carrying capacity of the Owens Valley, up to the California mandated 2,000 elk herd minimum. Further, concern has been expressed to the Committee about the lack of progress being made in the relocation of Tule elk to the Point Reyes National Seashore. The Committee therefore requests that the Secretary include in his first annual report to Congress data concerning the status of grazing and other agricultural activities in the Seashore, the timetable for phasing out such activities, and a feasibility study for the reintroduction of Tule elk into the Seashore and the adjacent Golden Gate National Recreation Area.

It is intended that the Federal Tule elk management plan developed under section 4 be coordinated closely with the State and local agencies. However, development of a Federal plan is not intended to provide the Secretary of the Interior with any additional authority to regulate numbers of Tule elk whose management as a non-endangered resident species should remain with the State. The Federal agencies will be responsible for managing Tule elk habitat under their jurisdictions in a manner conducive to the restoration and conservation of the species.

#### ESTIMATED COSTS

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that there will be no cost associated with the enactment of this legislation, other than minimal administrative costs.

#### TEXT OF H.J. RES. 738, AS REPORTED

JOINT RESOLUTION Providing for Federal participation in preserving the Tule elk population in California

Whereas, although Tule elk once roamed the central valleys of California in vast numbers, the species became nearly extinct during the latter part of the last century as a result of its native habitat being developed for agricultural purposes and urban growth; and

Whereas, although around 1870 the Tule elk population reached a low of approximately thirty animals, through the dedicated efforts of various citizen groups and individual cattlemen, the population has slowly recovered to a total of approximately six hundred animals, the majority of which may be found in free-roaming herds in the Owens Valley, at Cache Creek in Colusa County, California, a small number which are captive in the Tupman Refuge in Vern County, California; and

Whereas in 1971 the California Legislature, recognizing the threat to the Tule elk as a species, amended section 332 and enacted section 3951 of the Fish and Game Code which provide for the encouragement of a statewide population of Tule elk of not less than two thousand, if suitable areas can be found in California to accommodate such population in a healthy environment, and further fixed the population of the Tule elk in the Owens Valley at four hundred and ninety animals, or such greater number as might thereafter be determined by the Cali-

ifornia Department of Fish and Game, in accordance with game management principles, to be the Owens Valley holding capacity; and

Whereas the Tule elk is considered by the Department of the Interior to be a rare, though not endangered species by reason of the steps taken by the State of California; and

Whereas the protection and maintenance of California's Tule elk in a free and wild state is of educational, scientific, and esthetic value to the people of the United States; and

Whereas there are Federal lands in the State of California (including, but not limited to, the San Luis National Wildlife Refuge, the Point Reyes National Seashore, various national forests and national parks, and Bureau of Land Management lands located in central California, as well as lands under the jurisdiction of the Secretary of Defense such as Camp Pendleton, Camp Roberts, and Camp Hunter Liggett) which together with adjacent lands in public and private ownership, offer a potential for increasing the Tule elk population in California to the two thousand level envisioned by the California Legislature. Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is the sense of Congress that the restoration and conservation of a Tule elk population in California of at least two thousand, except that the number of Tule elk in the Owens River Watershed area shall at no time exceed four hundred and ninety or such greater number which is determined by the State of California to be the maximum holding capacity of such area, is an appropriate national goal.

SEC. 2. The Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense shall cooperate with the State of California in making the lands under their respective jurisdictions reasonably available for the preservation and grazing of Tule elk in such manner and to such extent as may be consistent with Federal law.

SEC. 3. The Secretary of the Interior shall submit, on or before the first of March of each year, a report to the Congress as to the estimated size and condition of the various Tule elk herds in California and the nature and condition of their respective habitats. The Secretary shall include in such report his determination as to whether or not the preservation of the Tule elk herd at its then-existing level is, or may be, endangered or threatened by actual or proposed changes in land use or land management practices on lands owned by any Federal, State or local agency, together with his recommendations as to what Federal actions, if any, should be taken in order to preserve the Tule elk herds at the then-existing level or such other level as may be determined from time to time by the State of California.

SEC. 4. The Secretary of the Interior, in coordination with all Federal, State, and other officers having jurisdiction over lands on which Tule elk herds are located or lands which would provide suitable Tule elk habitat, shall develop a plan for Tule elk restoration and conservation, including habitat management, which shall be integrated with the comparable plans of State and local authorities in California. The Secretary's annual report to Congress shall describe the development and implementation of such plan.

