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PT. 2 MANAGEMENT POLICY AND OTHER
PROBLEMS OF THE NATIONAL FORESTS

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HEARINGS
BEFORE THE
SUBCOMMITTEE ON FORESTS
OF THE
COMMITTEE ON AGRICULTURE
HOUSE OF REPRESENTATIVES
NINETIETH CONGRESS

FIRST SESSION
ON

H.R. 740, H.R. 741, H.R. 1285, H.R. 3779, H.R. 3893,
H.R. 4122, H.R. 4713, H.R. 4884, H.R. 5041, H.R. 8921,
and H.R. 9913; H.R. 774; H.R. 8538 and S. 1136;
H.R. 6151 and H.R. 6238; H.R. 7908; and S. 219

JUNE 13, 14, 15, AND 16, 1967

Serial J
Part 2

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MANAGEMENT POLICY AND OTHER PROBLEMS OF THE NATIONAL FORESTS

JUNE 13, 14, 15, AND 16, 1967

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

(Editor's note: The following hearings before the Forests Subcommittee were held over a period of 4 days, from June 13 to June 16, 1967. Witnesses were heard on the various bills, but each bill was not taken up separately, with the result that testimony on any one bill may have been spread over the 4 days. In order to make a more comprehensive record, all of the testimony for each bill has been assembled together regardless of the date it was heard. This is the record of 4 days of hearings.)

The subcommittee met, pursuant to notice, at 10 a.m., in room 1301, Longworth House Office Building, Washington, D.C., Hon. John L. McMillan (chairman of the subcommittee), presiding.

Present: Representatives McMillan, O'Neal, Foley, Hansen, Teague, and Mrs. May.

Also present: Mrs. Christine S. Gallagher, clerk; Hyde H. Murray, assistant counsel.

Mr. McMILLAN. The subcommittee will come to order.

At this time the subcommittee will be happy to hear Mr. Arthur Greeley, Associate Chief, Forest Service, Department of Agriculture.

We will insert in the record a copy of H.R. 4884, together with the Department report dated June 13, 1967.

(H.R. 4884 and the Department of Agriculture Report dated June 13, 1967, follow. H.R. 740 and H.R. 741 by Mr. Johnson of California, H.R. 1285 by Mr. Sisk, H.R. 3779 by Mr. Leggett, H.R. 3893 by Mr. Baring, H.R. 4122 by Mr. McFall, H.R. 4713 by Mr. Edwards of California, H.R. 5041 by Mr. Cohelan, H.R. 8921 by Mr. Clausen, and H.R. 9913 by Mr. Roybal are all similar to H.R. 4884 by Mr. Mathias.)

[H.R. 4884, 90th Cong., first sess.]

A BILL To establish certain policies with respect to certain use permits for national forest lands

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person who has prior to the date of enactment of this Act acquired or constructed, or who after such date acquires or constructs, pursuant to any permit issued by the Secretary of Agriculture, any structure, fixture, or improvement on any national forest lands shall have a possessory interest therein which shall consist of all incidents of ownership except legal title, which, except as hereinafter provided, shall be vested in the United States. Such possessory interest shall not be construed to include or imply any authority, privilege, or right to operate or engage in any business or other activity, and the use or enjoyment of any structure, fixture, or improve-

ment in which the concessioner has a possessory interest shall be wholly subject to the applicable provisions of the permit and of laws and regulations relating to the lands. Such possessory interest shall not be extinguished by the expiration or other termination of the permit (including failure to renew or extend) and may not be taken for public use without just compensation. Such possessory interest may be assigned, transferred, encumbered, or relinquished. Unless otherwise provided by agreement of the parties just compensation shall be the amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the United States determined upon the basis of reconstruction costs less depreciation evidenced by its condition and respective serviceability in comparison with a new unit of like kind, but not to exceed fair market value.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 13, 1967.

Hon. W. R. POAGE,
*Chairman, Committee on Agriculture,
House of Representatives.*

DEAR MR. CHAIRMAN: AS requested in your letter of February 9, 1967, here is our report on H.R. 4884, a bill "To establish certain policies with respect to certain use permits for national forest lands." We also make this our report on identical bills, H.R. 740, H.R. 741, H.R. 1285, H.R. 3779, H.R. 3893, H.R. 4122, H.R. 4713, and H.R. 5041.

