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SUMMER HOMES IN THE STANISLAUS NATIONAL FOREST,  
RELIEF OF HARRIET C. CHAMBERS, AND ACCEPTANCE  
OF CASH IN LAND EXCHANGE TRANSACTIONS

GOVERNMENT  
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HEARING  
BEFORE THE  
SUBCOMMITTEE ON FORESTS  
OF THE  
COMMITTEE ON AGRICULTURE  
HOUSE OF REPRESENTATIVES  
EIGHTY-NINTH CONGRESS

SECOND SESSION

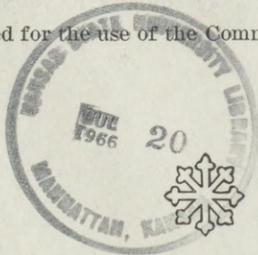
ON

H.R. 954, H.R. 1062, and H.R. 3034; H.R. 9524,  
and S. 2104; and S. 2264

JUNE 20, 1966

Serial HH

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FOR THE RELIEF OF CERTAIN PERSONS HAVING  
SUMMER HOMES IN THE PINECREST RECREATION  
AREA, IN THE STANISLAUS NATIONAL FOREST

MONDAY, JUNE 20, 1966

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON FORESTS  
OF THE COMMITTEE ON AGRICULTURE,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10 a.m. in room 1302, Longworth House Office Building, Hon. John L. McMillan (subcommittee chairman) presiding.

Present: Representatives McMillan, O'Neal, Teague of California, and Hansen of Idaho.

Also present: John J. Heimburger, general counsel, Martha Hannah and Fowler West, staff assistants.

(Mr. Baldwin introduced H.R. 954, the text of which follows, and which is identical to H.R. 1062 introduced by Mr. McFall and H.R. 3034 introduced by Mr. Johnson of California.)

[H.R. 954, 89th Cong., 1st Sess.]

A BILL For the relief of certain persons having summer homes in the Pinecrest Recreation Area, in the Stanislaus National Forest

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who on the date of enactment of this Act owns a summer home in the Pinecrest Recreation Area in the Stanislaus National Forest who is required to vacate the lot on which such summer home is located because of the cancellation of the summer home permit provided him by the Secretary of Agriculture shall be reimbursed by the Secretary of Agriculture for the fair value of such summer home as of the date the cancellation takes effect, disregarding for such purpose all capital improvements made thereon after the date of enactment of this Act.*

(The report of the Secretary of Agriculture on H.R. 954 follows:)

DEPARTMENT OF AGRICULTURE,  
*Washington, D.C., July 8, 1965.*

HON. HAROLD D. COOLEY,  
*Chairman, Committee on Agriculture,  
House of Representatives.*

DEAR MR. CHAIRMAN: This report responds to your request of January 18, 1965. It covers H.R. 954, a bill "For the relief of certain persons having summer homes in the Pinecrest Recreation Area, in the Stanislaus National Forest."

We recommend that H.R. 954 not be enacted.

H.R. 954 would provide for compensation of summer homeowners in the Pinecrest Recreation Area in the Stanislaus National Forest in California should their permits be canceled by the Secretary of Agriculture. In case of cancellation, the Secretary of Agriculture would be required to reimburse the affected permittee for the fair value of his summer home as of the effective date of the cancellation. In determining fair value, capital improvements made after the date of this bill would be disregarded.

The first permits for summer homes in the Pinecrest Recreation Areas were issued in 1917. By 1938, there were 394 summer home lots under permit. No additional summer home permits have been issued since that time. Other private and quasi-public use under special use permit in the area includes a resort, an organization camp, and various improvements related to those uses and the summer homes.

In response to increasing demand for camping and other public recreation use, the Forest Service constructed some 300 family units in two public campgrounds. Public campground use alone for the three-month summer period increased by 1963 to 85,196 man-days. During peak periods, such as Independence Day and Labor Day weekends, an estimated 20,000 or more persons visit the area. All this use is concentrated on a land area of not over 350 acres on the southwest shore of 300-acre Pinecrest Lake.

The rapidly growing day-use and camping-use, along with use by the summer home residents and their guests, has placed an increasingly heavy demand upon the available beach front. To provide the beach front area needed to meet the public use demand at Pinecrest, some summer homes have been or will need to be removed. Changes in public use may require other later changes in the Pinecrest Recreation Area complex which we cannot foresee at this time.

This Department has two primary reasons for recommending against enactment of H.R. 954. First, payment of compensation to certain affected summer home permittees at Pinecrest under the existing conditions would be unfair to those owners who have already moved and it would be contrary to the intent and provisions of longstanding permits—agreements entered into in good faith by both this Department and the permittees. Second, compensation of a few summer homeowners at Pinecrest could set a precedent opening the way for numerous claims all over the country from permittees and users of National Forest land and resources should they be adversely affected by changes in National Forest management and use made for the public interest.

Since its establishment 60 years ago, the Forest Service has consistently sought to manage the National Forests and their resources for the "greatest good of the greatest number in the long run." Such a policy recognizes that public needs and desires change. Consequently, management of the National Forests in the public interest requires changes in management practices and in the uses for which an area is administered. This is particularly true when a rapidly increasing population looks to the National Forests and other public lands for a multiplicity of uses, some of which conflict with others.

Summer-home and other special use permits and development and management plans and practices have reflected down through the years an awareness and expectancy of changes in National Forest use. The Act of June 4, 1897 (16 U.S.C. 551) was the initial authority under which special use permits could be issued. Such permits could be issued only on a terminable or revocable-at-will basis. The Act of March 4, 1915 (16 U.S.C. 497) authorized the Secretary of Agriculture to issue term permits for a maximum of 30 years for summer homes and certain other specified uses. This Act did not supersede the authority given by the 1897 Act. Therefore, permits for summer homes and other purposes can be issued on either a term or a terminable basis.

Originally, most of the permits at Pinecrest Lake were terminable permits, renewable on an annual basis. These and many other terminable permits specifically provided that the permit could be terminated at the discretion of the Chief of the Forest Service. During the period 1948-1950, at the option of the permittees, all but one of the summer home permits were reissued as term permits. Most of these were for 20-year terms. Sixteen were reissued for termination in 1962, when the Forest Service expected to need the area occupied by them for swimming, picnicking, camping, and other public use. In no cases were permits issued for the maximum period authorized, 30 years.

The limitations on the duration of the special use permits reflect awareness that the lands so affected may be needed later for other purposes. The period for which the 16 permits were issued reflected Forest Service recognition of the future need of the summer home sites for higher public use. This period of time stated in the permit, and the definite termination date gave each permittee due and reasonable notice that he obtained use of the plot of National Forest land covered by the permit for private summer home use only for a specified time.

By 1950, the demand for public recreation use at Pinecrest clearly indicated that additional beach front and campground area would be needed in a very few years. That is why 16 of the summer home permittees were issued term permits for only a 12-year period ending in 1962. Prior to the termination date for their permits those 16 permittees were given the opportunity to select a lot in another

area at Pinecrest suitable for summer homes and not needed now or in the foreseeable future for public recreation use. Following a random drawing of lot numbers, all 16 permittees were assigned "lieu lots" for which they would receive a permit and to which they could move their summer homes when the permits on their current lots expired. Eleven of those permittees have moved to their new lots. Two permits for various other reasons were dropped or terminated. Three of the 16 permittees, although they have been assigned lieu lots and have accepted permits for them, have not complied with the provisions of their original permits and the request of the Federal Government that they vacate the original lots. Nine other permittees whose permits were scheduled to terminate in 1967 have been notified that their permits will at that time be reissued for a 5-year period only, until 1972. Then that land, too, will be developed for public recreation use. Those nine permittees can also select other lots in the Pinecrest area if they so desire. The Forest Service plans to reissue all the other summer home permits at Pinecrest for another 20-year period when the present terms expire in 1967.

In this case, as in others involving special use permits, the Government has made a conscientious and impartial effort to both protect the public interest and help the permittees avoid personal inconvenience and undue costs by giving notice a long time in advance.

Enactment of H.R. 954 would place upon the Federal Government the obligation to pay costs arising out of actions under legally drawn and executed agreements even though such payments are neither provided for nor contemplated in the terms of the agreement. There are many such permits between this Department and permit holders, and the permits authorize a variety of uses in addition to summer home usage.

A requirement that the Government provide the relief sought for certain permittees in this particular area would discriminate against the thousands of permittees with like permits in other areas on the National Forests. More particularly, it would discriminate against summer home permittees elsewhere who have honored the provisions of their permits and removed their improvements at their own expense at the end of their permit period. In the last 6 to 7 years over 200 summer home sites within the National Forest System have been vacated at the end of stipulated tenure periods. In all these cases, both parties recognized and agreed to the nature of the permit as one which provides for the use to be brought to an end. They also accepted the specific obligations each party incurred under the permit terms. In these 200 or more cases, there was no reimbursement of residual values or moving costs and the improvements were used as originally contemplated to the end of the agreement period.

The Forest Service now has approximately 19,000 recreation residences (summer homes) under permit on the National Forests similar to those in question at Pinecrest. The age of these improvements ranges from a few years to about 60 years. The average age of approximately 900 recreation residences now on limited tenure, including those at Pinecrest, is 41 years. Therefore, most of them should already be fully amortized.

There are now some 62,000 special use permits on the National Forests. These permits cover over 80 different types of use including recreation residences. Most of them involve permittee-built and owned improvements of some kind. All, including the Pinecrest summer home permits, specifically set forth the obligations of the Federal Government, if any, for compensating the permittee for improvements built on the permit area, or their removal therefrom at the end of the permit period. Compensation of summer home permittees in a manner different from the specific and accepted provisions of their permits would, in effect, be recognition and establishment of a vested interest of those permittees in continued use of their summer home sites beyond the prescribed use period. Such a private interest would be contrary to the intent and purpose of the permit and would bestow on the permittee an interest in the land covered by the permit which clearly goes beyond that intended under the authority which the Congress gave to the Secretary of Agriculture in the term permit Act of March 4, 1915.

The effect of the bill if enacted could extend precedent-wise to these thousands of other permits for the use of National Forest land, resources, and facilities which also do not provide for compensation when the permit expires. Likewise, it could affect summer home permits or leases issued by other Federal agencies.

The Bureau of the Budget advises that it has no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

ORVILLE L. FREEMAN,  
*Secretary.*

Mr. McMILLAN. The committee will come to order.

The committee has under consideration this morning H.R. 954, H.R. 1062, and H.R. 3034, bills for the relief of certain persons having summer homes in the Pinecrest Recreation Area, in the Stanislaus National Forest.

We would like to hear first from Congressman Harold Johnson or Congressman B. F. Sisk. Mr. Sisk, are you pressed for time this morning?

Mr. SISK. Well, I would appreciate if I could go ahead.

Mr. McMILLAN. Very well, we will be happy to hear from you.

**STATEMENT OF HON. B. F. SISK, A REPRESENTATIVE IN CONGRESS  
FROM THE STATE OF CALIFORNIA**

Mr. SISK. Thank you, Mr. Chairman.

As the chairman has indicated, this is a bill of primary concern to my colleague, Congressman Johnson, and also Congressman McFall. I do have an interest in it in that, though the area is not directly in my district, I have constituents who are concerned.

I would like to read a brief statement and then insert copy of a letter in the record.

Mr. Chairman, I appreciate the opportunity to appear here today in support of the bill introduced by my colleague, Congressman Harold T. Johnson, to help in curing what I consider an inequity and injustice to permittees in the Pinecrest area of Stanislaus National Forest.

Mr. Chairman, I recognize that private use of the forests must give way to public use if and when there is an immediate public-use requirement and no feasible alternative. I have participated in a number of conferences, meetings, and discussions on the Pinecrest problem and I am not convinced that public-use requirements necessitate depriving these permittees of their long held homes. But if they are to be dispossessed, under all the facts and circumstances here present, I strongly feel that they should be compensated.

I would like to present to the committee a letter addressed to me by my constituent, Mr. O. S. Peterson, of Fresno, Calif., who is president of the National Forest Recreation Association, a group representing many of these homeowners. I want to join in the views Mr. Peterson presents and in urging approval by your committee of H.R. 3034 to partially correct these inequities.

And, Mr. Chairman, as I indicated in the beginning, if I may I would like to ask that Mr. Peterson's letter be considered by the committee and made a part of the record of the hearing.

Mr. McMILLAN. Without objection it is so ordered.

(The letter referred to follows:)

NATIONAL FOREST RECREATION ASSOCIATION,  
Fresno, Calif., June 15, 1966.

Hon. B. F. SISK,  
House of Representatives,  
Washington, D.C.

DEAR MR. SISK: The National Forest Recreation Association is a trade association for the outdoor recreation industry. It involves four divisions: (1) Resorts, (2) Winter Sports Areas, (3) Packer-Outfitter-Dude Ranch facilities, and (4) Home Owners. We represent more than 2,000 home owners occupying federal lands under permit or lease. These lands, chiefly, are administered by

the Departments of Agriculture and Interior. Both Departments seem to be embarked on a close-out of home owner use of public lands.

This organization is well aware of the hardship imposed upon large numbers of federal "tenants" by termination of leases and, in effect, confiscation of the personal property—without reimbursement—by the federal agencies on the premise that the lands occupied are—or will be—needed because of the 'population explosion' for other purposes—usually camp grounds and the like.

On behalf of our membership, a substantial number of which constitute third and fourth generation permittees of the same family, we have appealed for years for relief from this unfair administrative action. Congressman Harold T. Johnson of California has introduced legislation as result of extensive public hearings, to provide that reimbursement be provided in the event of termination or failure to renew such permits by administrative determination. Congressman Johnson's Bill is H.R. 3034 and we are informed the House Committee on Agriculture will hold hearings next Monday, June 20 at 10:00 A.M.

May we count on your active support of this legislation and can you possibly appear before this hearing on our behalf. We will appreciate such action, if you concur, and will appreciate advice on the outcome. Thank you very much for your consideration.

Very truly yours,

O. S. PETERSON,  
*President.*

MAY 31, 1966.

CERTIFIED MAIL—RETURN RECEIPT REQUESTED.

HARRY L. AND/OR VELMA F. TAYLOR,  
*Modesto, Calif.*

DEAR MR. AND MRS. TAYLOR: The Secretary of Agriculture's letter to you of April 22, 1966 allows you until no later than August 1, 1966 to remove your summer home improvements from Pinecrest Beach.

The August 1, 1966 deadline is rapidly approaching. If you have not already done so you should contact our District Ranger at Pinecrest as soon as possible. You will want to discuss with him your plans for moving. He will be able to approve on-the-ground the removal of any trees which may be necessary to your move and to provide you with standards for construction plans for your summer home at its new location.

In accordance with Clause 11 of your expired term permit for Lot No. 228, Lower Strawberry Lake Tract any improvements not removed by August 1, 1966 become the property of the United States, but that will not relieve you of the liability for the cost of their removal and restoration of the site.

Sincerely yours,

HARRY D. GRACE,  
*Forest Supervisor.*

Mr. McMILLAN. Any questions?

Mr. TEAGUE. Mr. Sisk, are the bills introduced by Mr. Johnson and Mr. McFall and Mr. Baldwin identical?

Mr. SISK. So far as I know they are identical, yes.

Mr. TEAGUE. I think the record should show that if this subcommittee or the full committee acts favorably on this proposed legislation, regardless of under whose name the bill is reported, at least it should be noted as a sort of memorial to Congressman Baldwin, who was always very much interested in and very active in behalf of recreation and conservation, that we know he felt very strongly about this bill as being meritorious.

Mr. SISK. I appreciate the comments of my colleague. I know Congressman Baldwin was very much interested.

Mr. McMILLAN. Mr. Sisk, do you have any further comments?

Mr. SISK. No, that is all I have, Mr. Chairman.

Mr. McMILLAN. Mr. Johnson, we will be glad to hear from you if you have a statement at this time.

**STATEMENT OF HON. HAROLD T. JOHNSON, A REPRESENTATIVE  
IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. JOHNSON. Thank you, Mr. Chairman, for the opportunity to appear here now in behalf of this problem.