## AGENCY COMMENTS

Following are the comments received from the executive agencies on H.J. Res. 738 and a similar Senate bill S.J. Res. 20:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., April 9, 1976.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.J. Res. 738, a resolution "Providing for Federal participation in preserving the Tule elk population in California."

We recommend against the enactment of H.J. Res. 738.

H.J. Res. 738 calls for cooperation with the State of California by the Secretaries of Agriculture, Defense and Interior for the preservation of Tule elk to an extent consistent with existing Federal law. The resolution authorizes the Secretary of the Interior to develop a plan for Tule elk restoration and conservation to be integrated with comparable plans of State and local authorities in California. An annual report to Congress in March of each year is to describe the Secretary's progress in the development and implementation of such plans.

The authority provided in this resolution is not necessary because it duplicates existing authority. With the exception of the preparation of an annual report to Congress, the Department of the Interior is presently engaged in the type of activities called for in H.J. Res. 738. The Department is developing suitable sites for Tule elk and has been cooperating with the State in programs for the conservation and protection of Tule elk. To date, we have been pleased with the work that California has done in resorting the Tule elk.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

CURTIS BOHLEN,  
*Acting Assistant Secretary of the Interior.*

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., June 16, 1975.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request of your Committee for the views of this Department on S.J. Res. 20, a bill "To authorize the establishment of a Federal-State management pro-

gram for the conservation, protection, and enhancement of Tule elk and other species, and for other purposes.”

We do not recommend enactment of the resolution.

S.J. Res. 20 would authorize the establishment of a national wildlife refuge for Tule elk within the Owens River watershed area in California. The area would be managed in accordance with the laws and regulations relating to refuges. A herd of no less than 2,000 elk would be maintained in the State. No more than 490 elk or such greater number as is determined by the Secretary of the Interior to be in accordance with game management principles would be maintained on this refuge. Tule elk would be transplanted as necessary to other Federal lands and to State lands under mutually agreeable plans. Fish and wildlife on these State lands would be jointly managed. S.J. Res. 20 also would legislatively determine that the Tule elk are threatened with extinction, thus enabling the use of monies from the Land and Water Conservation Fund for acquisition of lands and interests therein for protection of these animals.

We understand the objective of this bill and appreciate its intent, but it is our judgment that this legislation would give to the Secretary no authority not already provided by law. Such authority has been, and is, exercised by this Department in a little-publicized, successful program. In cooperation with the U.S. Forest Service and the California Department of Fish and Game, this Department has conducted a survey of potential transplant sites with a view toward establishing additional herds of Tule elk. On the basis of that survey, we have determined that a number of smaller, separated herds will afford more assurance of preservation of the species than would one or two large herds. Accordingly, Tule elk have been introduced onto the San Luis National Wildlife Refuge. Plans are presently being developed for their introduction onto Point Reyes National Park. A management plan must be approved and a fence built across the peninsula before Tule elk can be introduced onto Point Reyes. We anticipate that all this will be accomplished by this fall. Tule elk herds are now found in four major locations: the Owens Valley, the Cache Creek-Swanson Range area, the California State Tupman Elk Preserve, and San Luis National Wildlife Refuge. The Owens Valley herd is composed of several smaller herds. The location of and minimum numbers in these herds follows:

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| Owens Valley.....                      | 380 |
| Sub-herds:                             |     |
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| Cache Creek-Swanson Range herd.....    | 107 |
| California Tupman Elk Preserve.....    | 40  |
| San Luis National Wildlife Refuge..... | 21  |
| Total .....                            | 548 |

Except for the establishment of the nucleus herd at San Luis, there has not been any significant change in the number of Tule elk.

While the Endangered Species Act requires the Secretary to carry out a program of conserving, protecting, restoring, and propagating

selected species of native fish and wildlife that are threatened with extinction and while Tule elk can be considered rare, it is generally the opinion of mammalogists and conservationists that this resident species is not threatened with extinction. We believe that to classify the Tule elk as threatened when biological evidence does not warrant that classification, would set an undesirable precedent. Further, we believe that our plans insure attainment of the objective or preserving the populations of Tule elk. State and Federal lands are available for further transplantation, and we do not feel that further acquisition of lands for this purpose is necessary at this time. Further Land and Water Conservation Funds should be spent only for those species that are truly endangered.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

NATHANIEL P. REED,  
*Assistant Secretary of the Interior.*

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., June 5, 1975.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,  
U.S. Senate.*

DEAR MR. CHAIRMAN: As you requested, here is the report of the Department of Agriculture on S.J. Res. 20, a joint resolution "To authorize the establishment of the Tule Elk National Wildlife Refuge and the establishment of a Federal-State management program for the conservation, protection, and enhancement of Tule elk and other species, and for other purposes."