The Department of Agriculture recommends that these bills not be enacted.

The bills would provide that any person who, pursuant to any permit issued by the Secretary of Agriculture, acquires or constructs structures, fixtures, or improvements on National Forest lands shall have a possessory interest therein. That interest would consist of all incidents of ownership except legal title which, except as provided in the bill, would be vested in the United States. It would not include or imply an authority, privilege or right to operate or engage in any business or other activity. The concessioner's use or enjoyment of any structure, fixture, or improvement in which he has a possessory interest would be wholly subject to the applicable provisions of his special use permit and of laws and regulations relating to the National Forest lands.

The possessory interest which would be established by the bills would not be extinguished by expiration or other termination of the permit, including failure to renew or extend it. Such possessory interest could not be taken for public use without just compensation. It could be assigned, transferred, encumbered, or relinquished. Just compensation could be determined by agreement of the parties involved. If not determined by agreement, just compensation would be an amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the United States. The sound value would be determined on the basis of reconstruction costs less depreciation evidenced by its condition and respective serviceability in comparison with a new unit of like kind. It could not exceed fair market value.

About 62,000 special use permits issued by the Forest Service in this Department presently authorize use of National Forest lands for a wide variety of purposes. Most of these permits involve permittee-built and owned improvements of some kind. The value of these improvements could exceed \$1 billion.

National Forest special use permits are legally drawn and executed agreements between this Department and the permit holders. All existing National Forest permits specifically set forth what, if any, obligations the Federal Government will have for compensating the permittee for improvements built on the permit area upon the expiration or termination of the permit. They also specify the rights and obligations of the permittee as to the removal of the improvements upon such expiration or termination.

The permits are of two general types insofar as duration is concerned. One group is terminable at any time and the other is issued for a specified term of years. None of the permits provides for any compensation to the permittee when the permit is terminable at any time or where the specified term of the permit has expired.

The permittees who have acquired or placed structures and improvements on the National Forest lands have done so under known and agreed to provisions of their permits. In many instances it is known that the permittee's need for the use of the area or the period of use of the area to be allowed will be temporary or for a limited time only. To give these permittees the possessory interest and entitlement to compensation as H.R. 4884 and the related bills would do, would

bestow on them a windfall that was not contemplated when they accepted their permits nor is it justified.

Furthermore, to give the permittee a possessory interest in the structures and improvements that could not be extinguished without compensation by the expiration or termination of the permit, including failure to renew or extend, as these bills would do, would apparently give the permittee the right to retain the improvements or structures in place. This would tend to give the permittee a vested right in the use of the land itself.

Permits under which structures and improvements are constructed or maintained on National Forest lands are issued for a wide variety of uses. Each of these is a proper use and appropriate in the administration of the National Forests under the principles of multiple use and sustained yield. The particular use at the particular site is consistent with existing and even foreseeable conditions and resource management objectives at the time the permit is issued. The kinds of uses that can and should be permitted on a given area depend on factors that are changing rather than static in nature. Uses that can be allowed today may not be allowable in the future. If every permittee with structures and improvements on National Forest lands were given a continuing possessory interest in them the flexibility essential to sound management of the National Forests would become far more costly.

H.R. 4884 and the related bills are patterned after provisions in P.L. 89-249. That law has to do with concessioners. It concerns only situations where concessioners have placed structures and improvements on land administered by the National Park Service of the Department of the Interior to provide services and facilities to accommodate the public. Also, its application was not automatically extended to the current concessioner contracts in effect on the date of the Act.

H.R. 4884 and the related bills on the other hand would apply to all types of permits for the use of National Forest lands. The vast majority of these are for the personal use and benefit of the permittee rather than to provide needed accommodations to the public in the enjoyment by the public of the overall area.