Mr. Chairman, first of all I would like to express my deep appreciation for the fact that the Forests Subcommittee of the Committee on Agriculture is hearing our problem. While this is legislation designed to correct one specific problem, it is typical of a gross inequity which exists in many areas of my district, my State, and our Nation.

The Second Congressional District contains approximately 13 million acres of national forest land which serves much of the States of California and Nevada as the mountain recreation areas for their people. Therefore our problems are vital to these regions.

I have been working with the Pinecrest permittees and the Forest Service in trying to resolve the differences ever since I have been a Member of the House of Representatives.

The heart of the situation is found in the fact that some of these permittees have been in the area since 1917, and the total value of the improvements made in this area to date approximate \$1½ million. Permittees also pay approximately \$20,000 a year to local county and school districts which assess the possessory interests of the permit-holders. The Pinecrest Permittees Association was formed in 1924 to assist the Forest Service in the development of the immediate area. Since that date the association and its members have collected and spent some \$440,255.92 for the development of Pinecrest. These figures do not include the many gifts of goods and services which the cabin owners have contributed for the betterment of the community. It seems ironic that the people who have done so much to develop the recreation attraction of Pinecrest should be the ones to suffer the most by being deprived of the continued use of their cabins.

Need for the proposed removal of occupied cabins in Pinecrest could be better understood if the Stanislaus National Forest had already developed all available recreational sites nearby, or if they had the money and plans ready to develop all other possible sites and still would need the land in Pinecrest in order to make future plans workable. Since Eagle Meadows, Cherry Valley, Beardsley Dam, Frazer Flat, Herring Creek Reservoir, and Donnell's are presently undeveloped, the need within the next 20 years to remove these cabins so that additional land will be available for campground development does not seem realistic. Developing additional areas would increase the tax base in this county instead of lowering it as the proposal would do.

It is my firm belief that the best possible solution to this difficult problem is development of other facilities, especially those on the numerous reservoirs now being constructed in the Tuolumne County area. This not only would permit the continued use of the area by the Pinecrest permittees who have done so much to make the Pinecrest area the popular spot that it is, but also would spread the recreation use in the county so that the extreme crowding which already exists in the Pinecrest area would be dissipated.

Mr. Chairman, I recognize that the basic question of whether or not these cabins should be moved is not within the scope of the hearings.

and consideration by this subcommittee; however, I thought it important that I outline my fundamental position on this matter so that in the final determination by this subcommittee, every effort can be made to provide proper and reasonable compensation to these people who have put their hearts and their lives, to say nothing of their financial investments, into these properties. As it now stands, should the decision of the Forest Service be to force these people off of these cabin sites, the occupants of these cabins have no alternative but to move or destroy these cabins at their own expense. This to me is a heartless thing for the U.S. Government to impose upon its citizens.

Mr. Chairman, I think the thing that makes us most unhappy in this situation is that apparently the Forest Service is going to evict three people immediately, in fact, by August 1, to make room for a parking lot, a parking lot which will duplicate existing facilities within a very short distance of the beach front. It does not seem humanitarian, reasonable, creditable, or in any way right to cause these people to destroy their homes, abandon their investment so that a parking lot can be constructed to prevent "outdoorers" from walking a half a block to the beach. A small amount of land is involved. The Pinecrest Permittees Association has presented a sound, reasonable, and economic program by which the beach can be expanded, facilities can be expanded, and the public can be served, without wiping out the lifetime which these people have built into their homes.

These are not wealthy people. Unfortunately, they could not come to Washington for the hearings personally. However, they have asked me to submit copies of their statement and I would like at this point to present to you the statement of Mr. E. D. Blakely, president, Pinecrest Homeowners Association, the statement of Mr. Archie Stevenot, known as "Mr. Mother Lode" by all of those who know him up and down the Sierra-Nevada, and a resolution of the Tuolumne County Board of Supervisors, which presents the official position of county government.

Mr. McMILLAN. Without objection, they will be made a part of the record at this point.

(The documents referred to follow:)

STATEMENT OF E. D. BLAKELY, PRESIDENT, PINECREST HOMEOWNERS  
ASSOCIATION

Thank you, Mr. Chairman, and your subcommittee for the privilege of presenting the homeowners stand on this problem.

As briefly as possible I would like to outline to you the problem present at Pinecrest and how this problem grew from beginnings more than 45 years ago. I am making this statement to you in behalf of certain affected permittees here at Pinecrest as their association representative. They have been eagerly awaiting an opportunity to tell their story at a public hearing and are most grateful for this splendid demonstration of democracy in action this afternoon.

In appearing before you today we are going on the presumption that you know little of the history and background of Pinecrest and that you will bear with us as we outline what has occurred between the establishment of permittee lots here in 1916 and this hearing today.

From what we can learn, Pinecrest was one, if not the first effort in California by the Forest Service to locate summer homes on specific lots in a mountain recreation area. The purpose was to establish family units in summer cottages in a climate away from the normal. Thus, in 1916, 31 lots were laid out on the shores of what was then called Strawberry Lake. The lake is artificial and was created to supply a steady flow of summer water for the generation of power and as a domestic water supply for much of this Tuolumne County. In addition, the water is also used as a domestic supply for houses, campgrounds, and organiza-

tion camps here at Pinecrest. It began this role in 1917 when permittees here carried water from the lake to their houses.

The lots outlined for permit here were not especially designed for recreation but were homesites for those seeking a mountain climate for health reasons.

One of the first permittees, Mr. Rodden, built a house here for a place to stay in seeking relief from asthma. Another asthma sufferer was the mother of Mrs. Archie Stevenot of Sonora. Mrs. Stevenot constructed one of the pioneer cabins on lot 27 here for this reason alone. As a matter of record, the lodge was constructed for those seeking the health benefits of this climate. Mrs. Stevenot, a registered nurse, did all the first aid work for the first few years; she did not take any compensation. The 30 miles between Sonora and Pinecrest took 3½ hours to drive; it was a long ways away from a doctor.

It is needless to say that these early residents here, invited by the Forest Service to take up lots, faced a challenge that required a true pioneering spirit. There were no well-defined roads, no water supply, no communications and no nearby corner grocery. The lots were covered with unpenetrable brush and logger's slash. Log drags were deep ditches that defied even the most hardy of builders.

But, despite this, Pinecrest presented possibilities and those who accepted the Forest Service's invitation plunged into the job of making a habitable community of homes here by the lake.

Between 1916 and 1924 the going was rough, but persistent effort by the permittees and the grading of some very rough roads by the Forest Service on the southwest side of the lake resulted in a growth that has continued to today.

About 1918 more lots were added and the lodge grew from buildings used during the construction of the dam. In 1924, in a year of water crisis throughout the area, the first water system was constructed under the supervision of Archie Stevenot of Sonora. It tapped springs on the mountain on the south side of the lake and for the first time brought piped water to the homes and the lodge, and the public campground. The water was piped a distance of two miles and tanks were installed. Forty lots were taken at the time and each contributed \$100 making it \$4,000. Mr. Charles Segerstrom, Sr., and family, one of the beach homeowners loaned \$8,000 to the project, the lake that year was not much more than half full and a long ways to carry water and the people were discouraged.

The only security Mr. Segerstrom had for the money loaned was the faith he had in the people and in Pinecrest. At the time there was no organization in Pinecrest, only a committee of three representing the homeowners. At that time no charge was made for water for the campgrounds or the Forest Service headquarters, the homeowners paid for the water and maintenance.

This was a dramatic effort, but it was the main step forward to a solid community and allowed the Forest Service, in the early 1930's, to survey more lots and invite more permittees to establish homes here.

In the middle 1930's, as Pinecrest continued to grow, the need for an association of lotholders became apparent and the present permittees' association was formed.

It was evident to the homeowners that they must group together for effectively dealing with their landlord, the Forest Service, and to deal with such common problems as water, roads, garbage, sewage disposal, law enforcement, and medical care as well as to band together to establish common rules for swimming, boating, and noise abatement.

In 1936, with demand for lots increasing, J. R. Hall, of Sonora, at that time supervisor of this forest, asked the association if 100 more lots could be added to Pinecrest, making a total of slightly more than 400. Water supply dictated the answer and after attempting to drill wells and failing, water was obtained from a branch of the North Fork of the Tuolumne River and the lots were surveyed and offered to the public.

Thus, since 1916 a community of summer residents, numbering more than 5,000 in season, has grown here at Pinecrest. Likewise, problems for the permittees and the Forest Service have grown in almost mushroom fashion, presenting the picture of a substantial community of substantial homes and businesses constructed wholly on public lands.

In our sincerity as permittees, we have through the years since 1916 established a physical plant here at Pinecrest that today staggers our pioneers. For example, dues and assessments expended by Pinecrest permittees since 1924 to date is in excess of \$511,000. This is exclusive of about that amount in wages and salaries. During 1961-63, \$29,000 has been expended for roads alone, including \$10,000 spent by the county of Tuolumne. The county also, during the years paid for the construction of the entrance road over which you drove today as well as a tremendous access road to the Dodge Ridge area of Pinecrest.

Here is the statistical picture that Pinecrest presents today:

1. Homes and businesses with a county assessed valuation (as personal property) of \$375,000.
2. Homes and businesses with a nominal market value of \$1,442,480.
3. A water system and road system with a replacement value of \$450,000.
4. A Pacific Gas & Electric Co. power and light system valued in excess of \$300,000.
5. A Pacific Telephone & Telegraph Co. telephone system valued in excess of \$210,000.
6. A \$60,000 public school with 2 teachers and 40 pupils.
7. A U.S. post office.
8. This firehouse and community service center with fire equipment and construction equipment with a total market value well over \$75,000.
9. A townsite commercial enterprise consisting of hotel, restaurant, grocery and hardware store, sport shop, gift shop, beauty shop, barber shop, service station, boat rental, bus terminal, repair shops, real estate offices, and several other businesses such as group and organization camps normal to a resort community.

It costs each homeowner from \$250 to \$300 to open his door in Pinecrest each year. If any part of this cost is not paid, he cannot remain here.

With this huge investment in private funds, plus the like investment represented by Forest Service facilities here, it was entirely understandable that the Pinecrest permittees were astonished and deeply concerned when on April 8, 1962, the forest supervisor announced to them that over a period of years a total of 163 tract homes must be removed from the Pinecrest townsite without alternative or appeal. It was hard for the permittees to understand after almost 40 years of amicable relationship with their Forest Service landlord.

The permittees felt they had suddenly been classed as unwelcome guests rather than as close relatives of Uncle Sam. The permittees felt, without exception, that the Forest Service should reappraise their plans for Pinecrest as a reduction to one-half of the homes here would place an unbearable burden upon the remainder to maintain normal and expected community services. In addition, the permittees felt that their heritage rights to the tract lots were firmly established and could not be terminated as long as they lived up to rules and regulations and paid the yearly fees established by the Forest Service.

In defense of this permittee position, Mr. J. V. Wulff, 1039 Sheridan Way, Stockton, California, a former supervisor of this forest, has testified before a Select Committee of the House of Representatives that permits granted while he was supervisor were made for a tacit period of 99 years and that this period of time was mutually understood.

Likewise, S. Beveer Show, 376 Addison Street, Palo Alto, California, a Former United States regional forester for California, stated on September 19, 1963, to Archie Stevenot of Sonora that Alan Miller, then supervisor of this forest, started a plan to remove the beachfront homes from Pinecrest in 1945 and that when Mr. Stevenot called on Mr. Show at that time, Mr. Show instructed his assistant, Chester Morris, to stop any such plan, and the move on the part of the Forest Service was halted immediately.

Our good Congressman Harold T. (Bizz) Johnson, in the fall of 1961 visited Pinecrest with Supervisor Harry Grace, Archie D. Stevenot and myself to look over the new campground.

Mr. Grace told Congressman Johnson that he was working with Tuolumne County Water Board No. 2, they had in mind developing nearby areas other than Pinecrest to take **any** pressure off Pinecrest in the future. This would be done in part with **state help** which subsequently was authorized.

With this **background** of assurance from the Forest Service, from the beginnings of the Pinecrest tract, affected permittees later in 1962 received registered letters from the Service indicating to the homeowners the termination of their leases on varying future dates. In addition to terminating leases, the forest supervisor told permittees that any homes destroyed more than 50 percent by fire, wind, or act of God would be terminated immediately. The supervisor said that he would be the sole judge of the percentage of damage.

Also immediately affected by the termination of 163 leases was the tax structure of this school district and the county of Tuolumne. To protest these terminations and seeking to protect taxable values in the district, the Tuolumne County Board of Supervisors passed a resolution on April 16, 1962, protesting and urging immediate reconsideration. A copy of this strongly worded resolution will be presented to you by Congressman Johnson.

Thus with constantly mounting protest reaching Congress, the Forest Service recently indicated withdrawal of many of the terminations notices. The Forest Service has also indicated that some leases will be extended for an additional 20 years beyond present termination dates.

This has been heartening news indeed to homeowners at Pinecrest. It leaves only those homes on the southwest beachfront currently under a cloud and the principal area of contention.

These are the homes that the forest supervisor has requested to move, at the homeowners personal expense, without restitution to the homeowners for the homes or the costs of tearing them down. The forest supervisor told these people that they, the owners, were among the fortunate few and that their termination costs were merely payments for having been allowed to be on public land for more than 40 years. The supervisor made no mention that these lot owners had paid a yearly permit fee that in total might well have purchased the ground several times over.

And so the matter stands, gentlemen. The Forest Service is adamant and demands the removal of these beachfront houses. The association has meanwhile offered every practical alternative from creating more public beach to clearing more public beach, to placing picnic tables in the front yards of these homes, to building up stretches of new beach. None of these have met with Forest Service approval as yet.

The group of Pinecrest permittees now directly affected by the Pinecrest Recreation area plan, as expressed the forest supervisor, are those fronting on the beach, ideally located for the optimum of sun, sand, and water. That they are chosen to be the ones asked to forfeit their homes is entirely accidental and not of their original planning or intent.

Thus, to require these people to move out without recourse or appeal would be violating their heritage rights or at best would be a stringent example of man's inhumanity to man.

In our study of this matter, in view of the Forest Service's insistence that these homes be removed for so-called higher public use of this land, we have determined to respectfully request your subcommittee to ask the Forest Service to pay to each of the preempted homeowners what would amount to fair market value for their homes as a date of notice, April 8, 1962.

We request your subcommittee to ask this of the Forest Service for the following principal reasons:

1. To properly indemnify those persons, who, because of age or circumstance, would not or could not consider establishing a home elsewhere and to whom their Pinecrest homes represent a substantial portion of their personal assets.

2. To indemnify those persons who established homes in what they considered safe knowledge of a lifetime tenure as lessee of certain of the lots. These homes were obviously built for permanence, and under the cloud at present, their value to a willing buyer is zero.

3. These permittees should be indemnified for the reason that on April 7, 1962, they were valued by the assessor at fair market value and on the following day the owners were advised to haul these homes to the trash dump as valueless.

4. These permittees should be indemnified for the reason that they have, in good faith, paid yearly permit fees to the Forest Service, yearly personal property taxes to the county of Tuolumne, and substantial yearly dues and assessments to the permittees association. Such good faith for more than 40 years is remarkable in itself and sets aside Pinecrest as a pattern unto its own.

Again may we urge you, if you are of the mind to allow the Forest Service to cancel these leases, to assure the homeowners of speedy and fair indemnity for their personal loss of private assets. For our part, we ask you to call upon the Forest Service to either cease and desist the harassment of permittees or to enter into immediate negotiation to purchase permittee homes for cash at a price representing fair market value as of the time of 1962 notice.

And again may I express our most sincere appreciation to you members of the subcommittee for accepting Congressman Johnson's call to personally see and hear of the plight of these pioneer permittees at Pinecrest.

Thank you.

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STATEMENT OF ARCHIE B. STEVENOT, PINECREST, CALIF.

Mr. Chairman, first, may I express the appreciation of the people of Pinecrest for hearing our story here today. We in Pinecrest, Tuolumne County, are in great danger of being removed from our homes because of some pretty defiant

efforts of the Forest Service and the Secretary of Agriculture. We took lots at Pinecrest at the invitation and encouragement of the United States Forest Service. Thirty one lots were surveyed by the Forest Service 49 years ago on the lakefront of Strawberry Lake. My wife Rose and I have had Lot 27 on the lakefront for 47 years and built the summer home on it 47 years ago and have lived up to every regulation and requirement.