The Department of Agriculture recommends that S.J. Res. 20 not be enacted.

S.J. Res. 20 would establish the Tule Elk National Wildlife Refuge. The refuge would consist of all lands within the Owens River watershed area in Inyo County, California, which were under the jurisdiction of the Secretary of the Interior on January 1, 1975. The Secretary would be directed to undertake to enter into management agreements with other parties owning or administering lands within the Owens River watershed area for the purpose of implementing complementary wildlife management practices on lands within the area that are not under his jurisdiction. The Secretary of Agriculture would be directed to limit, to the extent practicable, grazing and other public uses in areas of the Inyo National Forest which adjoin the refuge, such limitations to be applied in a manner appropriate to achieve the purposes of the joint resolution.

S.J. Res. 20 also directs the Secretary of the Interior to build and sustain a herd of Tule elk within the State of California which at no time numbers less than 2,000. The number of such elk authorized to be maintained within the Owens River watershed area would be limited to 490 or such greater number as may be determined by the Secretary

94TH CONGRESS }  
2d Session }

SENATE

{ REPORT  
No. 94-1120

PRESERVING THE TULE ELK POPULATION  
IN CALIFORNIA

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REPORT

OF THE

SENATE COMMITTEE ON COMMERCE

ON

H.J. RES. 738

PROVIDING FOR FEDERAL PARTICIPATION IN PRESERVING  
THE TULE ELK POPULATION IN CALIFORNIA



August 5, 1976.—Ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1976

PRESERVING THE TULE ELK POPULATION  
IN CALIFORNIA

AUGUST 5, 1976.—Ordered to be printed

Mr. MOSS (for Mr. TUNNEY), from the Committee on Commerce,  
submitted the following

REPORT

[To accompany H.J. Res. 738]

The Committee on Commerce, to which was referred the joint resolution (H.J. Res. 738) providing for Federal participation in preserving the Tule elk population in California, having considered the same, reports favorably thereon without amendment and recommends that the joint resolution do pass.

PURPOSE AND SUMMARY

The purpose of the bill is to provide for the participation of the Federal Government in the conservation and restoration of the Tule elk population in the central valleys of California. To achieve this purpose, the legislation directs the Secretary of the Interior, the Secretary of Agriculture and the Secretary of Defense to make lands under their jurisdictions reasonably available to the State of California for the conservation and grazing of the Tule elk herds. In order to monitor progress in the restoration of populations, the Secretary of the Interior shall submit to the Congress each year a report concerning the estimated size and condition of the various herds. The report shall include an evaluation of the effects of Federal, State and local land use practices on the herds and their habitat, along with recommendations on additional Federal actions which should be taken to protect the Tule elk.

Finally, the Secretary of the Interior, in cooperation with other Federal, State and local officials is directed to develop a plan for the restoration and conservation of the Tule elk and its habitat. A description of such plan's development and implementation shall be included in the Secretary's first annual report, and the Congress is to be kept informed of additional developments in subsequent reports.

## BACKGROUND AND NEED

The Tule elk (*Cervus elaphas nonnodes*), recognized as a distinct subspecies, is the smallest of the North American elk and is native only to the central valleys of California. In contrast to its largest cousin, the Roosevelt elk, which weighs as much as 1,200 pounds, the Tule elk generally weighs up to 680 pounds for a mature bull, and up to 380 pounds for a mature cow. Primarily creatures of the valley floor, Tule elk feed on grass and other plant life in the low elevations and swamp lands. However, during the winter they move up into the foothills among the evergreen trees, to return to the open valley again at the onset of summer.

In the early 1800's Tule elk numbered in the thousands and roamed the San Joaquin and Sacramento Valleys of California. Their range extended from Butte County, 80 miles north of Sacramento, south to the Buena Vista Lake Region near Bakersfield in Kern County, and from the foothills of the western slope of the Sierra across the Great Valley to the coastal ranges. During the late 1800's, however, the populations began to decline because of harvesting by trappers and goldminers for food and hides. A once mighty herd dwindled to a few.