Other differences exist also. For example, on National Park lands, title to concessioner structures and improvements is in the Government. In the case of concessioner and other types of special use permits on the National Forests, the title to structures placed on the permitted area by the permittee is in the permittee. He may sell them or remove them upon the expiration or termination of the permit. H.R. 4884 and the other bills contemplate that the legal title to the structures and improvements shall be vested in the United States. This could be construed as a legislative expropriation of legal title by the United States, preventing removal of structures the legal titles to which and the rights of removal of which are in the present permittees.

At the request of the President when he signed P.L. 89-249, the Bureau of the Budget has made a study of policies governing concessions on Federal lands. The Bureau of the Budget recommendations resulting from that study have been approved by the President. While no specific recommendation regarding the granting of possessory rights to concessionaires was made, the Bureau discussion of this policy in its study report clearly indicates that the Forest Service policy of granting facility title to concessionaires is a desirable alternative to granting possessory interests on Forest Service lands.

Other Federal agencies permit the use of lands administered by them for various purposes. The effect of these bills, if enacted, could extend precedent-wise to the uses of lands administered by those 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. You may proceed.

Mr. GREELEY. Could I have sit with me at the witness table Mr. Florence?

Mr. McMILLAN. Yes. I personally want to thank all of you for the assistance that you gave to this subcommittee on our recent visit to the various States in the West.

Mr. FLORENCE. It was our pleasure.

JUNE 13, 1967

STATEMENT OF ARTHUR W. GREELEY, ASSOCIATE CHIEF, FOREST SERVICE, ACCOMPANIED BY REYNOLDS FLORANCE, DIRECTOR, DIVISION OF LEGISLATIVE REPORTING AND LIAISON, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. GREELEY. Mr. Chairman and members of the subcommittee, I am Arthur W. Greeley. I am Associate Chief of the Forest Service, and with me today at the witness table is Mr. Reynolds Florance, who is the Director of our Division of Legislative Liaison and Reporting.

I am pleased to make this statement on H.R. 4884 and related bills.

These bills are related to the subject I discussed with you last year in connection with the Pinerest Recreation Area. They are also related to your recent hearings on some national forest problems in Washington, Idaho, and Montana. One of the two principal subjects you considered was that of Forest Service recreation residence permits. The subcommittee was particularly interested in the fee schedules for these permits. Many of the permittees you heard from discussed other aspects of the summer-home policies. My statement today is directed to H.R. 4884 and related bills. However, I would be glad to talk with you generally about recreation residence permits.

The bills would provide that any person who, pursuant to a permit issued by the Secretary of Agriculture acquires or constructs structures, fixtures, or improvements on national forest lands would have a "possessory interest" therein. A "possessory interest" would consist of all incidents of ownership except legal title, which, except as provided in the bill, would be vested in the United States. The applicable provisions of the special-use permit, and laws and regulations relating to national forest lands, would govern the use and enjoyment of structures, fixtures, or improvements in which persons had such a possessory interest.

Expiration or other termination of permits would not extinguish a possessory interest. It could be assigned, transferred, encumbered, or relinquished.

A possessory interest could not be taken for public use without just compensation. Just compensation could be determined by agreement or by determination of "sound value" on the basis of reconstruction costs less depreciation. Sound value could not exceed fair market value.

H.R. 4884 is the outgrowth of a special situation. We believe the bill is meant to provide a means for compensating national forest recreation residence permittees for the value of their improvements when their permits are cancelled.

But the bill would apply to a much broader situation. More than 63,000 special-use permits issued by the Forest Service presently authorize use of national forest lands. Eighty different types of uses are covered by these permits. They range from airports, bathhouses, mills, and observatories to rifle ranges, schools, stores, and ski-tows. About 53,000 of these involve permittee built and owned improvements of some kind. We estimate and it is a very rough estimate, that the value of these improvements could exceed \$1 billion.

National forest special-use permits are legal agreements between the Department of Agriculture and the permitholders. The permits

clearly set forth what, if any, obligations the Federal Government will have for compensating the permittee for his improvements when the permit expires or is terminated. They also specify the rights and obligations of the permittee as to removal of the improvements.

There are two general types of permits insofar as duration is concerned—term permits, and terminable permits.

Term permits are issued for a specified term of years. Under the act of March 4, 1915 (16 U.S.C. 497), 30 years is the maximum term that can be granted.