Pinecrest today has about 400 homes and it is controlled and run like a small city with the President, board of directors, school with two teachers the year around, a fire department with a volunteer crew and a year around post office.

About four years ago the Forest Service and the Department of Agriculture decided they wanted to take out 163 homes to use the space for picnic tables and camp sites. They called this "making the land available for higher use."

In 1964, the House of Representatives Select Sub-Committee on Real Property Acquisition met at Pinecrest. S. Beveer Show, former U.S. Regional Forester, told the hearing that the removal of homes at Pinecrest had been attempted before and that he had stopped the move. Mr. J. V. Wulff, Forest Supervisor who originally gave and signed the permittee permits for the first 31 lots in 1919, gave testimony that indicated that we permittees were to have the lots available to us as long as we lived up to Forest Service requirements. These statements by Mr. Wulff were supported by George Weaver, U.S. Forest Ranger at Pinecrest at that time.

The Tuolumne County Board of Supervisors lent us their support and passed a resolution in favor of maintaining the Pinecrest homes and that they not be removed. All county office holders appeared before the committee in favor of the Pinecrest homes. State Senator Stephen Teale, and Assemblyman Paul Lunardi testified in our behalf and spoke on behalf of the State Legislature.

The National Forest and Recreation Association of the twelve Western States passed resolutions directed to the Forest Service and Secretary of Agriculture Orville Freeman.

After all of this support for the Pinecrest Permittee homeowners, the Forest Service and the Department of Agriculture gave about 151 of these homes that were in line for removal new and longer leases, but the Forest Service said that would not do the same for the nine or twelve homeowners on the lakefront, Rose and I among them. In their original demand, these lakefront homes were carried in the same class as the other 151. The Forest Service now says they need the nine for "higher use". According to Forest Service regulations, they can only put one picnic table on the location of each of these nine homes and the public can only use these tables during the best of the Summer months, July, August, and September. It is too cold in the other months for outdoor picnics, while leaving the homes on the ground would mean that the area could continue to be used year round.

In the name of Justice don't you think that Forest Service and Secretary Freeman should leave us where we are in some dignity or at least offer us a fair market price for our homes and our share of the road and water improvements? Certainly we deserve something more dignified than confiscation of our property for what they call "higher use". We have built this community with our sweat, our dollars, our lives. We feel that the attraction for the area has been due largely to our activities and we do not feel that we should be penalized by eviction because we have tried to work with the Forest Service and develop the properties in the way they asked us to do. Thank you.

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#### RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TUOLUMNE

Whereas the U.S. Department of Agriculture, acting by and through the Stanislaus National Forest, has informed the directors of the Pinecrest Permittees' Association that the leases of certain lot holders at Pinecrest will be systematically canceled to the end that a total of 162 permits will be revoked during the next 20-year period; and,

Whereas many of the leases scheduled to be canceled represent contracts of long standing, based upon the lessees' confidence in the good faith of the U.S. Government acting through the said Stanislaus National Forest; and,

Whereas the lessees have substantial investments in improvements, for which they will receive no compensation and which must be removed at lessees' expense; and,

Whereas the lessees, acting collectively through the Pinecrest Permittees' Association, have pioneered in the development of the area, and have been instru-

mental in the installation of an adequate water supply, providing for refuse disposal and roads; and,

Whereas the area of Tuolumne County is 75 percent tax exempt, due largely to the extensive holdings of the Federal Government as represented by the Stanislaus National Forest; and,

Whereas the Pinecrest area is one in which the county receives a return in tax revenues levied against the possessory interests and improvements of the permittees; and,

Whereas the county of Tuolumne strongly relies upon property tax revenues to provide police and health protection, educational facilities, and maintain many of the roads in Pinecrest; and,

Whereas the cancellation of permittees' leases and the removal of their improvements will have a seriously adverse effect upon the tax base of Tuolumne County and impair the providing of adequate public service in the area: Now, therefore, be it

Resolved, That this board of supervisors does hereby strongly protest the action of the Stanislaus National Forest in canceling the leases of permittees and respectfully urges that this action be rescinded; and be it further

Resolved, That alteration of this fully developed recreational area be deferred until all unimproved recreational sites in the Stanislaus National Forest are developed to their maximum potential, and be it further

Resolved, That it is the recommendation of this board that said improved area at Pinecrest be undisturbed, and that funds scheduled to be used in its "reconstruction," be diverted toward the development of one or more of the hundreds of unimproved recreational sites in the Stanislaus National Forest to the end that the needs of all who seek recreation are fully met.

The foregoing resolution passed and adopted by the board of supervisors of the county of Tuolumne, California, on this 16th day of April 1962.

Ayes: Supervisors Adelbert A. Nicholls, A. C. Still, Robert W. Ingalls, Ralph P. Thiel, Warne F. Keagy.

Noes: None.

Absent: None.

Mr. JOHNSON. Mr. Chairman, in conclusion, I would like to point out that on October 5, 1963, the Select Subcommittee on Real Property Acquisition of the Committee on Public Works, U.S. House of Representatives, held a hearing at Pinecrest on this matter. I would like to present for your files a copy of the printed hearings. This would be for the files only. The whole matter has been explored very completely in these hearings and I believe that the information contained therein, starting on page 101, will prove informative in considering our problem here today.

Mr. Chairman, I do not believe that these people should be forced to move. I don't believe that it is necessary. I believe the public can be served without destroying their homes and their investments, but if the final determination is that they must go I don't think that these individual property owners should be subjected to bearing the burden of the cost of moving their property or destroying their homes. If the move is in the public interest certainly it is in the public interest to compensate the homeowners for their losses.

Now, I would like to make one or two other observations here.

My first problem with this concerned the location of our new Interstate 80 involving a summer home tract in Placer County where six homes and one resort were ordered off the Federal lands and in the notices of moving it was stated that the owners of the summer homes and the resort would not be compensated. We had that matter under consideration here at the Federal level for 3 years and then I took the matter to our State Legislature of California which passed enabling legislation so that the State could reimburse these people for the fair-market value of their homes and the moving costs of the

resort. The funds that were used were Federal funds; they were funds out of the interstate highway funds and trust fund whereby 90 percent of the cost of that highway was borne by the Federal Government and the rest by the State. They were all fully compensated and that was cleaned up 2 years ago.

Another measure of interest to the Congress was the passage of the Johnson-Church Act, which has to do with mining claims and mining cabins or summer cabins which were found on Forest Service land and Bureau of Land Management land. The legislation recognized the right of these people to either acquire title to their lands or to have a lifetime estate. That was a measure that was passed on the part of Congress known as the Johnson-Church Act and is now in operation.

And recently we passed another measure through the Interior and Insular Affairs Committee granting a possessory interest right to people on national park lands. In the event their facilities are to be moved or taken out or the special-use permit canceled they have a possessory interest right and if they are asked to move they are compensated.

So I think while the Congress has not acted specifically on this matter they are of the opinion that what we are asking for here would be fair consideration. We tried in every way possible to see if the Forest Service would not modify their consideration. This summer home tract has about 400 lots and there are about 400 homes there and they have made a moderate removal of property there to give a little legroom for the public's interest, and we figure that is certainly ample to take care of their needs now and for some time in the future. I would like to leave the large map for the file and the Forest Service tract map also.

Mr. McMILLAN. Off the record.

(Discussion off the record.)

Mr. JOHNSON. As I stated, in the area that I represent probably we have a couple thousand summer sites where cabins are built on them and they are built to Forest Service specifications. They put in, for the most part, their own water and they have improved their roads and have maintained their homes and added to them. In the Pinecrest situation this is more or less a permanent community. They have their own fire department, they have their own school, and they thought, for all intents and purposes, they would be there in perpetuity.

We have been trying very hard to work out an agreement with the Secretary of Agriculture, the Chief of the Forest Service, the Pinecrest Permittees Association, and the Pacific Gas & Electric Co. The Pacific Gas & Electric Co. and the Pinecrest Permittees are perfectly willing to go along with the development and we were hoping the Forest Service would assist us to carry out this development and allow the people to remain there, but seemingly we cannot all four get together. The three property owners have been notified they are to be evacuated as of August 1.

We also asked that the Secretary give us consideration and hold this in abeyance until the Public Land Law Review Commission has had an opportunity to study all the lands and land laws that are under consideration and held by the Federal Government at the present time. Congressman Wayne Aspinall, as Chairman of that

Commission, which has been organized, will start to hold their first preliminary hearings in the near future. They are to report after 3 years and the Congress has appropriated \$4 million for this study. We figure this is only a fair request, that the Secretary and the Chief of the Forest Service hold this in abeyance until after this study and report to the Congress has been made. We know there will be a modification of public land laws and there probably will be a modification of the public land uses.

When these people went in there they were asked to come in, for the most part. It was advertised by the Forest Service that here was a summer home tract available for occupancy, and the people built their homes and have been there ever since. They paid a small fee to begin with which has increased and it is about \$100 a year at the present time, and they have been paying this.

In the final end, if the committee does not move this legislation, I hope they would at least pass a committee resolution asking the Secretary of Agriculture and the Chief of the Forest Service to hold this in abeyance until after this Public Land Law Review Commission has studied this whole matter and the people have had an opportunity to make their position known. I think it is only fair, and, as I said, our own State recognized this in the case of Highway 80 and they were compensated for the fair market value.

So I think this is only a proper position we have taken. We do not take the attitude there are not lands that will have to be taken for a higher use, but if they are the people should be compensated and let us have fair treatment for all the people concerned.

That concludes my statement, Mr. Chairman. I will be glad to answer any questions.

Mr. McMILLAN. Mr. O'Neal?

Mr. O'NEAL. No, Mr. Chairman. I came in late and do not know the background.

Mr. McMILLAN. Mr. Teague.

Mr. TEAGUE. Mr. Johnson, do you have any estimate as to what the cost to the Federal Government would be to act favorably on this legislation?

Mr. JOHNSON. I presume the Forest Service has some very good data. As I understand it, the homes up there will run from an investment of \$40,000 down to an investment of \$10,000. The cost of moving would be very nominal if the Federal Government would pay for the cost of moving, because the Forest Service has the necessary equipment or manpower or they know the people who can do it, and if they are moved out they could move all the homes at one time. If they were offered other locations it would be at a minimal cost to the Government. If the homes could not be moved because they are in areas where it is impossible to move them out, the compensation would be based on a fair market appraisal.

Mr. TEAGUE. Do you contemplate providing in this legislation that if the Forest Service wants the area on which these homes are located and is willing to move the houses that are movable itself that the cost of such moving would be provided in your bill?

Mr. JOHNSON. Yes. They would either be paid the fair market value for their properties if they were unable to move them, or if they were offered other locations and the Federal Government would provide the cost of movement, that would be acceptable.

Mr. TEAGUE. I do not read your bill as providing that, but perhaps it could be amended to do so. That is your desire, in any event?

Mr. JOHNSON. Yes; this would be my desire although this bill does not specifically so provide.

Mr. TEAGUE. Do you know, Mr. Johnson, whether the Forest Service plans to just tear down these houses that are there or rent them to campers or what plans do they have?

Mr. JOHNSON. I would say if the property owners would walk off and leave them I imagine they would touch a match to them or bulldoze them or sell them to a salvage outfit, but I think in their notice of permit cancellation they ask the people to remove them.

Mr. TEAGUE. They ask what?

Mr. JOHNSON. I believe in their notice of permit cancellation they ask the people to remove them.

Mr. TEAGUE. In other words, the Forest Service is willing to issue permits in other areas?

Mr. JOHNSON. They have offered alternate sites but some of the homes cannot be moved because to move them they would have to take out some very fine trees, and they do not want to do that.

Mr. TEAGUE. That is a pretty rugged area; is it not?

Mr. JOHNSON. One or two homes are isolated by trees and in order to move them you would destroy the value of the property.

Mr. TEAGUE. That is all, thank you.

Mr. HEIMBURGER. Mr. Johnson, are you sure this public land study that will be made by the Interior Department will cover Forest Service sites like this?

Mr. JOHNSON. Yes.

Mr. HEIMBURGER. These are not technically public lands, you know.

Mr. JOHNSON. It is the Forest Service reserve and I am sure they will be covered because the Forest Service is represented on the Commission.

Mr. HEIMBURGER. Technically Forest Service lands are not public lands.

Mr. JOHNSON. They are not public domain lands but they are Federal lands.

Mr. HEIMBURGER. Have these three houses in question been used as year-round residences by these people or only part of the year?

Mr. JOHNSON. I believe these three are only used part of the year. These are adjacent to a winter sports area and they are used in the wintertime as much as in the summertime.

Mr. HEIMBURGER. But these houses in particular have not been occupied by their owners on a year-round basis?

Mr. JOHNSON. Oh, yes; many of them have.

Mr. HEIMBURGER. We are only talking about three, are we not?

Mr. JOHNSON. You see, of the 400-some odd homesites 12 or 15 have been removed so far and these 3 are next, then there will be some more next, and some more next, probably. These homes that are in there now are being used as year-round homes for the most part. We have a school enrollment there and the students attend school and the homes are open now the year around due to the snow removal. Due to the snow removal the whole area is accessible throughout the year, you might say.

Mr. HEIMBURGER. Thank you.

Mr. O'NEAL. Mr. Chairman, with your permission I would like to ask one question. As I said a moment ago, I came in late and do not have any background information on this, but I would like to ask Mr. Johnson whether he agrees or disagrees that these permits provide that the Department has no obligation for compensating the permittee for improvements built on the permit areas or for the removal thereof after the permit period. Do you agree that these permits specifically state that there is no obligation on the part of the Department?

Mr. JOHNSON. The permits have a section in them. For the most part these people who moved in there and built their homes probably did not read that particular section. As I stated in my testimony, Congress since has recognized that there is a consideration to be given to people like this. Our own State passed enabling legislation to compensation the first six homes in the first resort in my area after my coming to Congress. They moved some of these homes in the Pinecrest area and did not compensate the homeowners.

Mr. O'NEAL. I am asking about the permits themselves.

Mr. JOHNSON. The permits themselves, as I say, have a clause in there that does not obligate the Federal Government unless it be during the term of the permit. Some people hold an annual permit, some a 5-year permit, some a 10-year permit, and some a 20-year permit. Our resorts are all going in now for 30-year permits.

The Congress has recently enacted legislation affecting the national parklands wherein the builders of facilities in national parks are given a possessory interest right and if they are asked to move they are compensated, they have a right to recover.

Here a person who has been living there since 1930 and has paid his special use permit fee each year and has developed his roads and developed a water system and taken care of community problems with the fire department, and made this investment and maintained the home—

Mr. O'NEAL. Knowing all the time that he did not have any title and that the permit itself provided that the Government had no obligation.

Mr. JOHNSON. That is true, probably, in a technical sense. But here we are asking the Congress of the United States to give consideration to these people because to come along today and say, "We need this land" where we have 14 million acres in California in my district and we are arguing about 2 acres of land, I think it is a rather absurd problem.

Mr. McMILLAN. Mr. Johnson, I think you stated earlier in your statement that no indication was given to the property owners that they would not be left there for a lifetime. Is that correct?

Mr. JOHNSON. That is right. We have recognized on unpatented mining claims that a squatter has a right to gain title to his property or to be given a life estate.

Mr. O'NEAL. Are you claiming a clear title by prescription here when the permit says there is no obligation?

Mr. JOHNSON. Well, that is the attitude my people take, yes. If you owned a \$20,000 home and you were asked to knock it down tomorrow and you were paying a fee for the use of the land and there was land all around you to be developed, you would feel the same way

these people here feel. Maybe it should be a policy that we should not let anyone on these lands under a special use permit, but we are letting people on these forest lands where they are investing millions of dollars. Those people are coming in on long-term special use permits in the winter sports field.

Mr. O'NEAL. Would this legislation be setting a precedent that would really amount to a great deal?

Mr. JOHNSON. I do not believe so. I do not believe it would cost us anything. It would make money for us because you would not move the properties. You would go ahead and develop the undeveloped areas unless it had to be taken for a highway, as in California, where our State legislature recognized that and passed enabling legislation compensating these people.