In an effort to restore the Tule elk to its once plentiful number, the State of California passed a law in 1873 which made the killing of the Tule elk a felony punishable by up to 2 years imprisonment. However, in 1943, lawful hunting was reinitiated and continued sporadically until 1971. At that time, the California State Legislature enacted a statute (31 California Code 332) which prohibits the taking of Tule elk until the total Statewide population exceeds 2,000 or until the State Legislature determines that suitable areas cannot be found in the State to accommodate a population of 2,000 in a healthy condition.

The current California Tule elk population totals approximately 548. Tule elk herds are now found in four major locations: the Owens Valley in Inyo County (380), the Cache Creek-Swanson Range in Lake and Colusa Counties (107), the California Tupman Elk Preserve (40), and the San Luis National Wildlife Refuge in Merced County (21). According to informal State Fish and Game Department estimates, the combined maximum carrying capacity of these four areas is approximately 800 head. Thus, these lands do not provide sufficient habitat to support the 2,000 head goal envisioned by the California State Legislature. The State is considering acquisition of several areas to provide additional habitat, including an area north of the San Luis National Wildlife Refuge. The State Fish and Game Department has determined even these additional areas are insufficient habitat to support the remaining 1,200 animals. In contrast, Federal lands under the jurisdiction of the Secretaries of Interior, Agriculture and Defense not currently supporting Tule elk could be utilized for this purpose. These include the Point Reyes National Seashore, national forest and park lands, Bureau of Land Management lands located in central California, and areas within Camp Pendleton, Camp Roberts, and Camp Hunter Liggett. H.J. Res. 738 would provide for the conservation of the Tule elk by providing for a plan of coopera-

tion among these Federal land agencies and the State whereby agency lands would be managed to provide and enhance Tule elk habitat.

It is the view of the Administration that Federal land management agencies currently have sufficient authority to manage their lands in cooperation with the States for wildlife conservation purposes and could relocate Tule elk to Federal lands without the specific mandate contained in H.J. Res. 738. For instance, under the authority of the Sikes Act Amendments (P.L. 93-452) the Departments of Interior and Agriculture have made substantial progress toward cooperation with the State and the City of Los Angeles in managing Tule elk herds in the Owens Valley. The Committee welcomes this development and believes that the joint management plan which is being negotiated for the area will provide an adequate framework for continuing Federal-State cooperation in the restoration of herds in the Valley.

However, the Committee also believes that the use of currently available authority has been limited to the Owens Valley. Since 1971 when the State Legislature adopted the 2,000 Tule elk goal, only one relocation of elk to Federal lands outside of the Owens Valley has been completed. (This involved the transfer of 21 elk from State zoos to the San Luis National Wildlife Refuge.) Preparations for introduction of Tule elk to the Point Reyes National Seashore have been underway since 1971. To date, however, no elk have been relocated here, and it appears that no relocations will occur for at least 1 or 2 years. Finally, Federal agencies have made no comprehensive, cooperative studies identifying and evaluating additional potential Tule elk habitat since 1971. The limited number of Tule elk mandates an immediate and intensive effort to locate additional habitat to support these creatures. The Committee believes that H.J. Res. 738 is necessary to focus the attention of Federal agencies on the urgency of this matter and to provide for a comprehensive and coordinated framework under which conservation of the Tule elk can proceed.

## SECTION-BY-SECTION ANALYSIS

*Preamble*

The preamble to H.J. Res. 738 states that while the Tule elk had once roamed the central valleys of California in vast numbers, agricultural practices and urban growth have resulted in the destruction of its native habitat. The species became nearly extinct, reaching a low of approximately 30 animals during the late 1800's. Due to the efforts of citizen groups and cattlemen, however, the population has slowly recovered to a total of approximately 600 animals, the majority of which may be found in the Owens Valley, at Cache Creek in Colusa County, and in the Tupman Refuge in Kern County, California.