Terminable permits are revocable at will. Such permits usually provide that they may be terminated at the discretion of the Chief of the Forest Service.

None of the permits provide for any compensation to the permittee when the permit is terminable at any time or where the specified term of the permit has expired.

Permittees who acquire or place improvements on national forest lands do so with full knowledge of the provisions of their permits. Sometimes they do not need nor do they expect more than temporary or limited use of the permitted area.

We try to give notice far in advance when we intend not to renew permits because permitted areas are needed for other uses. In such cases we have usually alerted permittees 10 years or more prior to the termination. In all the cases we have been able to identify from our records here, such notification has been for 10 years or longer.

H.R. 4884 and the related bills would give existing permittees a possessory interest and an entitlement to compensation. This would bestow upon them an unjustified windfall not contemplated when they accepted their permits.

Furthermore, the bills provide that a possessory interest would not be extinguished without compensation by expiration or termination of the permit. Apparently permittees would thus be given the right to retain the improvements or structures in place. This would tend to give the permittees a vested right in the use of the land itself.

National forest uses that can be allowed today may not be allowable in the future. The kinds of uses that can and should be permitted on a given area depend on factors that change with time. If every permittee with structures and improvements on national forest lands were given a continuing possessory interest in them, the flexibility we need for sound management of the national forests would be impaired. Many national forest programs and activities would be far more costly.

H.R. 4884 and the related bills are patterned after provisions in Public Law 89-249. That law concerns national park concessioners. It covers situations where these concessioners have placed structures and improvements in the national parks to provide service and facilities to accommodate the public. It was designed to encourage private entrepreneurs to provide needed visitor services to the growing numbers of people who visit the national parks.

H.R. 4884 and related bills would make these same provisions applicable to all types of permits for the use of national forest lands. The vast majority of these are not granted to provide for overall public accommodations, but for the personal use and benefit of individual permittees.

There are other important differences. That is, between H.R. 4884, and the related bills, and the section of Public Law 89-249 after which it appears that the bills are patterned.

For example, title to concessioner structures and improvements on national park lands is in the Government. On the national forests concessioners and other permittees ordinarily have title to the structures they place on permit areas. Permittees may sell or remove their structures when the permits expire.

H.R. 4884 would reverse this situation with respect to national forest permittees. The bill contemplates that legal title to structures and improvements would be vested in the United States. This could be construed as a legislative expropriation of legal title by the United States, preventing present permittees from removing structures to which they would then have no legal title but to which they now have both the legal title and the right to remove the structures.

Other Federal agencies permit use of the lands they administer for various purposes. If enacted, these bills could well lead to similar treatment of other Federal lands.

H.R. 4884 and related bills would impair our ability to provide for the greatest public use and benefit of the national forests. We urge that the bills not be enacted.

Mr. McMILLAN. Thank you, Mr. Greeley.

Are there any questions?

Mr. TEAGUE of California. Just one question of Mr. Greeley.

You stated that there are more than 63,000 special-use permits presently authorized.

Mr. GREELEY. Yes.

Mr. TEAGUE of California. You also estimated that the value of these existing improvements could exceed \$1 billion.

Mr. GREELEY. Yes, sir.

Mr. TEAGUE of California. However, that is only a small portion of those improvements that are likely to be involved should this bill be enacted. We are not talking about \$1 billion.

Mr. GREELEY. Mr. Teague, I am not sure about this. The thinking in the minds of the people who have been concerned with the drafting of this legislation seems to me to have been concerned with a small portion of this total number of the 63,000 permits. Specifically, the bills have been concerned mostly with approximately the 19,000 summer home permits. It is perfectly true that of the summer home permits, a relatively small portion are in the set of circumstances that we would have to ask the people or to inform the people in the future that we would have to terminate the permits at the end of some term.