Mr. TEAGUE. Will the gentleman yield?

Mr. O'NEAL. Yes.

Mr. TEAGUE. What I gather you are saying is if we should act favorably on this bill that the Forest Service could find other areas in this vicinity that are just as suitable for the purpose they wish to accomplish, and actually they would not go ahead with their plans if they had to compensate these people?

Mr. JOHNSON. That is one thought. Another thought is that the public can be taken care of without any problem. We are talking about 2 acres of land.

Mr. TEAGUE. But Mr. O'Neal says you might be talking about a lot more.

Mr. O'NEAL. You could be talking about 63,000 individuals, too, with many millions of dollars worth of land.

Mr. JOHNSON. Every day we are entering into new special use permits. We are allowing for winter sports development and have just negotiated between the Forest Service and Mr. Disney for a \$44 million development to take care of 12,000 people daily.

Mr. TEAGUE. Mr. Johnson, I know you know this area intimately. I want to be sure I understand this. In your opinion as an expert—and you are in that area—do you believe that the Forest Service could accomplish its purposes just as well if it developed these recreation areas in some other nearby region to that which is proposed?

Mr. JOHNSON. I think other developments could easily take care of the future growth in the way of recreation needs in the area.

Mr. TEAGUE. Thank you.

Mr. McMILLAN. Thank you, Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. McMILLAN. We shall next hear Mr. McFall.

#### STATEMENT OF HON. JOHN J. McFALL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. McFALL. Mr. Chairman, I am coauthor of the bill which Mr. Johnson has introduced. I appreciate the opportunity to appear before the subcommittee this morning.

Before I read my prepared statement, I would like to comment upon a question which was raised by Mr. O'Neal. This is a point which we have discussed many times with the Forest Service.

The Forest Service points out, as Mr. O'Neal has developed in his questions, that these are terminable permits, and it says so right on

the permits. Legally, this is a correct position. I would like to point out to the committee that there is here a different equitable position which is apparent if you understand the circumstances.

These people went in here 35 and 40 years ago when no one in the Forest Service had any idea that these permits would be terminable. It said so because that was the law, but these people were not led to understand this by the statements made to them by the rangers and by the Forest Service people of 35 and 40 years ago. So, what we have here is a change of policy of the U.S. Government which is required because of the lapse of time and because we have more people in California now than we had 35 and 40 years ago. But the people we are discussing here, the few property owners who happen to be on this small postage stamp type lake in the High Sierras, are being asked to bear the cost of the change in policy of the Federal Government. It is a necessary change of policy by the Federal Government to provide more day-use facilities for the people. Yet the Forest Service did not anticipate this 35 years ago. These people did not anticipate this 35 years ago. I do not think anyone anticipated this up until the end of World War II. That is when this started.

Many of you will remember Senator Engle, formerly Congressman Engle. I know the chairman served with him as a Member of the House, and I think Mr. Teague did, also. He started this battle away back in 1946 when this change in policy came about. The Forest Service is correct. Right on the permit it says terminable, but they did not understand it, back when these people went in there and invested their money, that it was to be terminable.

Mr. O'NEAL. Why did they not understand it, Mr. McFall?

Mr. McFALL. Because it was the policy of the Forest Service at that time that these people went in there, and no one expected that they would ever have to move. These people built homes that are not summer cabins. They are \$40,000 residences. I have been in them. They are large residences. As a reasonable man, if someone told me I would have to get out in 5 years, I certainly would not have built a residence like that, and I cannot assume these folks would, either.

Mr. O'NEAL. That brings up another question. Do the permits which have been issued in modern times, 1965 and 1966, say the same thing?

Mr. McFALL. Yes.

Mr. O'NEAL. Do they still put this wording on the permits?

Mr. McFALL. As I understand it, the permits are the same. They say they are terminable, or 5 years or 10 or 15 years. I am stating the policy and the general understanding of the Forest Service as well as the people. Back in 1917 to the end of World War II, the Forest Service invited these people to come in there. These people not only built homes, they took their own money to build roads. They had to bulldoze this entire area level. It was nothing but holes. They bulldozed it all level. This is a Pacific Gas & Electric Co. power lake. As far as I have been able to determine, there was no money spent by the Forest Service or by the Pacific Gas & Electric Co. to develop this as a recreation area. These people spent the money. They put in the water service. They put in the roads. They put in the fire service. They went in there with the understanding that this was a permanent home for them because they were developing something that the Forest Service wanted them to develop.

I am trying to point out that surely there has been a change in this, a necessary change, but in this one particular area it just reflects a change in policy which is necessary up and down the whole Pacific coast. In Washington, Oregon, and California there are other people in exactly the same position that these people are. There is a change in policy because we have more people.

Mr. O'NEAL. Is that not the reason the precedent is such a dangerous one?

Mr. McFALL. I am not sure, Mr. O'Neal, whether it is a dangerous one or whether it would be an expensive one. There are, I think, probably few people of the old type who have all these equities on their side, investments in water services, and so on. Everybody who has gone in there since the end of World War II, in the last 20 years, I do not believe would find themselves in this position, but these people either had been there prior to that time or they are purchasers of the interest of people who were there originally. These 12 home along the lake were the first ones built in there.

In answer to the discussion you had with Mr. Johnson, we have tried to convince the Forest Service, without success, and we are trying to convince this committee and you that there is an equitable position that these people have which is not being recognized. These are large homes. Even if they were not reimbursed for their investment but were allowed to get moving expenses, this would reimburse them partially. This would put them back in a position that I think would be equitable to them.

I did want to comment on that, because I think the crux of the position is that we have been unable to convince the Forest Service that there is any equity on the part of these people. I believe there is. They point to the written words of the permit. Written words in a permit do not mean anything to people when they are told something else by the oral statements of the Forest Service representatives and by the actions of the Forest Service over a period of many years. They do not have any reason to believe that the words in the permit actually mean what they say when both sides many years ago agreed by their actions that they meant something else.

I would like to read my statement, Mr. Chairman. I know the committee is spending probably all morning on this, and I do not want to take any more than my allotted share of the time.

All the bills would provide for the compensation of summer home owners in the Pincrest Recreation Area by the Secretary of Agriculture for fair value of their homes in the event they are required to vacate the lots on which their homes are located because of the cancellation of permits provided by the Secretary.

There is a particular urgency in this legislation because orders have been issued by the Forest Service to three homeowners, requiring them to vacate their lots by August 1. They must bear the cost of removal of their homes.

If these were ordinary summer cabins which could be moved to in-lieu lots, there would be no particular problem. This is not the case, however, either for the three homes in question or others which have been constructed in the area during the past 40 years.

They are year-round homes surrounding a small lake in Tuolumne County, Calif. Many of them are large homes, approaching \$40,000 in value, which cannot be moved unless they are taken apart piece by piece or trees are cut down. These homes are used all year round.

People do not live in them permanently because, giving more perspective on this, while this is in Mr. Johnson's district high up in the mountains at 6,000 feet, all of the people in these three homes live in my district on flatland in the valley, and they use them in the summertime and the wintertime intermittently for vacation periods for their family and friends.

The reason the Forest Service is seeking to evict the three homeowners and nine others whose permits will expire in 1972 is a change in policy which has taken place during the past many years.

To meet an increasing demand for camping and other public recreation use on a daily basis, the Forest Service has concentrated on construction of new facilities. Admittedly, there is a need to develop accommodations for the people who travel to the Sierras from the bay area and other population centers, but in applying the policy to Pinecrest Lake, it has been necessary for the Forest Service to put into effect a complete new theory—and in so doing, to cause great inequity to a group of people who have been true pioneers in development of the area.

Back in the twenties, with the active encouragement of the Forest Service, a complete community of homeowners was developed around the lake. Lotholders invested thousands of dollars in construction of their homes, a school, a water system, roads, a fire station, and in providing other services.

The ultimate goal of the Forest Service in taking over the 12 lots—the 3 whose owners have been ordered to remove their improvements by August 1 and the others whose permits will expire in 1972—is to provide an additional 3 acres of beach area, picnic grounds, and camping facilities.

Only about one-third of an acre of beach would be provided by eviction of the three lotholders and is not considered a practical solution to the problem, which, however, I know your committee is not considering.

To obtain a proper perspective of the situation, it is necessary to know something about the physical characteristics and climate of the Pinecrest area. Pinecrest Lake is only about 300 acres in size. It is owned by the Pacific Gas & Electric Co.

Because of weather conditions, utilization of the beach is not possible until about June 1. Beginning about July 10 each year, the level of the lake is lowered by P.G. & E. for power production, thus increasing the amount of beach area available for use.

The 12 homeowners along the beach have submitted a plan to the Forest Service which would provide additional frontage for the public. It calls for building a retaining wall and filling in an area. The Forest Service has agreed that the plan is feasible and would provide about 1 acre of beach at a cost of about \$63,000. But the Service has refused to accept the plan, claiming that there may be some danger to swimmers because of a steeper incline.

Congressman Johnson, who represents Tuolumne County, and several other Members have sought to convince the Forest Service that the public would be better served if concentration is given to development of other potential lake and recreation sites nearby. I am sorry to report that we have been entirely unsuccessful and there has been insistence upon changing the entire recreational pattern at Pinecrest at the expense of enterprising persons who came

to the area at the invitation of the Forest Service many years ago and have spent hundreds of thousands of dollars in developing the entire recreation area.

The Department of Agriculture (and I believe this to be primarily the Forest Service) opposes this proposed legislation for two reasons: (1) payment would be "unfair" to other owners who have already moved under threat of total loss of their holdings; and, (2) it would set a precedent for opening the way for claims in other areas.

These are not unsurmountable problems. The question in issue is, Who should bear the cost where there is a basic change of policy?

It is true that these people have no legal rights due to the nature of their terminable permits. But in every case they have gone on the legitimate assumption that they could remain indefinitely. They constructed the recreation area for the Forest Service at a time that the Service did not have funds to do the job.

Unfortunately, Pinecrest is caught in the middle in the application of the new policy being put into effect. I believe it is an unwise application of the policy in this instance. While it would be far better for all concerned if the Forest Service would develop other available recreation sites, if this is not possible the Pinecrest homeowners should at least be compensated for their property or reimbursed for moving expenses.

Mr. McMILLAN. Thank you Mr. McFall. We will now hear from Mr. Talcott.

#### STATEMENT OF HON. BURT L. TALCOTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. TALCOTT. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to present my views on a very unjust situation which has overtaken one of my constituents who owns a summer cottage at Lake Alpine in the Stanislaus National Forest.

Dr. George Hinn, Salinas, Calif., built a cabin on the shores of Lake Alpine after obtaining a lease in 1958. Dr. Hinn had camped at Lake Alpine for four summers before deciding to take the big step of purchasing a permanent structure.

His decision to purchase was based upon the belief that his cottage would be safe from future development of the area for public uses. The elevation is approximately 7,000 feet. Because of the altitude, the weather will permit camping only about 3 or 4 months every year. The lake is too cold for swimming.

Dr. Hinn's cottage has been appraised at \$7,500. His investment is being turned into a loss by the decision of the Forest Service to develop the area on which his cottage and 10 others are located into facilities for public use. He is being required to restore his lot to its original condition. Although the Forest Service is offering lots in lieu of present lots to cabin owners, most owners will suffer intolerable losses.

Dr. Hinn has been advised that his cottage cannot be moved. It will have to be dismantled and rebuilt—a task so costly as to make it impractical.

This hearing is not the first time the Congress has directed its attention to this type of problem. A record has been developed by

the holding of field hearings to ferret the facts in a similar situation at the Pinecrest recreation area.

Dr. Hinn strongly believes that the decision to convert the developed area at Lake Alpine from private to public use is based upon erroneous assumptions and that the projected public use will not materialize.

Because of Dr. Hinn's strong belief and the great loss to the persons owning cabins in the area, I believe the owners should be reimbursed for the fair market value of the improvements made to their lots prior to the enactment of this law.

The file of my correspondence with Dr. Hinn and the Forest Service is available for inspection by you, Mr. Chairman, and the members and staff of the subcommittee.

I respectfully ask the amendment of H.R. 3034 to include homeowners in the Lake Alpine summer home permit area and approval of the bill.

Again, Mr. Chairman, my appreciation for this opportunity to present my recommendations.

(The following letters were also submitted to the subcommittee:)

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, D.C., June 28, 1966.

HON. JOHN L. McMILLAN,  
Chairman, Forests Subcommittee, Agriculture Committee,  
Rayburn House Office Building.

DEAR MR. CHAIRMAN: Congressman Harold T. Johnson of California, who serves with me on the Interior and Insular Affairs Committee, has recently discussed with me a situation that exists in his district involving cancellation by the Forest Service of private summer home leases on the national forest.

As you are aware, the Public Land Law Review Commission, of which I am a member, is currently conducting a comprehensive study of federal laws dealing with administration and use of the public domain. It is the intention of the Commission upon completion of its study to submit to the Congress recommendations for changes in the law affecting public lands.

In view of the current activity of the Commission, it appears to me that cancellation of leases such as those described by Congressman Johnson should properly be deferred pending completion of the Commission's study and issuance of its report. I suggest that adoption of a resolution expressing the sense of the Congress to this effect would be appropriate. I am prepared to introduce such a resolution, but would defer to you, as chairman of the Forests subcommittee, should you desire to sponsor it.

I would appreciate it if you would give this matter your consideration and advise me of your views regarding it.

Kind regards,  
Sincerely,

LAURENCE J. BURTON.

NATIONAL FOREST RECREATION ASSOCIATION,  
Fresno, Calif., June 18, 1966.

Air Mail

HON. JOHN L. McMILLAN,  
Chairman, Forestry Subcommittee on Agriculture,  
House of Representatives, Washington, D.C.

DEAR MR. McMILLAN: The following night letter just has been dispatched to you by Western Union:

"Understand hearings 10 a.m. Monday 20th H.R. 3034, Congressman Harold T. Johnson. National Forest Recreation Association is trade organization representing outdoor recreation industry and home owners principally situated upon Federal public lands. Pinecrest and Lake Alpine home owners on Stanislaus Forest, California, illustrative of confiscatory phasing out of home occupancy encouraged over years by Department of Agriculture (Forest Service) and Department of Interior. We urge favorable action on H.R. 3034 as matter of

justice and national policy. Also, urge public hearings California, if needed, to provide opportunity large number witnesses. Our members widely scattered in western States and similar situations involved Montana, Utah and elsewhere.

“Respectfully,

“O. S. PETERSON,  
“President.”

We regret the delay in getting this message off to you but will appreciate very much your favorable consideration of the Bill and the background situation involved.

Respectfully and sincerely,

O. S. PETERSON,  
President.

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NATIONAL FOREST RECREATION ASSOCIATION,  
Berkeley, Calif.

Hon. JOHN L. McMILLAN,  
Chairman Forestry Subcommittee,  
House of Representatives Committee on Agriculture,  
House Office Building, Washington, D.C.

DEAR MR. McMILLAN: The Summer Homes Division (over 2000 permittees) of the National Forest Recreation Association endorses the Hon. Harold T. (Bizz) Johnson's Bill HR-3034 authorizing compensation of Pinecrest permittees adversely affected by the Forest Service lease cancellation program.

Depriving these permittees of properties without reimbursement for fair value as now planned seems to be outright confiscation. The Forest Service encouraged construction of these properties, designated specific locations, approved building and overall design plans, and assured renewal of leases as required to meet individual desires. Present cancellation plans overlook these commitments and give no consideration to equity values in either the Summer Home properties or in community facilities and services.

Investments of the subject permittees in Summer Home properties and in community development, in some cases, represent substantial portions of their personal assets. Loss of these investments may seriously affect the health and future welfare of these people. They are the real pioneers of the area who have contributed so much of their time, efforts, and money to making Pinecrest an attractive, desirable, and stable community.

Permittees of properties not involved in the present tenure case are deeply concerned over the possibility of their properties being taken over without compensation through extension of the Forest Service cancellation program. Payment of fair compensation to the permittees, as proposed in Bill HR-3034, will do much to reduce such fears and should yield appreciable benefits in improved community morale and permittee-Forest Service relationships.

Simple justice, in our opinion, requires payment of equitable compensation to the Pinecrest permittees of tenure properties, if and when, such properties are taken over for other uses.