The preamble further states that in 1971 the California Legislature enacted legislation which prohibited the taking of Tule elk until the Statewide population exceeds 2,000, provided suitable areas could be found in California to accommodate such a population in a healthy condition. With respect to the Owens Valley, however, the population may not exceed 490 unless the holding capacity of the Valley, as determined in accordance with game management principles, would permit a greater number. Finally, the preamble points out that the

Department of the Interior considers the Tule elk to be a rare species. The protection and maintenance of the herd in a free and wild state is of educational, scientific, and aesthetic value to the people of the United States. The preamble concludes that there are Federal lands in the State of California which, together with adjacent land held in either public or private ownership, offer a potential for increasing the Tule elk population to the 2,000-head level set forth by the California Legislature.

#### *Section 1*

Section 1 of the bill would establish the goal set forth by the California Legislature in 1971 as a national goal: the Tule elk population of California should be restored to a number of at least 2,000 except that in the Owens River watershed area, the population should not exceed 490 or such other number as is determined by the State of California to be the maximum holding capacity of the area.

#### *Section 2*

Section 2 directs the Secretary of the Interior, the Secretary of Agriculture and the Secretary of Defense to cooperate with the State in making lands under their respective jurisdictions available for the preservation and grazing of the Tule elk. Such cooperation shall be in accordance with other Federal law.

#### *Section 3*

Section 3 directs the Secretary of the Interior to submit to the Congress on or before the first of March of each year, a report outlining the progress being made in the restoration of Tule elk. Among the matters to be contained in the report are:

- (1) An estimate of the size and condition of the various Tule elk herds, and the nature and condition of their respective habitats;
- (2) A determination by the Secretary as to whether preservation of the Tule elk herd is or may be threatened by Federal, State, or local land use management practices; and
- (3) Recommendations of the Secretary as to what additional Federal action, if any, should be taken to preserve the Tule elk herds at existing levels, or at such other levels as may be determined by the State of California.

#### *Section 4*

Section 4 directs the Secretary of the Interior, in cooperation with Federal, State, and local agencies which exercise jurisdiction over actual or potential Tule elk habitat, to develop a plan for the restoration and conservation of the Tule elk. The development and implementation of this management plan is to be set forth in the Secretary's annual report to Congress required under section 3 of the Act. The Committee envisions that a full description of the plan's development and implementation be included in the Secretary's first annual report, and that updates on this information be included in subsequent reports.

An integral part of the Tule elk management plan to be developed under section 4 is the identification and evaluation of lands with potential for use as Tule elk habitat. Thus, the Secretary's annual

report to Congress is expected to include information on the availability, present and planned, of additional habitat for Tule elk in excess of the carrying capacity of the Owens Valley, up to the California mandated 2,000 elk herd minimum. Further, concern has been expressed to the Committee about the lack of progress being made in the relocation of Tule elk to the Point Reyes National Seashore. The Committee therefore requests that the Secretary include in his first annual report to Congress data concerning the status of grazing and other agricultural activities in the Seashore, the timetable for phasing out such activities, and a feasibility study for the reintroduction of Tule elk into the Seashore and the adjacent Golden Gate National Recreation Area.

It is intended that the Federal Tule elk management plan developed under section 4 be coordinated closely with the State and local agencies. However, development of a Federal plan is not intended to provide the Secretary of the Interior with any additional authority to regulate numbers of Tule elk whose management as a non-endangered resident species should remain with the State. The Federal agencies will be responsible for managing Tule elk habitat under their jurisdictions in a manner conducive to the restoration and conservation of the species.

#### ESTIMATED COSTS

Pursuant to section 252 of the Legislative Reorganization Act of 1970, the Committee estimates that there will be no cost associated with the enactment of this legislation, other than minimal administrative costs.

#### TEXT OF H.J. RES. 738, AS REPORTED

JOINT RESOLUTION Providing for Federal participation in preserving the Tule elk population in California

Whereas, although Tule elk once roamed the central valleys of California in vast numbers, the species became nearly extinct during the latter part of the last century as a result of its native habitat being developed for agricultural purposes and urban growth; and

Whereas, although around 1870 the Tule elk population reached a low of approximately thirty animals, through the dedicated efforts of various citizen groups and individual cattlemen, the population has slowly recovered to a total of approximately six hundred animals, the majority of which may be found in free-roaming herds in the Owens Valley, at Cache Creek in Colusa County, California, a small number which are captive in the Tupman Refuge in Vern County, California; and