What does concern us, Mr. Teague, is the rather broad provisions of this bill and the fact that by comparison with the legislation in the Park Service bill, which deals specifically with concessionaires, on the basis of a contract which has come about after negotiation and after rather specific discussion of the terms. This bill deals not only with the concessionaires who have a specific contract, but, also, is much broader in the wording of it by making the bill applicable to any persons who has any permit under which he has any structure or fixture or improvement in the national forest. Thus, it would include under the wording of the bill, improvements such as roads. We have about roughly 9,000 permits for roads which are variously owned. Some are State-owned and some are county-owned

and some are with private individuals and companies. And as I read the provisions of H.R. 4884 and the related bills the bills also would apply to and would raise this question about possessory interest and our obligations to compensate for it for all of these permits. This is what really does concern us.

Mr. TEAGUE of California. I understand that, but my point was and is that it seems to me there is only a small portion of the \$1 billion that will probably be involved should one of these bills be enacted.

Mr. GREELEY. What I am trying to say is that I wish that I could be that sure of it.

Mr. TEAGUE of California. That is all. Thank you, Mr. Chairman.

Mr. McMILLAN. Mrs. May.

Mrs. MAY. Would the Department view this bill differently if it dealt specifically with just the 19,000 summer homes?

Mr. GREELEY. This would remove some of our concern, Mrs. May, but it would not remove all of our concern. It would take care of some of the concern that I have just expressed to Mr. Teague.

Mrs. MAY. You have said in your statement on page 3:

Permittees who acquire or place improvements on National Forest lands do so with full knowledge of the provisions of their permits.

I am sure, Mr. Greeley, by now you have read the printed record of the hearings we held in the West?

Mr. GREELEY. Yes.

Mrs. MAY. A couple of months ago.

Mr. GREELEY. Yes.

Mrs. MAY. And you know that the members of this subcommittee in hearing after hearing heard statements from individuals which indicates that there seems to be really a lack of full knowledge of what type of permit they have. Great surprise was expressed that their tenure on this land was so tenuous.

Some of these summer home permits I know go back years and years—some of them may have been handed down from generation to generation. The contracts have been renewed. But it does seem to me that there has been a general lack of comprehension as to these summer home areas, what was involved in the signed contract for the use of this land for their homes.

Do you feel that the Forest Service personnel, the representatives thereof themselves might have been at fault, not necessarily recently, but in the early years in not making it very clear to the permittees in that respect that it was possible for the Forest Service to take over these homesites?

Mr. GREELEY. This is a perfectly valid observation. I am aware from reading the hearing record of the number of people who appeared before the subcommittee who had things to say in this vein.

My own experience with these permits for summer homes goes back over some 25 years. At the start of this period of about 25 years I was engaged in a discussion with a permit holder about what that permit meant. I explained that he could get a term permit, if he would like to have a term permit, but that this permit was one that would ordinarily be renewed year after year. There was no provision, no assurance in the instrument itself that this would be the case, that it would be renewed. It happened that the particular man I was speaking

to, and the particular group that he represented, already had an understanding of this.

However, I think it is fair to say that in many of the permit areas where the summer homes exist, that were started quite early, the question as to what circumstances under which a permit might be terminated or canceled might not have been as well understood as it should have been. It may have been speculated about by some, but it was not discussed very seriously. In most cases the groups that were being established quite early in the history of the national forests were in what were then very remote locations. There were mutual problems to be worked out—roads, access, fire protection, water systems. Usually sewage systems were not so much of a problem then because everybody felt that outside toilets were adequate. And groups of permit holders got together in some kind of organized effort that involved the collecting of funds.

Associations were organized. By and large, of course, the interest of most of the permit holders in most of the areas in the early days leaned toward solving these mutual problems of access and facilities which they needed. And there was not really very much occasion for these people to discuss or to worry very much about the circumstances under which their permits might be terminated.

I can agree and I concede that there have been many circumstances where people either did not read, or having read did not particularly understand. They did not feel it was important and so accepted the piece of paper that was in their files as being their authority to continue to stay there and did not think very much more about it.

Mrs. MAY. It just seems to me that there is a kind of responsibility here for all of us, let us say, to the summer home permit users, who should check the fine print, but in some cases along the line it strikes me, from all of the testimony that we have heard that the Forest Service representatives themselves did not make this as clear as they should.

Many seem to think that there was a long-term lease which they had with the U.S. Government. I really do not know where that came from.