Early consideration and approval of Mr. Johnson's Bill HR-3034 by your sub-committee is respectfully requested.

Very truly yours,

L. S. NELSON,  
Vice President, Summer Homes Division.

## H.R. 9524 AND S. 2104, A BILL FOR THE RELIEF OF HARRIET C. CHAMBERS

Mr. McMILLAN. We shall next hear Congressman Roncalio in support of H.R. 9524, a bill for the relief of Harriet C. Chambers.

(H.R. 9524 introduced by Mr. Roncalio, S. 2104, and the Senate report follow:)

[H.R. 9524, 89th Cong., 1st sess.]

A BILL For the relief of Harriet C. Chambers

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in order to quiet title to the following described tract of land situated within the boundaries of the Shoshone National

Forests, Wyoming, and held and claimed by Harriet C. Chambers, of Lander, Wyoming, under a chain of title dating from March 29, 1902, the Secretary of Agriculture is authorized and directed to convey to the said Harriet C. Chambers by quitclaim deed all right, title, and interest of the United States in and to such tract of land, more particularly described as follows: The southeast quarter of the southeast quarter of section 34, township 31 north, range 100 west, sixth principal meridian, Fremont County, Wyoming, consisting of forty acres more or less.

SEC. 2. The conveyance authorized by the first section of this Act shall be made by the Secretary of Agriculture without consideration, but the said Harriet C. Chambers shall bear any expenses incident to the preparation of the legal documents necessary or appropriate to carry out the first section of this Act.

[S. 2104, 89th Cong., 2d sess.]

AN ACT For the relief of Harriet C. Chambers

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in order to quiet title to the following described tract of land situated within the boundaries of the Shoshone National Forests, Wyoming, and held and claimed by Harriet C. Chambers, of Lander, Wyoming, under a chain of title dating from March 29, 1902, the Secretary of Agriculture is authorized and directed to convey to the said Harriet C. Chambers by quitclaim deed all right, title, and interest of the United States in and to such tract of land, more particularly described as follows: The southeast quarter of the southeast quarter of section 34, township 31 north, range 100 west, sixth principal meridian, Fremont County, Wyoming, consisting of forty acres more or less.

SEC. 2. The conveyance authorized by the first section of this Act shall be made by the Secretary of Agriculture without consideration, but the said Harriet C. Chambers shall bear any expenses incident to the preparation of the legal documents necessary or appropriate to carry out the first section of this Act.

Passed the Senate June 9, 1966.

Attest:

EMERY L. FRAZIER,  
*Secretary.*

[Calendar No. 1177, S. Rept. No. 1211, 89th Cong., 2d sess.]

FOR THE RELIEF OF HARRIET C. CHAMBERS

(June 8, 1966.—Ordered to be printed)

(Mr. Church, from the Committee on Interior and Insular Affairs, submitted the following report [to accompany S. 2104].)

The Committee on Interior and Insular Affairs, to which was referred the bill (S. 2104) for the relief of Harriet C. Chambers, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE

Bill would quiet title to approximately 40 acres within the boundaries of the Shoshone National Forest in Wyoming, held under a chain of title dating from 1902. Original owner obtained patent under timber and stone entry, then conveyed the tract back to the United States for a forest lieu selection of another tract. Because owner failed to perfect his abstract of title to the offered tract, his deed to the United States was rejected by the General Land Office, but the United States never reconveyed the tract to him. Act of July 6, 1960, subsequently confirmed in the United States title to lands which had been conveyed or relinquished to it under the act of June 4, 1897, and for which the grantor had not received a lieu selection or reconveyance as provided by law. Title is thus in the United States.

#### COMMITTEE RECOMMENDATION

The Interior and Insular Affairs Committee reports favorably S. 2104 and recommends enactment.

## EXECUTIVE COMMUNICATIONS

The Department of the Interior has no objection to the enactment of S. 2104, as indicated in the report set forth below.

DEPARTMENT OF AGRICULTURE,  
Washington, D.C., May 24, 1966.

Hon. Henry M. Jackson,  
Chairman, Committee on Interior and Insular Affairs,  
U.S. Senate.

DEAR MR. CHAIRMAN: As you requested, here is our report on S. 2104, a bill for the relief of Harriet C. Chambers.

Because of the special circumstances involved, this Department would have no objection to the enactment of S. 2104.

The purpose of S. 2104 would be to quiet title to a tract of land described as the SE $\frac{1}{4}$ SE $\frac{1}{4}$  sec. 34, T. 31 N., R. 100 W., sixth principal meridian, in Fremont County, Wyo. The tract is situated within the boundaries of the Shoshone National Forest, which is administered by the Forest Service of this Department. It consists of approximately 40 acres and is held and claimed by Harriet Chambers of Lander, Wyo., under a chain of title dating from March 29, 1902.

The Secretary of Agriculture would be authorized and directed to convey to Harriet Chambers by quit claim deed all right, title, and interest of the United States in the tract described. The conveyance would be without consideration, but Harriet Chambers would bear any expenses incident to the preparation of the legal documents which are necessary or appropriate.

The tract to which Harriet Chambers seeks title was originally held by the United States as a part of the public domain. On March 29, 1902, the land was patented to a Mr. Charles H. Souter pursuant to a timber and stone entry. This patent to Mr. Souter is the origin of the chain of title under which Harriet Chambers holds and claims.

In September 1902, the township in which the Souter tract lies was withdrawn from entry under the public land laws for the purpose of creating a forest reserve. In 1904, Mr. Souter executed and recorded a deed to convey the tract back to the United States and applied for a forest lieu selection of another tract of vacant public land. The proposed selection was made under the act of June 4, 1897 (30 Stat. 11). A provision of that act authorized the owner of a tract of patented land within the limits of a public forest reservation to relinquish the tract to the Government and select in lieu thereof an equal acreage of vacant public land open to settlement.

Mr. Souter's conveyance to the United States was recorded in the records of Fremont County, and the application was docketed by the General Land Office of the Department of the Interior. Because he failed to perfect his abstract of title to the offered tract, Mr. Souter's deed to the United States was expressly rejected in 1907 by the General Land Office. For this reason, and because of failure to prove proper notice, the selection was canceled. The cancellation was noted on the local Federal land records.

The tract was mortgaged by Mr. Souter in 1920 and subsequently transferred in 1926 by a sheriff's deed. A number of transfers intervened before the tract was conveyed to Harriet Chambers. During this period the tract was carried on local tax rolls and taxes were paid. Records kept by the Shoshone National Forest have shown the tract to be privately owned and the lands were treated as private by the Forest Service.

The status of the Souter tract was affected by the provisions of the act of July 6, 1960 (74 Stat. 334). The principal purposes of that act, as expressed in the reports of the Senate and House Committees on Interior and Insular Affairs on the legislation (S. Rept. No. 1639 and H. Rept. No. 1431, 86th Cong., 2d sess.), are: (1) to provide compensation for land conveyed or relinquished to the United States during the years 1897-1905 under the act of June 4, 1897 (30 Stat. 11, 36), in cases in which the lieu lands or other rights which the owners were entitled to receive under this 1897 act and supplementary legislation have not already been given them; (2) to make inapplicable to the owners, their heirs, and assigns a later provision of law directing the Secretary of the Interior, upon request, to return the original lands; and (3) thus to correct defects in the law under which such parties are now laying claim to valuable lands within the national forests and parks and taking them out of Federal ownership.

The effect of this act was to confirm in the United States title to those lands which had been conveyed or relinquished to it as a basis for lieu selection under the

act of June 4, 1897, and for which the grantor had not received a lieu selection or a reconveyance as provided by law. In lieu of a reconveyance or other rights, the grantors were entitled to payments of \$1.25 per acre with interest. Payments were also authorized to be made to heirs, devisees, or assignees of the persons who conveyed the land to the United States. Claims for such payments were to be made within 1 year from the date of the act. Any lands within a national forest for which the United States made payment or could have made payment upon proper application under the act were confirmed as a part of that national forest.

The Souter tract had been conveyed to the United States in 1904 under the lieu selection provisions of the act of June 4, 1897. Although the deed to the United States was rejected, no reconveyance by the United States to Mr. Souter has been made. Under the act of July 6, 1960, the tract has become part of the Shoshone National Forest and title to it is in the United States. The holder of the tract in 1960 did not exercise his right to payment under the act of July 6, 1960. This right to payment has expired.

The major purpose of the act of July 6, 1960, was to settle finally a confused and complex situation relating to the status of lands conveyed or relinquished under the forest lieu selection provisions of the act of June 4, 1897, as it was amended and supplemented. Under this act, numerous forest lieu selections were made and completed. However, in some cases, lieu selections were either not filed or not carried through to completion. In these cases, deeds conveying the privately owned lands within the national forests were executed and placed of record in the country where the lands were located. For various reasons, the grantors failed to follow through and obtain lieu lands and exercise privileges or rights to reconveyance granted by certain acts amending or supplementing the act of June 4, 1897. As a result, tracts of land with unusual status were scattered among national forests and national parks in several Western States. Record title to these tracts was in the United States, but the United States had not accepted title or conveyed the lieu lands or other consideration.

Because conveyances to the United States under the act of June 4, 1897, had occurred around 1900, and due to the complexity of the related records, the correct status of many of the lands involved had become obscured by 1960. Since the lands were shown on local county records in the name of the United States, most were not on either local or State tax rolls during the nearly 55 to 60 years after the recording of the deed to the United States. In most cases they were treated and administered by the Government in the same manner as surrounding Federal lands. The grantors generally were no longer exercising or performing the usual rights and duties of ownership. Most of the grantors were probably dead and in many instances they were widely scattered or unknown.

It is clear that because of the act of July 6, 1960, title to the tract which is the subject of S. 2104 is in the United States. However, we believe that the situations to which that act generally applies do not involve an express rejection of the deed conveying offered lands to the United States, and can otherwise be distinguished from the situation here involved.

In most of the situations contemplated by the act, the United States had not accepted the deeds because of the failure of the selectors to file selections or meet the requirements regarding lands that could be selected. With respect to the Souter tract, however, the United States considered the deed conveying the offered lands and specifically rejected it.

Since rejection of the Souter deed, the United States has treated the tract as private land. The tract has been held and transferred as private land by the successive owners. It has been carried on local tax rolls, taxes have been paid, and the succession of title is clear.

In managing the adjoining Shoshone National Forest, the Forest Service has recognized and respected a private interest in the tract and has made no attempt to administer it. No improvements have been made to the tract by the United States either before or after enactment of the act of July 30, 1960.

This history of treatment and disposition differs from cases where grantors or their successors failed to exercise normal acts of ownership or responsibility and the United States, as holder of record title, long protected and administered the lands conveyed.

Private ownership of the tract here involved would not jeopardize or interfere with the purposes of administration and management of the Shoshone National Forest. The location and nature of this tract are such that it has no special values which make it essential for the Federal Government to retain title to it. This situation differs from those occurring in the national parks or other areas where a private inholding would interfere with the purposes and programs of the Federal reservation.

We therefore believe the equitable relief that would be afforded by S. 2104 would merely conform the legal status of the tract with its actual treatment and would not be inconsistent with the basic purpose of the act of July 30, 1960. The circumstances of this case are exceptional and would not set a precedent that would weaken the administration or effect of that act.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

### STATEMENT OF HON. TENO RONCALIO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF WYOMING

MR. RONCALIO. Mr. Chairman, my statement will be short and concise. I am grateful to you for being permitted an opportunity to testify on my bill, H.R. 9524.

Mr. Chairman, this bill provides for the relief of Harriet C. Chambers in order to quiet title on a tract of land which she purchased in good faith for value, without notice, acting in justifiable reliance upon representation made to her by the Forest Service as well as the consistent treatment of these lands to be privately owned by all concerned since March 29, 1902.

In March 1902 this land was patented to the original owner. In 1904, he conveyed this land back to the United States with the recitation that this is "lieu selection of 40 acres of land." Lieu selection was never perfected. The land in question has always been treated by all concerned to be private. As the report from Secretary Freeman points out on page 2.

Records kept by the Shoshone National Forest have shown this tract to be privately owned and the tract was treated as private by the Forest Service.

The county assessor of Fremont County, Wyo., where this land is located, swears in his affidavit "that said tract of land has been assessed on the Fremont County tax rolls since the year 1924—when he assumed the job of deputy county assessor; and the records of his office reveal that the aforesaid property was taxed by the county of Fremont since approximately 1904."

It was May 1965 when the local Forest Service first considered and treated this land as anything other than private. This, Mr. Chairman, as Secretary Freeman's report points out, was the result of enactment of the act of July 6, 1960—74 Stat. 334—which was the general bill to clear up as much as possible the vast amount of confusion surrounding this area of public land law.

In this connection, I should like to emphasize the fourth full paragraph on page 4 of Secretary Freeman's report where he states, in effect, that the equitable relief that would be afforded by this bill, H.R. 9524, "would merely conform the legal status of the tract with its actual treatment, and would not be inconsistent with the basic purposes of the act of July 6, 1960. The circumstances of this case are exceptional and would not set a precedent that would weaken the administration or the effect of the prior act."

There was also emphasis of the fact that enactment of this bill, H.R. 9524, "would not jeopardize or interfere with the purposes of administration or management of the Shoshone National Forest."

I believe, Mr. Chairman, the equity in the case is quite obvious and clear. Before buying this land, Mrs. Chambers consulted those in

charge of the local Forest Service office to assure herself that the Government had no claim to this land. She was informed that the land was in fact privately owned, and she was shown the regional map of the Forest Service which clearly indicated the fact that, in their belief, the land was privately owned. She was advised that county taxes had been paid on this land since approximately 1904. She was diligent above the call of duty as a bona fide purchaser for value, without notice, and finding no problems she invested her savings in buying this land.

I believe, Mr. Chairman, I do not know of a stronger case in which equity would ask for judicial relief through the form of a private bill than this, and I assure you that justice and equity can thereby be served.

Mr. McMILLAN. Are there any questions?

Mr. O'NEAL. When did Mrs. Chambers acquire the land?

Mr. RONCALIO. I am not able to answer that. I would like to be given an opportunity to find out and supply that information.

Mr. O'NEAL. Do you know about when?

Mr. RONCALIO. I believe it was in the last 8 or 10 years.

Mr. O'NEAL. She has what appears to be paper title.

Mr. RONCALIO. Yes.

Mr. O'NEAL. And the Government has not exercised any dominion over the land at all?

Mr. RONCALIO. None whatsoever. She and her predecessors in interest hold in adversity to the Government.

Mr. O'NEAL. Thank you, sir.

Mr. TEAGUE. Apparently, just glancing at the report from the Department, they recommend favorable action.

Mr. RONCALIO. Yes; that is correct. I believe there is a person from the Department here to confirm that fact.

Mr. McMILLAN. Thank you very much.

Mr. RONCALIO. Thank you, Mr. Chairman.

Mr. McMILLAN. Anyone else care to testify on this bill, H.R. 9524, other than the Department?

We shall be happy to hear from the representative of the Forest Service on H.R. 954.

**STATEMENT OF ARTHUR W. GREELEY, ASSOCIATE CHIEF, FOREST SERVICE, ACCOMPANIED BY: REYNOLDS G. FLORANCE, DIRECTOR, DIVISION OF LEGISLATIVE REPORT AND LIAISON, AND BURNETT H. PAYNE, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST ADMINISTRATION**

Mr. GREELEY. Mr. Chairman, I am Arthur Greeley. I am Associate Chief of the Forest Service. I would like to have with me at the table today Mr. Reynolds Florance, who is the Director of our Division of Legislative Reporting and Liaison, and Mr. Burnett Payne, who is the Associate Deputy Chief for National Forest Administration in the Forest Service.

I am pleased to be here today to make a statement on H.R. 954 and the other bills which are comparable in their content.

As you know from the report we have previously sent to you, the Department of Agriculture recommends that H.R. 954 not be enacted.

H.R. 954 would provide for compensation of summer homeowners in the Pinecrest Recreation Area in the Stanislaus National Forest in California should their permits be canceled by the Secretary of Agriculture. In case of cancellation, the Secretary of Agriculture would be required to reimburse the affected permittee for the fair value of his summer home as of the effective date of the cancellation. In determining fair value, capital improvements made after the date of this bill would be disregarded.