Whereas in 1971 the California Legislature, recognizing the threat to the Tule elk as a species, amended section 332 and enacted section 3951 of the Fish and Game Code which provide for the encouragement of a statewide population of Tule elk of not less than two thousand, if suitable areas can be found in California to accommodate such population in a healthy environment, and further fixed the population of the Tule elk in the Owens Valley at four hundred and ninety animals, or such greater number as might thereafter be determined by the Cali-

ifornia Department of Fish and Game, in accordance with game management principles, to be the Owens Valley holding capacity; and

Whereas the Tule elk is considered by the Department of the Interior to be a rare, though not endangered species by reason of the steps taken by the State of California; and

Whereas the protection and maintenance of California's Tule elk in a free and wild state is of educational, scientific, and esthetic value to the people of the United States; and

Whereas there are Federal lands in the State of California (including, but not limited to, the San Luis National Wildlife Refuge, the Point Reyes National Seashore, various national forests and national parks, and Bureau of Land Management lands located in central California, as well as lands under the jurisdiction of the Secretary of Defense such as Camp Pendleton, Camp Roberts, and Camp Hunter Liggett) which together with adjacent lands in public and private ownership, offer a potential for increasing the Tule elk population in California to the two thousand level envisioned by the California Legislature. Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That it is the sense of Congress that the restoration and conservation of a Tule elk population in California of at least two thousand, except that the number of Tule elk in the Owens River Watershed area shall at no time exceed four hundred and ninety or such greater number which is determined by the State of California to be the maximum holding capacity of such area, is an appropriate national goal.

SEC. 2. The Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense shall cooperate with the State of California in making the lands under their respective jurisdictions reasonably available for the preservation and grazing of Tule elk in such manner and to such extent as may be consistent with Federal law.

SEC. 3. The Secretary of the Interior shall submit, on or before the first of March of each year, a report to the Congress as to the estimated size and condition of the various Tule elk herds in California and the nature and condition of their respective habitats. The Secretary shall include in such report his determination as to whether or not the preservation of the Tule elk herd at its then-existing level is, or may be, endangered or threatened by actual or proposed changes in land use or land management practices on lands owned by any Federal, State or local agency, together with his recommendations as to what Federal actions, if any, should be taken in order to preserve the Tule elk herds at the then-existing level or such other level as may be determined from time to time by the State of California.

SEC. 4. The Secretary of the Interior, in coordination with all Federal, State, and other officers having jurisdiction over lands on which Tule elk herds are located or lands which would provide suitable Tule elk habitat, shall develop a plan for Tule elk restoration and conservation, including habitat management, which shall be integrated with the comparable plans of State and local authorities in California. The Secretary's annual report to Congress shall describe the development and implementation of such plan.

## AGENCY COMMENTS

Following are the comments received from the executive agencies on H.J. Res. 738 and a similar Senate bill S.J. Res. 20:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., April 9, 1976.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on H.J. Res. 738, a resolution "Providing for Federal participation in preserving the Tule elk population in California."

We recommend against the enactment of H.J. Res. 738.

H.J. Res. 738 calls for cooperation with the State of California by the Secretaries of Agriculture, Defense and Interior for the preservation of Tule elk to an extent consistent with existing Federal law. The resolution authorizes the Secretary of the Interior to develop a plan for Tule elk restoration and conservation to be integrated with comparable plans of State and local authorities in California. An annual report to Congress in March of each year is to describe the Secretary's progress in the development and implementation of such plans.

The authority provided in this resolution is not necessary because it duplicates existing authority. With the exception of the preparation of an annual report to Congress, the Department of the Interior is presently engaged in the type of activities called for in H.J. Res. 738. The Department is developing suitable sites for Tule elk and has been cooperating with the State in programs for the conservation and protection of Tule elk. To date, we have been pleased with the work that California has done in resorting the Tule elk.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

CURTIS BOHLEN,  
Acting Assistant Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., June 16, 1975.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request of your Committee for the views of this Department on S.J. Res. 20, a bill "To authorize the establishment of a Federal-State management pro-



gram for the conservation, protection, and enhancement of Tule elk and other species, and for other purposes.”

We do not recommend enactment of the resolution.

S.J. Res. 20 would authorize the establishment of a national wildlife refuge for Tule elk within the Owens River watershed area in California. The area would be managed in accordance with the laws and regulations relating to refuges. A herd of no less than 2,000 elk would be maintained in the State. No more than 490 elk or such greater number as is determined by the Secretary of the Interior to be in accordance with game management principles would be maintained on this refuge. Tule elk would be transplanted as necessary to other Federal lands and to State lands under mutually agreeable plans. Fish and wildlife on these State lands would be jointly managed. S.J. Res. 20 also would legislatively determine that the Tule elk are threatened with extinction, thus enabling the use of monies from the Land and Water Conservation Fund for acquisition of lands and interests therein for protection of these animals.