This Department has two primary reasons for recommending against enactment of H.R. 954. First, payment of compensation to certain affected summer home permittees at Pinecrest under the existing conditions would be unfair to those other summer homeowners who under similar circumstances have already moved improvements. Such payments would be contrary to the provisions of our many permits entered into in good faith by this Department with the concurrence of the permittees.

Second, compensation of a few summer homeowners at Pinecrest would be a precedent that could open the way for numerous claims all over the country from permittees and users of national forest land should they be adversely affected by changes in national forest management and use made in the course of administration of public property for public use and interest.

The system for administering permits has consistently reflected the expectation that conditions might change in the future. The act of June 4, 1897 (16 U.S.C. 551), was the initial authority under which special use permits could be issued. Such permits could be issued only on a terminable or revocable-at-will basis. The act of March 4, 1915 (16 U.S.C. 497), authorized the Secretary of Agriculture to issue term permits for a maximum of 30 years for summer homes and certain other specific uses. This act did not supersede the authority given by the 1897 act. Therefore, permits for summer homes and other purposes can be issued on either a term or a terminable basis.

The first permits for summer homes in the Pinecrest Recreation Area were issued in 1917. By 1938, there were 394 summer-home lots under permit. This is the number under permit today. Other private and quasi-public uses under special use permit in the general area include a resort, seven organization camps, and various improvements related to those uses and the summer homes.

Originally, most of the permits at Pinecrest Lake were terminable permits, renewable on an annual basis. These and many other terminable permits specifically provided that the permit could be terminated at the discretion of the Chief of the Forest Service. During the period 1948-50, at the option of the permittees, all but one of the summer home permits in this area were reissued as term permits. All but 16 were for 20-year terms. The 16 were issued for termination in 1962, when the Forest Service expected to need the sites for beach use, picnicking, camping, and other public uses. These term permits gave the permittees assurance of occupancy for the stated term, an assurance not previously given in the papers covering these occupancies.

By 1950, the demand for public recreation use at Pinecrest clearly indicated that additional beach front and campground area would be needed for general public use in a very few years. Use of these facilities since then shows that the 1950 projection was correct. Public use has literally exploded and it has become very intense in this area.

At the Pinecrest campground during the 3-month summer period, use has increased from 46,500 camper-days in 1950 to 120,152 in 1965. There is additional day use from the attendees at organization camps and other nearby campgrounds and towns. All this use is concentrated on not more than 350 acres on the southwest shore of 300-acre Pinecrest Lake.

As this public use and demand grew, the Forest Service faced two alternatives: either restrict public use of public lands or remove from key areas the conflicting private-privilege use enjoyed by summer-home owners to make the key land areas available for public use.

The second alternative was selected as being the best in the total public interest. That is why, in 1950, 16 of the summer home permittees were issued term permits for only a 12-year period. The period of time stated in the permit, and the definite termination date, gave each permittee due and reasonable notice that he obtained use of the plot of national forest land covered by the permit for private summer home use only for a specified time. In this case, as in others involving special use permits, the Department has made a conscientious effort both to protect the public interest and to help the permittees avoid personal inconvenience and undue costs by giving notice a long time in advance.

Prior to the termination date for their permits, the 16 permittees were given the opportunity to select a lot in another area at Pinecrest suitable for summer homes and not needed now or in the foreseeable future for public recreation use. Following a random drawing of lot numbers, all 16 permittees were assigned "lieu lots" for which they would receive permits and to which they could move their summer homes when the permits on their current lots expired. Eleven of those permittees have moved to their new lots. Two permits for various other reasons were dropped or terminated. Three of the sixteen permittees, although they have accepted permits for lieu lots, have not yet completed compliance with the provisions of their original permits and the request of the Federal Government that they vacate the original lots. Nine other shoreline permittees whose permits had a term ending in 1967 have been notified that their permits will be reissued for a 5-year period only, until 1972. Then that land, too, is to be developed for public recreation use which is needed.

These nine permittees will be given the opportunity to select other lots in the Pinecrest area if they desire. The Forest Service plans to reissue all the other summer home permits at Pinecrest for another 20-year period when the present terms expire in 1967. Twenty years is our standard term of permit for term summer home permits.

Other permit holders in other areas have discontinued use or have moved to other lots when their permits were terminated. A check of our records shows 375 cases of improvements being moved without reimbursement and at owners' expense at the end of a permit period.

The Forest Service now has approximately 19,000 summer homes under permit on the National Forests similar to those at Pinecrest. The estimated value on the market, of the improvements, is over \$100 million. The age of these improvements ranges from a few years to about 60 years. Out of the 19,000, about 700 are now on limited tenure; that is, on a limited tenure of less than 20 years, and the permit holders have been informed their permits would not be renewed at the end of that time. The average age of improvements, including those at Pinecrest, is 41 years.

There are now more than 63,000 special-use permits on the national forests. These permits cover 80 different types of use, including summer homes. Most of them involve permittee built and owned improvements worth in total almost \$1 billion. All these permits provide that the Department has no obligation for compensating the permittee for improvements built on the permit area or for their removal therefrom at the end of the permit period. Compensation of summer home permittees in a manner different from the specific and accepted provisions of their permits would, in effect, be recognition and establishment of a special interest for holders of summer home permits. Such a private interest would be contrary to the intent and purpose of the permit and would bestow on the permittee an interest in the land covered by the permit which, we firmly believe, would clearly go beyond that intended under the authority which Congress gave to the Secretary of Agriculture in the Term Permit Act of March 4, 1915.

Enactment of H.R. 954 would place upon the Federal Government an obligation to pay costs neither provided for nor contemplated in the terms of the permits. The bill could be a precedent that would affect thousands of other permits which do not provide for compensation when the permits expire. These could be permits that involve use of resources and facilities as well as land.

Mr. Chairman, this concludes my prepared statement, but I would like to comment, if I may, on a few points to which I have listened with great interest in this discussion. There are some points we are obligated to inform the committee about.

As Congressman McFall pointed out, we are involved here with a changing situation. The initial permit holders did come into the national forest area on a kind of partnership basis, and there was much joint working together. The initial roads in this area were partly improved by permittee operation and partly by various Forest Service activities. During the CCC period, a great deal of money was spent for the development of public recreation facilities, some of which were of benefit to the permit holders. At the same time and all during the course of the existence of this very attractive recreation area there, this area is high enough out of the valley that it is at

about the elevation or level where people can come up from the Sacramento Valley and get up in the cool mountains in the summertime. You are familiar with that situation, I know, Congressman Teague.

Mr. McMILLAN. Back 40 years ago just after World War I, I think we invited ex-soldiers to go up there and settle, did we not? I know we invited the bonus marchers to use some of this vacant land.

Mr. GREELEY. There was some other legislation that did that. That happens not to be a factor in this recreation picture, Mr. Chairman.

I think we need to keep a few things together here. I have talked in my testimony about three permitholders who have accepted lieu lots and have paid special use fees for lieu lots but have not yet completed compliance with the provisions of their original permits. All three of these people are persons who did not come in early in the Pinecrest development. Two of the three bought their improvements since 1960, and when they bought them they knew that there was a short term available for the beach front lot and they would be expected to move to the alternate lot on which they and now paying special use fees. The third permitholder took his permit in 1950, and in acceptance he signed a permit which contained a provision which provided it would be terminated in 1961. That 1961 termination date was subsequently extended about a year to keep the three together so the three would be given treatment on the same basis.

So, in the case of these three permits, we are not talking about people who were original settlers here.

It is important to bear in mind that among the nine to which I also referred, who have permits that will continue until 1972, there are people in that group who have been permitholders since the early days in the Pinecrest area.

Mr. HEIMBURGER. May I ask a question at this point? Have the nine who have permits which continue until 1972 also been given notice to move under this particular action?

Mr. GREELEY. Yes, sir. They have already been notified that their permits would be renewed for 5 years when the present term expires in 1967. This notification was given far enough back so—

Mr. HEIMBURGER. In other words, these people with permits extending to 1972 will not be required to move at this time. They will be required to move in 1972.

Mr. GREELEY. That is correct.

Mr. HEIMBURGER. Thank you.

Mr. McMILLAN. Is it absolutely necessary that the Forest Service develop this specific section?

Mr. GREELEY. Mr. Chairman, I would like to answer that question in this way: There is a tremendous amount of recreation use, as shown by the figure of 120,000 users in the campground in 1965, plus additional day use that did not come from campers in the campground. This is concentrated. It is not a matter of acreage. It is a matter of beach front. The fact that these three lots contain an acre and a half makes it sound as though this is quite a good deal of fuss about a very small acreage, but it is 300 feet of beach front which

is the thing that seems important to us. There are peak weekends like the Fourth of July weekend when there have been counted as many as 20,000 people using this area. Consequently, sir, it seems to us that we have no alternative and no choice except to make provision for additional people there.

We do think, and we agree with the statements which have been made before, that there are other areas that should be developed and can be developed. This is a matter of fitting the costs required into the priorities and the appropriations we receive. There is one excellent area—Beardsley Reservoir—which is not too far away which starts with a \$700,000 cost for an access road. After we can scrape together \$700,000 to build an access road, then the rest of what could be done could be fitted into a budget of several years to phase additional recreational development.

Mr. McMILLAN. Who built the original road in to where these houses are located, the Forest Service or the individuals?

Mr. GREELEY. This was a combination, sir. The record indicates that part of the road was built, and I think a rather substantial part was opened up in the initial work when a road was built in connection with the sale of timber. Some timber was taken out through the main road, and the logging operator opened up and built a road. This way was improved by work of the permittees. It was improved by some work that was financed by the Forest Service. It was also quite considerably improved when the CCC program was in that area and we were able to use CCC enrollees to construct the roads.

I think in recent years there undoubtedly have been some county expenditures on it, too.

Mr. McMILLAN. Were the homes built on these locations before you considered using it as a beach?

Mr. GREELEY. No. I think initially we planned on using it as a beach to begin with, because the early plans all show some beach area that was kept. The very desirable sites, of course, are those which were right down on the water. The first people who went in took the desirable sites. In other summer-home areas in almost every case I have dug into, there was almost always some arguing between the permitholders and the local Forest Service men as to whether enough area had been kept for public use close to the water.

In this case we feel it is very obvious that we did not keep enough space close to the water for public use of the beach. It is the beach frontage which is important here.

Mr. McMILLAN. Are there further questions?

Mr. TEAGUE. I have just one question, Mr. Chairman.

Suppose it is not practical to move some of these homes and the permits are not extended, what will the Forest Service do with the homes? Just tear them out?

Mr. GREELEY. I would like to say, first of all, for the three, I think it is practical to move them. Mention has been made of the problem of cutting down some trees. This is, of course, something we do not like to do in a recreation area, but to accommodate the moving of these improvements we would permit cutting down of trees.

I cannot say with reference to the other nine, because I have not looked at them with this question in mind.

I would like to answer your question with this thought in the background, the permits provide that after a certain period of time the improvements come into the ownership of the Government. If the permittees should elect not to move their facilities, with reference to any of the three permits, we would seek contract offers from people who would like to buy the improvements to move them someplace else. If we could not find such offers, then we would invite contract offers to dismantle the buildings.

Mr. O'NEAL. Mr. Greeley, at one point in your testimony I thought I understood you to say that a few years back certain parties—I do not know whether you were referring to the three people involved here or not—bought lots. Does this mean these permits are negotiable?

Mr. GREELEY. If I used the term "bought lots," I spoke in a colloquialism. The permit authorizes the use of the lot. The lot remains national forestland. It remains public land. I guess we do slip into the sloppy language of saying "bought lots," meaning bought the property on a lot.

Mr. O'NEAL. I see. Whether legally or not, is it customary in the community to sell permits?

Mr. GREELEY. These improvements are sold frequently, and the permit is transferred.

Mr. O'NEAL. Is it necessary to get Government approval of the sale?

Mr. GREELEY. Yes, sir, it is, and we keep the billing records straight that way. We have to have notice that an improvement has been sold. We usually try to use that as an opportunity to discuss with the new owner the general problems of the area and the use of the area.

Mr. O'NEAL. Do you have any problems with respect to inheritance?

Mr. GREELEY. Yes, we do. The summer homes are improvements which are privately owned. They are private property which is subject to inheritance laws.

Mr. McMILLAN. How much revenue does the Government get out of these three homes?

Mr. GREELEY. The permit holders are now paying on the lieu lots rather than on the lots they are on. They are paying \$80 a lot a year for the lieu lots. They were paying \$25. We had a change in rate along about the time that we were negotiating with these people about terminating their use. I have forgotten the precise date of the fee change. When the new lots were selected, lieu lots, it coincided with the time when we increased the fees all over. On the new lieu lots, I think they are paying at \$80. I believe probably the owners of the other nine are paying at the rate of \$80.

Mr. McMILLAN. Is this virgin land? Did they have to clear it out to build these homes?

Mr. GREELEY. It is a very attractive wooded area with big trees. The trees that are there now are trees that were rather carefully left in order to maintain this kind of environment. There was some clearing. I am sure all of the building sites undoubtedly had to be

cleared, because I am sure there was enough timber that would require this.

As to the leveling, I heard some of the oldtimers talk about leveling, and really that is all I know about it.

Mr. O'NEAL. Is it necessary to get Government approval for one of these permittees to take down a tree on the lot?

Mr. GREELEY. Yes, sir.

Mr. O'NEAL. Does this happen rather frequently?

Mr. GREELEY. Most of the people who have lots prefer to keep the forest environment. Our problem is more likely to be what to do about a tree that becomes unsafe because of lightning strikes or because of disease or insects.

Mr. O'NEAL. Do you have occasions when the Government finds it necessary to revoke a permit for reasons such as sanitation or abandonment of property?

Mr. GREELEY. We have at other places. We have not in Pincrest.

Mr. O'NEAL. You have not had that problem?

Mr. GREELEY. We have not had it at Pincrest.

Mr. O'NEAL. But you have had it at other places?

Mr. GREELEY. Yes, sir.

Mr. HEIMBURGER. May I ask a question right along this line. How large are these lots, Mr. Greeley, roughly? one-third of an acre? a quarter of an acre?

Mr. GREELEY. They are less than an acre. They are a fraction of an acre. I was going to say a half acre. I think that is about right.

Mr. HEIMBURGER. Do you have any idea what the commercial value of an annual lease on such property would be? If this were private land and they were leasing it for the same kind of purpose, a long-term lease for construction, would they pay more than \$25 an acre that you have been charging, less, or what?

Mr. GREELEY. I would suppose that if these three lots were private land and if this were leased under the same sort of restrictions that Mr. O'Neal referred to, where there is a limitation on what people can do on a lot, even with reference to cutting down a tree, the value would be more like \$300 to \$400 an acre.

Mr. HEIMBURGER. So if we were going to strike something equitable, it would be proper to balance off the difference that they would have paid on a commercial lease and what they have paid on a Forest Service permit over the 40 to 50 years.

Mr. GREELEY. I think it needs to be recognized that there are restrictions in the way in which they use the lots under a Forest Service permit.

Mr. JOHNSON. Might I make one statement with regard to the question asked by Mr. Heimburger?

The General Accounting Office makes certain that the Forest Service reappraises all of these summer-owned tracts in relationship to private property, and after each 5-year period if it is found they are appraised too low and the price is too low they raise them.

This has been in effect how long, Mr. Greeley; 10 years? There have been two 5-year periods of adjustment that I know of and it is based upon a survey and an appraisal made on the part of the Forest Service under instructions of the GAO to be certain that the private fee is paid.

Mr. GREELEY. Congressman Johnson, I think in our Pinecrest summer home area we have not differentiated between beach lots and other lots in the determination of a fee.

I took Mr. Heimbürger's question to mean—what about the value of the lots right at the shore of the lake as distinct from the tract in toto.

Mr. HEIMBURGER. Was your policy with respect to the use of this land at Pinecrest affected in any manner by the multiple-use legislation which was enacted by Congress some 4 or 5 years ago?

Mr. GREELEY. I don't really think so, Mr. Heimbürger. This area was being handled in a multiple-use policy.

Mr. HEIMBURGER. Multiple-use basis before Congress passed the law?