We understand the objective of this bill and appreciate its intent, but it is our judgment that this legislation would give to the Secretary no authority not already provided by law. Such authority has been, and is, exercised by this Department in a little-publicized, successful program. In cooperation with the U.S. Forest Service and the California Department of Fish and Game, this Department has conducted a survey of potential transplant sites with a view toward establishing additional herds of Tule elk. On the basis of that survey, we have determined that a number of smaller, separated herds will afford more assurance of preservation of the species than would one or two large herds. Accordingly, Tule elk have been introduced onto the San Luis National Wildlife Refuge. Plans are presently being developed for their introduction onto Point Reyes National Park. A management plan must be approved and a fence built across the peninsula before Tule elk can be introduced onto Point Reyes. We anticipate that all this will be accomplished by this fall. Tule elk herds are now found in four major locations: the Owens Valley, the Cache Creek-Swanson Range area, the California State Tupman Elk Preserve, and San Luis National Wildlife Refuge. The Owens Valley herd is composed of several smaller herds. The location of and minimum numbers in these herds follows:

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Except for the establishment of the nucleus herd at San Luis, there has not been any significant change in the number of Tule elk.

While the Endangered Species Act requires the Secretary to carry out a program of conserving, protecting, restoring, and propagating

selected species of native fish and wildlife that are threatened with extinction and while Tule elk can be considered rare, it is generally the opinion of mammalogists and conservationists that this resident species is not threatened with extinction. We believe that to classify the Tule elk as threatened when biological evidence does not warrant that classification, would set an undesirable precedent. Further, we believe that our plans insure attainment of the objective or preserving the populations of Tule elk. State and Federal lands are available for further transplantation, and we do not feel that further acquisition of lands for this purpose is necessary at this time. Further Land and Water Conservation Funds should be spent only for those species that are truly endangered.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

NATHANIEL P. REED,  
*Assistant Secretary of the Interior.*

DEPARTMENT OF AGRICULTURE,  
OFFICE OF THE SECRETARY,  
*Washington, D.C., June 5, 1975.*

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,*  
*U.S. Senate.*

DEAR MR. CHAIRMAN: As you requested, here is the report of the Department of Agriculture on S.J. Res. 20, a joint resolution "To authorize the establishment of the Tule Elk National Wildlife Refuge and the establishment of a Federal-State management program for the conservation, protection, and enhancement of Tule elk and other species, and for other purposes."

The Department of Agriculture recommends that S.J. Res. 20 not be enacted.

S.J. Res. 20 would establish the Tule Elk National Wildlife Refuge. The refuge would consist of all lands within the Owens River watershed area in Inyo County, California, which were under the jurisdiction of the Secretary of the Interior on January 1, 1975. The Secretary would be directed to undertake to enter into management agreements with other parties owning or administering lands within the Owens River watershed area for the purpose of implementing complementary wildlife management practices on lands within the area that are not under his jurisdiction. The Secretary of Agriculture would be directed to limit, to the extent practicable, grazing and other public uses in areas of the Inyo National Forest which adjoin the refuge, such limitations to be applied in a manner appropriate to achieve the purposes of the joint resolution.

S.J. Res. 20 also directs the Secretary of the Interior to build and sustain a herd of Tule elk within the State of California which at no time numbers less than 2,000. The number of such elk authorized to be maintained within the Owens River watershed area would be limited to 490 or such greater number as may be determined by the Secretary

(with concurrence of the State) to be the holding capacity. To achieve a population of 2,000 Tule elk within the State, the Secretary would be directed to relocate elk to other lands under his jurisdiction and to lands under the jurisdiction of any other Federal agency or the State. Relocation to lands under the jurisdiction of other Federal agencies or the State would be subject to their agreement.

The Department of Agriculture recognizes that special management emphasis, such as is now taking place, is necessary for the maintenance of free-roaming herds of Tule elk in view of their relatively few numbers. Planning and action by the California Department of Fish and Game, the Bureau of Land Management of the Department of the Interior, the Forest Service of this Department, and others have resulted in healthy populations of Tule elk in Owens Valley that are generally suited to the available range.