Mr. GREELEY. Yes. And the kinds of administrative practices which had been put into effect here were part of the thinking which led to the belief that it was appropriate for the multiple-use legislation to be enacted.

Might I go back to the question of special-use fees? Our system for determining special-use fees is to use private appraisers for the purpose of determining as nearly as we can the value of the land, the public land, and the use to which it is put. The private appraisers use their conventional business appraisal methods to come up with their conclusion of a fair value for a summer home tract in the circumstances. We base our valuation decision on our judgment of the appraiser's value.

Then we base our annual fee on 5 percent of that.

There are other agencies—the State of California uses 7 percent and the business world has higher fees, perhaps 11 or 12 percent. We have selected a 5-percent figure because of the restrictions that I have talked about here and the fact people are not as free to do whatever they choose to with the land they occupy under a national forest permit as they would under conventional lease.

I do not want to have the fact that I gave a \$300 or \$400 figure to be an issue here. I freely admit I was grasping for a figure and haven't a good basis for stating one here today.

Mr. HEIMBURGER. I didn't want to be arbitrary, either, but the ordinary commercial figure is about 12 percent. I understand this as general policy. I have no experience in the area whatever.

Mr. GREELEY. As Congressman Johnson mentioned, we try to do this at 5-year intervals. There is a 5-year period and 5 years later we do it again.

Mr. HEIMBURGER. And there are restrictions on the use of Forest Service land which would not otherwise exist. One restriction was the possibility that the lease would be terminated either at the end of a period or canceled sometime in between.

Mr. GREELEY. The permits do provide on their face that if a permit is canceled during the term, there is a payment to the permit holder and the maximum amount of the payment is specified in the permit—

Mr. HEIMBURGER. Is that involved in these cases?

Mr. GREELEY. No, because we have notified the folks in advance that the land was going to be needed at the end of the term.

Mr. HEIMBURGER. And the permit simply would not be renewed.

Mr. GREELEY. That is correct.

Mr. HEIMBURGER. This is in the contract?

Mr. GREELEY. The contract is for a specific term; that is correct.

Mr. TEAGUE. Mr. Greeley, I understand that this lake was created as the result of the construction of the Pacific Gas and Electric Dam. Is that correct?

Mr. GREELEY. Yes, sir.

Mr. TEAGUE. What sort of an arrangement does the Federal Government have with the PGE? Is that a permit or a grant in fee to the company?

Mr. GREELEY. It is not a grant. It is either a permit or else it is a Federal Power Commission license. I would have to admit I don't recall which it is.

Mr. TEAGUE. I have not been contacted by this utility. I wondered whether the PGE might be in the same spot as these cabin owners. If they are operating under a permit and you tell them they have to move their dam—

Mr. GREELEY. To answer your question, if it is a Federal Power Commission license, the Federal Power Commission is the agency that would have the jurisdiction. I would like to check this question for the record, sir, but I think in this case this may be a dam that was in existence before the national forest was created.

Mr. TEAGUE. Perhaps Mr. Johnson would know the answer.

When was the PGE Dam built, approximately?

Mr. JOHNSON. Before the National Forest Service came into existence.

Mr. GREELEY. I am sorry but this morning I am not prepared to say.

Mr. TEAGUE. I am interested in the answer for the record.

Mr. GREELEY. Yes, sir. If it was completed in 1916 then it would be a Federal Power Commission license and the Federal Power Commission would be the agency which would have jurisdiction as to whether the dam would be continued at the end of the license period.

(The following information was subsequently submitted:)

It is a Federal Power Commission license. The current license was issued to Pacific Gas & Electric Co. in 1955 for a term of 50 years.

Mr. O'NEAL. Mr. Greeley, getting back to the permits, are these permits on a standard form used all over the United States?

Mr. GREELEY. They are, but in saying this I need to point out that the form has been changed several times over a period of years. One form would be in use 8 to 10 years and then changed.

Mr. O'NEAL. I am a little confused at this point as to how many permittees would be affected by this proposed legislation—three or six?

Mr. GREELEY. There are two groups of permittees, nine whose permits will be extended to 1972 and three whose permits have already terminated but who have not moved. I am uncertain as to the effect of the language of the bill on those three permittees.

Mr. O'NEAL. Getting to these three, do you have a copy of the permit with you that we can see which provides that the Government has no obligation?

Mr. GREELEY. Yes.

Mr. O'NEAL. Do you have a blank?

Mr. GREELEY. May we submit a copy for the record, sir?

Mr. O'NEAL. That is what I was going to ask.

Mr. McMILLAN. It may be entered in the record at this point.

Mr. GREELEY. Most of these permits, Congressman O'Neal, have a standard printed face and a standard printed set of clauses.

Then in addition there are likely to be from 5 to 10 additional special provisions which are usually standard for one national forest or for one recreation area.

Mr. O'NEAL. There is no provision for obligation. Is that part printed?

Mr. GREELEY. Yes.

Mr. McMILLAN. Mr. Johnson this morning stated that there is a study being made of this problem and Congress appropriated \$4 million to make a study of this land use. Do you know whether the Department would be in favor of waiting 4 years to get the results of this study?

Mr. GREELEY. Mr. Chairman, the Public Land Law Review Commission has an important job to do and they have a tremendously big job to do.

We have felt we are vitally concerned with how they go about it. We have personnel assigned to be of assistance to that review and we think it is a very important review, but we also think we cannot defer all the decisions that need to be made until the review is completed.

We could find ourselves placed in the very difficult position of being unable to make a large number of decisions if we were to accept this as a reason to defer action on cases that we feel it is imperative to move ahead on. We would not like to—

Mr. McMILLAN. I don't think you can say this instance would make or break the Forest Service, three homes.

Mr. GREELEY. I cannot say it would make or break the Forest Service but I think from our point of view the whole subject matter has been very fully explored. While it is entirely appropriate and proper that Congress may develop legislation on this matter, and if there were legislation the matter might be treated somewhat differently. In the case of the three again I would point out that the permits have already run past their term and the permit terms terminated in 1962.

With reference to the other nine, those are permits where we have committed ourselves to renew and extend until 1972, and with reference to that nine there is plenty of time for the Review Commission report to be done.

Mr. McMILLAN. Have you completed your statement?

Mr. GREELEY. Yes, sir.

Mr. O'NEAL. This seems to be a photostatic copy of the name of the permittee, Harry L. and/or Velma Taylor. Is this one of the three permits involved which could be affected by the legislation today?

Mr. PAYNE. That permit is the latest one in the series. These are the permittees, one of the three permits that would be affected. There is a series of permits in the file for this case.

Mr. O'NEAL. I would like to offer this for the record.  
 Mr. McMILLAN. Without objection, it is so ordered.  
 (The document follows:)

## TERM SPECIAL USE PERMIT—ACT OF MARCH 4, 1915, AS AMENDED JULY 28, 1956

Name of permittee: Taylor, Harry L. and/or Velma F.  
 Date of permit: November 25, 1962.  
 Kind of use: Residence.  
 File code: 2710.  
 Region: 5.  
 State: California.  
 Forest: Stanislaus.  
 Ranger district: Summit.

Permission is hereby granted to Harry L. and/or Velma F. Taylor, husband and wife as joint tenants with right of survivorship of 1514 Cherrywood Drive, Modesto, California, hereinafter called the permittee, to use subject to the conditions set out below, the following described lands or improvements for the period of twenty years from the date hereof: Lot #1258 Lower Strawberry Lake Addition Tract.

This permit covers .34 acres and is issued for the purpose of using and maintaining a recreation residence. A garage may be allowed as a separate building if the site does not permit the garage to be made a part of the residence.

The exercise of any of the privileges granted in this permit constitutes acceptance of all the conditions of this permit.

1. In consideration for this use, the permittee shall pay to the Forest Service, U.S. Department of Agriculture, the sum of twenty and no/100 Dollars (\$20.00) for the period from November 1, 1962, to January 31, 1963, and thereafter annually on February 1, eighty and no/100 Dollars (\$80.00): *Provided, however*, That the charges for this use shall be readjusted as of, and effective on, the beginning of each 5-year period from the due date of the first annual payment in order to place the charges on a basis commensurate with the value of use authorized by this permit.

2. Construction or occupancy and use under this permit shall begin within 12 months, and construction, if any, shall be completed within 24 months, from the date of the permit. This use shall be actually exercised at least 15 days each year, unless otherwise authorized in writing.

3. Development plans; lay-out plans; construction, reconstruction, or alteration of improvements; or revision of lay-out or construction plans for this area must be approved in advance and in writing by the forest supervisor. Trees or shrubbery on the permitted area may be removed or destroyed only after the forest officer in charge has approved, and has marked or otherwise designated that which may be removed or destroyed. Timber cut or destroyed will be paid for by the permittee as follows: Merchantable timber at appraised value; young-growth timber below merchantable size at current damage appraisal value; provided that the Forest Service reserves the right to dispose of the merchantable timber to others than the permittee at no stumpage cost to the permittee. Trees, shrubs, and other plants may be planted in such manner and in such places about the premises as may be approved by the forest officer in charge.

4. The permittee shall maintain the improvements and premises to standards of repair, orderliness, neatness, sanitation, and safety acceptable to the forest officer in charge.

5. This permit is subject to all valid claims.

6. The permittee, in exercising the privileges granted by this permit, shall comply with the regulations of the Department of Agriculture and all Federal, State, county, and municipal laws, ordinances, or regulations which are applicable to the area or operations covered by this permit.

7. The permittee shall take all reasonable precaution to prevent and suppress forest fires. No material shall be disposed of by burning in open fires during the closed season established by law or regulation without a written permit from the forest officer in charge or his authorized agent.

8. The permittee shall exercise diligence in protecting from damage the land and property of the United States covered by and used in connection with this permit, and shall pay the United States for any damage resulting from negligence or from the violation of the terms of this permit or of any law or regulation ap-

plicable to the national forests by the permittee, or by any agents or employees of the permittee acting within the scope of their agency or employment.

9. The permittee shall fully repair all damage, other than ordinary wear and tear, to national forest roads and trails caused by the permittee in the exercise of the privilege granted by this permit.

10. No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise herefrom unless it is made with a corporation for its general benefit.

11. Except as provided in Clause 16 below, upon abandonment, termination, revocation, or cancellation of this permit, the permittee shall remove within a reasonable time all structures and improvements except those owned by the United States, and shall restore the site, unless otherwise agreed upon in writing or in this permit. If the permittee fails to remove all such structures or improvements within a reasonable period, they shall become the property of the United States, but that will not relieve the permittee of liability for the cost of their removal and the restoration of the site.

12. This permit is not transferable. If the permittee through voluntary sale or transfer, or through enforcement of contract, foreclosure, tax sale, or other valid legal proceeding shall cease to be the owner of the physical improvements other than those owned by the United States situated on the land described in this permit and is unable to furnish adequate proof of ability to redeem or otherwise reestablish title to said improvements, this permit shall be subject to cancellation. But if the person to whom title to said improvements shall have been transferred in either manner above provided is qualified as a permittee, and is willing that his future occupancy of the premises shall be subject to such new conditions and stipulations as existing or prospective circumstances may warrant, his continued occupancy of the premises will be authorized by a permit to him, which may be for the unexpired term of this permit or for such new period as the circumstances justify.

13. In case of change of address, permittee shall immediately notify the forest supervisor.

14. The temporary use and occupancy of the premises and improvements herein described may not be sublet by the permittee to third parties without the prior written approval of the forest supervisor and the permittee shall continue to be responsible for compliance with all conditions of this permit by persons to whom such premises may be sublet.

15. This permit may be terminated upon breach of any of the conditions herein.

16. If during the term of this permit or any extension thereof, the Secretary of Agriculture or any official of the Forest Service acting by or under his authority shall determine that the public interest requires termination of this permit, this permit shall terminate upon thirty days' written notice to the permittee of such determination, and the United States shall have the right thereupon to purchase the permittee's improvements, to remove them, or to require the permittee to remove them, at the option of the United States, and the United States shall be obligated to pay an equitable consideration for the improvements or for removal of the improvements and damages to the improvements resulting from their removal. The amount of the consideration shall be fixed by mutual agreement between the United States and the permittee and shall be accepted by the permittee in full satisfaction of all claims against the United States under this clause: *Provided*, That if mutual agreement is not reached, the Forest Service shall determine the amount and if the permittee is dissatisfied with the amount thus determined to be due him he may appeal the determination in accordance with Regulation A-10 (36 CFR 211.2) and the amount as determined on appeal shall be final and conclusive on the parties hereto; *Provided further*, That upon the payment to the permittee of 75% of the amount fixed by the Forest Service, the right of the United States to remove or require the removal of the improvements shall not be stayed pending final decision on appeal.

17. The permittee agrees that the amount which the United States shall be required to pay for improvements in accordance with Clause 16 shall in no event exceed \$——, and that this instrument may be introduced in any judicial proceedings for the acquisition of such improvements by the United States as the stipulation of the permittee and the United States with regard to the maximum amount which the United States shall be required to pay for the taking thereof.

18. In the event of any conflict between any of the preceding printed clauses or any provision thereof and any of the following clauses or any provisions thereof, the preceding printed clauses will control.

19. This permit is accepted subject to the conditions set forth above and to conditions 20 to 35 attached hereto and made a part of this permit.

31. The permittee shall provide, whenever requested by Forest Officers, a way across the land covered by this permit for the free ingress or egress of Forest Officers and for users of National Forest land and purchasers of National Forest products.

32. The boundaries of this permit may be modified by the Forest Supervisor when, in his judgment, such action is necessary. Such modification shall take into consideration the needs and welfare of the general public, the permittee and adjacent special use permittees.

33. *In advance* of any construction, reconstruction or alteration of the permittee's improvements, as may be approved under Clause 3, above, the value of improvements stated in Clause 17 will be amended in writing by the Forest Supervisor upon application and proof by the permittee that such construction or alteration justifies an amended value.

34. Regulation A-9 of the Secretary of Agriculture authorizes the formation of associations of National Forest permittees. If a majority of the summer home permittees in the area of this permit have requested and obtained approval to organize an association, or should do so in the future, you are eligible to membership. Even though you do not join, you may be required to pay an equitable share of the cost of installation and operation of services or utilities that will be used by you which the association voted and which the Regional Forester approved.

35. This permit supersedes and cancels permit designated "Residence,—Taylor, Harry L. and/or Velma F., 11/10/61" and approved by Harry D. Grace on November 11, 1961.

This permit is accepted subject to the conditions set out above.

Date: October 31, 1962.

HARRY L. TAYLOR,  
VELMA F. TAYLOR  
*Permittees.*

HARRY D. GRACE,  
*Forest Supervisor.*

Date: November 25, 1962.

By R. M. WILSON,  
*Issuing Officer.*

Mr. McMILLAN. Do you care to make a statement at this time on H.R. 9524?

Mr. GREELEY. May I ask that Mr. Reynolds Florance make a statement for the Department of Agriculture on that, Mr. Chairman?

Mr. McMILLAN. Very well.

Mr. TEAGUE. I will have to leave, Mr. Florance.

The question was raised earlier that the Department recommend favorable enactment of this legislation. Is that correct?

Mr. FLORANCE. That is correct.

Mr. McMILLAN. Would it suit you to insert this in the record or do you want to explain your formal statement?

Mr. FLORANCE. I would be happy to put this in the record.

Mr. McMILLAN. Without objection, the statement will be inserted. (The statement follows:)

STATEMENT OF REYNOLDS G. FLORANCE, DIRECTOR, DIVISION OF LEGISLATIVE REPORTING AND LIAISON, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the committee, I appreciate this opportunity to make a statement on H.R. 9524.

The purpose of H.R. 9524 would be to quiet title to a tract of land described in the bill, situated within the boundaries of the Shoshone National Forest. It consists of approximately forty acres and is held and claimed by Harriet Chambers of Lander, Wyoming, under a chain of title dating from March 29, 1902.

The detailed circumstances involved here are described in the report of the Department of Agriculture. I will summarize them briefly for you.