The proper management of wildlife and preservation of wildlife species requires a truly cooperative effort involving many Federal and State agencies; National, State and local conservation groups; and individuals. P.L. 93-452, recently enacted by the 93rd Congress recognized this important principle by providing statutory reinforcement of cooperative agreements that existed between Federal land management agencies, such as the Forest Service, and State wildlife agencies.

Because of its jurisdiction over resident wildlife, the State of California has maintained the lead role in cooperative efforts to provide for the perpetuation of Tule elk. We believe the State has an adequate and active program for the conservation of Tule elk. We therefore do not consider it necessary or prudent for the Federal government to establish a refuge to obtain an objective that can be achieved by the State of California without a Federal Refuge.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,  
*Under Secretary.*

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# Ninety-fourth Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,  
one thousand nine hundred and seventy-six*

### Joint Resolution

Providing for Federal participation in preserving the Tule elk population in California.

Whereas, although Tule elk once roamed the central valleys of California in vast numbers, the species became nearly extinct during the latter part of the last century as a result of its native habitat being developed for agricultural purposes and urban growth; and

Whereas, although around 1870 the Tule elk population reached a low of approximately thirty animals, through the dedicated efforts of various citizen groups and individual cattlemen, the population has slowly recovered to a total of approximately six hundred animals, the majority of which may be found in free-roaming herds in the Owens Valley, at Cache Creek in Colusa County, California, a small number which are captive in the Tupman Refuge in Vern County, California; and

Whereas in 1971 the California Legislature, recognizing the threat to the Tule elk as a species, amended section 332 and enacted section 3951 of the Fish and Game Code which provide for the encouragement of a statewide population of Tule elk of not less than two thousand, if suitable areas can be found in California to accommodate such population in a healthy environment, and further fixed the population of the Tule elk in the Owens Valley at four hundred and ninety animals, or such greater number as might thereafter be determined by the California Department of Fish and Game, in accordance with game management principles, to be the Owens Valley holding capacity; and

Whereas the Tule elk is considered by the Department of the Interior to be a rare, though not endangered, species by reason of the steps taken by the State of California; and

Whereas the protection and maintenance of California's Tule elk in a free and wild state is of educational, scientific, and esthetic value to the people of the United States; and

Whereas there are Federal lands in the State of California (including, but not limited to, the San Luis National Wildlife Refuge, the Point Reyes National Seashore, various national forests and national parks, and Bureau of Land Management lands located in central California, as well as lands under the jurisdiction of the Secretary of Defense such as Camp Pendleton, Camp Roberts, and Camp Hunter Liggett) which, together with adjacent lands in public and private ownership, offer a potential for increasing the Tule elk population in California to the two thousand level envisioned by the California Legislature: Now, therefore, be it

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of Congress that the restoration and conservation of a Tule elk population in California of at least two thousand, except that the number of Tule elk in the Owens River Watershed area shall at no time exceed four hundred and ninety or such greater number which is determined by the State of California to be the maximum holding capacity of such area, is an appropriate national goal.*

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SEC. 2. The Secretary of the Interior, the Secretary of Agriculture, and the Secretary of Defense shall cooperate with the State of California in making the lands under their respective jurisdictions reasonably available for the preservation and grazing of Tule elk in such manner and to such extent as may be consistent with Federal law.

SEC. 3. The Secretary of the Interior shall submit, on or before the first of March of each year, a report to the Congress as to the estimated size and condition of the various Tule elk herds in California and the nature and condition of their respective habitats. The Secretary shall include in such report his determination as to whether or not the preservation of the Tule elk herd at its then-existing level is, or may be, endangered or threatened by actual or proposed changes in land use or land management practices on lands owned by any Federal, State, or local agency, together with his recommendations as to what Federal actions, if any, should be taken in order to preserve the Tule elk herds at the then-existing level or such other level as may be determined from time to time by the State of California.

SEC. 4. The Secretary of the Interior, in coordination with all Federal, State, and other officers having jurisdiction over lands on which Tule elk herds are located or lands which would provide suitable Tule elk habitat, shall develop a plan for Tule elk restoration and conservation, including habitat management, which shall be integrated with the comparable plans of State and local authorities in California. The Secretary's annual report to Congress shall describe the development and implementation of such plan.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*