The tract which H.R. 9524 would direct to be conveyed to Harriet Chambers was patented to a Mr. Charles Souter in 1902, pursuant to a timber and stone entry. In 1904 Mr. Souter executed and recorded a deed to convey the tract back to the United States and applied for a forest lieu selection of another tract of vacant public land under the provisions of the Act of June 4, 1897. This conveyance was recorded in local records and the application was docketed by the General Land Office of the Department of the Interior. Because he failed to perfect his abstract of title to the offered tract, Mr. Souter's deed to the United States was expressly rejected by the General Land Office. However, the United States never reconveyed the tract to him.

The Souter tract was affected by the Act of July 6, 1960. The effect of this Act was to confirm in the United States title to those lands which had been conveyed or relinquished to it as a basis for lieu selection under the Act of June 4, 1897, and for which the grantor had not received a lieu selection or a reconveyance as provided by law.

Because of the Act of July 6, 1960, title to the Souter tract is in the United States. However, we believe that the situations to which that Act generally applies do not involve an express rejection of the deed conveying offered lands to the United States, and can otherwise be distinguished from the situation here involved.

In most situations contemplated by the 1960 Act, lieu selections were not filed or carried through to completion. No action to either accept or reject the deeds was taken. The grantors exercised no further acts of ownership as to the reconveyed tracts. In most instances the tracts were treated by the local taxing authorities and the Government as Government land.

With respect to the Souter tract, however, the United States considered the deed conveying the offered lands and specifically rejected it. Since rejection of the Souter deed, the United States has treated the tract as private land. The tract has been held and transferred as private land by the successive owners. It has been carried on local tax rolls, taxes have been paid, and we understand the succession of title is clear.

In managing the Shoshone National Forest land, the Forest Service has recognized and respected the private claim of the tract and has made no attempt to administer it. No improvements have been made to the tract by the United States either before or after enactment of the Act of July 6, 1960.

This history of treatment and disposition differs from cases where grantors or their successors failed to exercise normal acts of ownership or responsibility and the United States, as holder of record title, long protected and administered the lands conveyed as bases for lieu selections.

Private ownership of the tract here involved would not jeopardize or interfere with the purpose of administration and management of the Shoshone National Forest. The location and nature of this tract are such that it has no special values which make it essential for the Federal Government to retain title to it. This situation differs from those occurring in the National Parks or other areas where a private inholding would interfere with the purposes and programs of the Federal reservation.

We therefore believe that it would be fair and equitable that the tract be reconveyed to Mrs. Chambers, to conform its legal status with its actual treatment by all the parties involved. The circumstances of this case are exceptional and would not weaken the administration or effect of the Act of July 6, 1960.

#### S. 2264, ACCEPTANCE OF CASH IN LAND EXCHANGE TRANSACTIONS

Mr. HEIMBURGER. May Mr. Florance talk a little about S. 2264, where money may be paid or received rather than land in exchange? This is a little technical and I would appreciate your letting Mr. Florance talk about it.

I think we understand the other one very well.

Mr. McMILLAN. We will next consider S. 2264.

(S. 2264 follows:)

[S. 2264, 89th Cong., 2d sess.]

AN ACT To authorize the Secretary of Agriculture to accept a cash equalization of exchanges for lands under his jurisdiction, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, whenever lands under the jurisdiction of the*

Secretary of Agriculture are authorized to be exchanged for lands in non-Federal ownership, if the lands offered to the United States have a value at least equal to two-thirds of the value of the Federal lands selected, the exchange may be completed upon payment to the Secretary of Agriculture of the difference in values, or the submittal of a cash deposit or a performance bond in an amount at least equal to the difference of values assuring that additional lands acceptable to the Secretary of Agriculture and at least equal to the difference in values will be conveyed to the United States within a time certain to be specified by the Secretary of Agriculture. Any amounts so paid and cash deposits forfeited or collections upon performance bonds submitted shall be covered into a special fund in the Treasury which when appropriated shall be available until expended by the Secretary of Agriculture for the acquisition of lands in the same State as the Federal lands selected and which are determined by him to be suitable for the same purposes as the lands initially conveyed to the United States in the exchange transaction. Lands so acquired shall have the same status and shall be subject to the same laws, regulations, and rules as the lands initially conveyed to the United States in the exchange transaction.

Passed the Senate May 23, 1966.

Attest:

EMERY L. FRAZIER,  
*Secretary.*

**STATEMENT OF REYNOLDS G. FLORANCE, DIVISION OF LEGISLATIVE REPORTING AND LIAISON, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE**

Mr. FLORANCE. Mr. Chairman, regarding S. 2264, I would like to say that I am very happy to be here and have this opportunity to make a statement in regard to it.

The purpose of S. 2264 is to authorize the Secretary of Agriculture to accept cash to equalize exchanges for lands under his jurisdiction. The bill was transmitted to Congress by the Secretary of Agriculture on June 30, 1965, with the recommendations that it be enacted.

S. 2264 contains an additional authorization not now included in Department of Agriculture authorities which would be helpful in certain exchanges of lands administered by the Forest Service. The basic Forest Service exchange authorities are outlined in our transmittal letter. In general, these have proven satisfactory vehicles for achieving our landownership adjustments and consolidations.

The bill would provide for cash equalization of exchanges up to one-third of the value of the Federal lands involved when the value of lands offered to the Government falls short of the value of the Federal lands. Under it, the exchange proponent may (1) pay the cash differential to the Secretary, or (2) submit a cash deposit or performance bond to guarantee the future conveyance of additional land to complete the exchange. Cash paid to the Secretary, forfeited cash deposits or collections on performance bonds would be covered into a special fund to be available when appropriated for use by the Secretary to complete the exchange transactions.

As explained in our transmittal letter, S. 2264 would facilitate many exchanges involving certain isolated tracts and tracts near or around communities, and exchanges proposed by parties who have inadequate acreage to offer. The opportunities for cash equalization that S. 2264 would provide would be helpful to both exchange proponents and to this Department.

This completes my formal statement, Mr. Chairman. I will be glad to answer any questions.

Mr. HEIMBURGER. I have one question, Mr. Chairman. The private forest industry is represented by the National Forest Products Association, Mr. Florance, and they recommended that the provision in the bill which requires the deposit of the performance bond in case of one of these exchanges where the forest land would exceed the value of the private land—

Mr. FLORANCE. That is correct.

Mr. HEIMBURGER (continuing). That this should be eliminated from the bill, pointing out that where there is a provision authorized in the bill for the payment of additional cash by the private landowner, since the bill provides for the payment of cash by the private landowner where the value of the Forest Service lands is greater than the land he is exchanging, that the provision of a performance bond seems to be unnecessary.

Have you any comment on that?

Mr. FLORANCE. My only comment on that—and I might say I have not known of this proposed amendment prior to this time—would be this: The provision really gives the exchange proponent three alternatives, and he can elect among these alternatives. He can either pay the cash difference or he can deposit the cash. I might say if he pays the cash difference then he is through with the transaction.

Mr. HEIMBURGER. That winds it up.

Mr. FLORANCE. That is right. On the other hand, he can either deposit cash or put up a performance bond to guarantee that he will, at some later date to be specified, convey to the Government acceptable land of the concerned value.

Mr. HEIMBURGER. This would be the private landowner's choice and alternative?

Mr. FLORANCE. That is correct.

Mr. HEIMBURGER. Under the provisions of this bill.

Mr. FLORANCE. That is correct. Really it is to give the private landowner an opportunity to do it in whatever way he can.

Mr. HEIMBURGER. Thank you, Mr. Chairman.

Mr. McMILLAN. Thank you very much. We appreciate your taking the time to be with us this morning.

Mr. Hodges, representing the National Forest Products Association, will be next.

#### STATEMENT OF JOHN F. HALL, NATIONAL FOREST PRODUCTS ASSOCIATION

Mr. HALL. I am Mr. Hodges' assistant. With your permission I would like to deliver the statement this morning.

Mr. McMILLAN. Without objection that may be done.

Mr. HALL. Mr. Chairman and members of the committee, I am John F. Hall, staff attorney, forests and lands with the National Forest Products Association. NFPA, with headquarters in Washington, D.C., is a federation of 17 regional, product, and species

associations representing the forest products industry from coast to coast.

As an industry dependent on our Nation's forests, we are interested in assuring that our Federal land policies contribute to a steadily improving timber supply. In much of our country, the economy is forest based. In many areas, our industry and the livelihood of the population is heavily dependent on Federal forest lands. Our interests in S. 2264 are due to our concern with Federal land acquisition and disposal policies.

We support an active program for the exchange of lands between various owners, public and private, to alleviate problems resulting from the scattered pattern of landownership caused by the Nation's early land laws and subsequent programs for Federal acquisition of private lands.

The provision of S. 2264, authorizing a cash payment to be made to or by the Government to equalize land values is a constructive step and will facilitate land exchanges.

We are concerned with some provisions of this bill which would broaden the four acts authorizing national forest land exchange. These acts are—

The Weeks Law of 1911 (16 U.S.C. 516).

The General Exchange Act of 1922 (16 U.S.C. 485, 486).

The Bankhead-Jones Act of 1937 (7 U.S.C. 1010, 1011).

An Omnibus Act of 1962 (16 U.S.C. 555a).

The Weeks Law requires review and approval of proposed exchanges by the National Forest Reservation Commission on which two Members of the House and two Members of the Senate serve along with the Secretaries of Army, Interior, and Agriculture.

Two of these authorities (the Weeks Law and the General Exchange Act) require public notice of proposed exchanges. These same two authorities permit the exchange of Federal timber for private lands.

We urge that the legislation require these officials deciding on land exchanges give full consideration to—

- (1) The need to prevent further reduction of the private land and tax base; and
- (2) The effect upon stability of dependent communities and industries.

As mentioned by Mr. Heimburger earlier, we further urge that the provision in S. 2264 providing for the submission of a cash deposit or performance bond assuring the future conveyance of private lands to the Government be deleted. An example of this case might arise when a private landowner wants to exchange his lands for an isolated tract of Federal land which is valued at more than his lands. Currently, the Forest Service, which now must trade land value for land value, requires that the landowner purchase additional private lands with his own funds and then exchange both properties for the Federal land.

Under S. 2264 this practice would be continued by providing for a cash deposit or performance bond assuring the future acquisition and conveyance of private lands to the Government.

Since S. 2264 removes the restriction that land values must balance and permits cash to be used as an equalizer, there is no need to continue the current practice which avoids the appropriation process and the

minimal congressional review of Forest Service land acquisition which it affords.

We also suggest that the equalization amounts paid to the Secretary of Agriculture be deposited into miscellaneous receipts rather than being held in a separate fund for land acquisition. Even though these funds must be appropriated before being used, earmarked funds cannot be used for any other public purpose.

A matter not included in S. 2264, but one which is essential to a discussion of national forest land exchanges, is the Secretary's authority to exchange national forest timber for private land. In some instances this authority has served as the equalizer of land values now provided by S. 2264. In a typical case in which the private owner's lands exceed the value of the Federal lands: (1) the private landowner conveys his lands to the Federal Government; and (2) the Forest Service conveys to the private party the national forest lands and a sufficient volume of national forest timber to equalize the exchange.

The Forest Service can also simply convey national forest timber for private lands. In some instances, known as tripartite exchanges: (1) a private landowner conveys his lands to the Federal Government; (2) the landowner receives cash payment from a third party; and (3) the third party receives permission to harvest national forest timber of an equivalent value. In these two situations national forest timber is exchanged outright for private land in a manner that avoids the appropriation process.

Since the exchange of timber for land removes this timber from competitive bidding and since the equalization benefits of using timber for cash can be achieved by the provisions of S. 2264, we urge that the authority of the Secretary of Agriculture to exchange national forest timber for private lands be repealed.

In the recent open meetings of the Public Land Law Review Commission there have been repeated requests from virtually all public land users for an extensive review and study of present land exchange authorities and an investigation of ways to make exchange of land between Federal, State, and private owners more expeditious.

The Commission has indicated that land exchange will be one of its principal study subjects and that recommendations to the Congress in its final report of December 1968 on land exchange will likely be made. Accordingly, we suggest that the authority contained in S. 2264, including the amendments suggested today, terminate on June 30, 1969. This would tie in with passage of other land laws.

In summary, Mr. Chairman, we strongly support the provisions of S. 2264 which will facilitate exchange of public and private lands. We favor increased use of exchanges to consolidate Federal and private holdings for more efficient management. We think that such exchange authority can be more widely used if the legislation includes policy guidelines for the protection of the public interest and the Federal officials involved.

We urge that the committee consider the amendments suggested.

A few months ago we sent a copy of our industry policy on forest land exchanges to some members of this committee. Their replies were encouraging. The purpose of the policy statement is to suggest rules for avoiding poorly conceived land exchanges. That policy was developed with participation by small and large landowners, by manufacturers solely and partially dependent on Federal timber, and

by many of those experienced in land exchanges. We think it is a good basis for Government policy.

I have attached a copy of that policy to my written statement, which served as the basis of my testimony today, which I request may be printed in the record.

Mr. McMILLAN. Without objection, that may be done.

(The document follows:)

POLICY ON FOREST LAND EXCHANGES OF THE NATIONAL FOREST PRODUCTS ASSOCIATION

FOREST LAND EXCHANGES

An active program for the exchange of forest lands between various owners, public and private, is necessary to alleviate the problems resulting from the scattered pattern of land ownership caused by the Nation's early land laws and subsequent programs of acquisition.

To maintain stability of forest industries, public agencies requiring private forest land for public projects should provide for the replacement of such lands in kind by offering in exchange similar and suitable publicly owned lands of equivalent values.

In exchanges involving public lands full consideration should be given to—

- (1) The need to facilitate access, to provide for efficient forest management, and to keep forest land in full production of commercial timber;
- (2) The need to prevent further reduction of the private land and tax base;
- (3) The effect upon stability of dependent communities and industry;
- (4) Multiple-use values of the lands to be exchanged but not to preclude exchange for single purpose use when in the greater public interest;
- (5) The concept that public lands declared surplus should be sold rather than exchanged; and
- (6) The desirability of holding timely local public hearings and of obtaining concurrence of county governing boards.

The public agencies should not use the exchange procedure for the purpose of avoiding the appropriation process.

Public land ownership should not be extended through the exchange of cutting rights to public timber for private lands.

Mr. McMILLAN. Questions?

Mr. O'NEAL. I have no questions.

Mr. HEIMBURGER. I would like to ask Mr. Florance one more question if I may.

What particular advantage do you see in this money which is received pursuant to these exchanges being placed in a separate category in the Treasury since it has to be appropriated, anyway?

Mr. FLORANCE. Mr. Heimburger, this provision has direct relation to exchange authority. That being the case if the money were deposited in the Treasury, in miscellaneous receipts, it would in effect be a sale of these lands.

In order to maintain the exchange procedure the idea here is to enable the Government to obtain the additional land it would take in order to equalize the exchange.

Mr. HEIMBURGER. In other words, then, if this goes into a special account in the Treasury this money and the legislation to be enacted would be an extension of your exchange authority and not require new authority from appropriations for the purchase of equivalent amount and value of land?

Mr. FLORANCE. The bill says that this fund would be available when appropriated. So it would have to be appropriated before it could be expended to acquire the additional lands.

Mr. HEIMBURGER. Appropriation would be necessary but no additional legislative authority?

Mr. FLORANCE. This would apply to the authority which the Department otherwise would have.

Mr. HEIMBURGER. I think I understand now.

Mr. O'NEAL. In other words, it already would be earmarked.

Mr. HEIMBURGER. Legislative authority would exist. The only necessity would be to request and receive an appropriation.

Mr. O'NEAL. Is my use of the word "earmarked" incorrect?

Mr. HEIMBURGER. No; I was merely expanding on it.

Mr. McMILLAN. There are suggested amendments made by Mr. Hall.

Has the Department had an opportunity to look over those recommendations?

Mr. FLORANCE. We have not seen them prior to today.

Mr. McMILLAN. Have you any comment on them?

Mr. FLORANCE. We would prefer the bill as we transmitted it, Mr. Chairman, but we have not actually considered and developed policy on these specific recommendations.

Mr. McMILLAN. I realize the Department would prefer its own bill but I wondered what you thought about these recommendations.

Anything further?

(No response.)

Mr. McMILLAN. Thank you very much, Mr. Hall.

The committee will stand adjourned until further notice.

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