And then, too, many of them in many instances have tremendous capital investments in their homes. Our committee saw some of them out in Washington and in Idaho, where they were not just cabins, but they have \$30,000 to \$40,000, if I am correct, Mr. Chairman, invested in some of these homes out there. I am sure that they would have hesitated to put this much capital improvement on the land if they felt they did not have a longtime tenure. This is what has concerned all of us.

I think that what we are here today concerned with and are talking about in these hearings, and what has been talked about by the people who have been testifying on behalf of these people, the summer home owners, is that they seek an understanding of just what the Forest Service has in mind as far as the length of time is concerned that they might be assured of keeping their summer homes. And further they want some assurance of the principles embodied in the bills we have before us on what kind of possessory interest they have when the Forest Service asks them to get off the land where they now have their summer homes. And the increased rate of summer home permits

and the unexpectedly large rise in the rate of summer home permits, I know, concerns everyone. Perhaps the question before us for discussion which we can attempt to resolve is, when the Forest Service increased the rates as much as they did this last year, was it to alert summer home owners that they were not on this land in perpetuity and should be concerned about termination? This is the question that we now have before us.

Mr. GREELEY. Mrs. May, if I may offer a comment or two. It has been our practice to try to give notice in advance—quite long in advance. And while I cannot say positively that this has always been true, because I have not run down each individual case, but of the ones that we have records of here, we have found that notification was 10 years or longer in duration to inform the permittees that at the end of this particular term we would not be able to renew their permit, because the land had to be used for a different purpose. There have been some circumstances where some agency other than the Forest Service has had road construction or other situations develop. And there someone else is making the decision and not the Forest Service making the notifications.

I remember one highway case in the State of California where this definitely was true. There were quite a number of people affected. They did not have a notice for a period of time as long as 10 years. It was on the basis of a decision and a set of plans made by a different agency than the Forest Service.

This continues to be our intention and our policy to provide notice as much in advance, 10 years and longer if possible. And I am willing this morning to make that as a commitment by the Forest Service that this is what our policy is.

We have been offering term permits to permittees who do not now have term permits on the assumption that such permittees might consider a term permit to be a firmer tenure.

Mrs. MAY. How long are they?

Mr. GREELEY. Customarily they have run 20 years. The law that authorizes term permits was enacted March 4, 1915. It authorizes a maximum term of 30 years. We have felt that the 30-year term could properly be used for large investors, commercial-type enterprises. We have systematically followed the policy of offering terms of no longer than 20 years to summer home cabin-type structures.

Often we encounter the feeling on the part of the permitholder that he does not want the 20-year term permit. I have had the experience and I know many other people in the Forest Service who have had the experience of the permittee saying, "If I take a 20-year permit, then at the end of the permit I am out." To this we have stated that it would depend on what the circumstances are at that time. But the user says, "I do not think that I will take the term permit. I think I would rather have the annual permit. I feel that I have a better instrument with the annual permit than I have with the term permit."

This has come from enough permitholders so that the only reason that I cite it is that there is not clear uniformity among the permitholders as to which form of permit they prefer to have. We are perfectly willing to offer and issue the term permits. If somebody wants a term permit we will issue one. We will convert it from a terminable permit to a term permit. We are perfectly willing to do this. And

where they do not want it, we will not say, "You have got to take it."

Mrs. MAY. I think that this may bring us to what I think is the crux of the matter. Within the Forest Service do you have any overall plan for future development of our Forest Service lands for recreation? Could you warn owners in the existing summer home areas that in 10, 20, 30, or 40 years they would be asked to leave? Do you have some idea now that in certain parts of California or Idaho or Washington that certain areas have been defined by the United States Forest Service as an ideal place for public camp recreation and, therefore, that in the year 1975 or 1980, there is definitely on your planning board an overall plan that this will be an area where you will want to have these summer homes move out, so that you can come in with your own recreational development plan? Is such a plan in existence in your agency?

Mr. GREELEY. Mrs. May, I would have to say that we have been struggling, of course, with the establishment of plans which would serve this purpose. And to say that a single plan that answers all of these questions is in existence would be an overstatement of the case.

Our planning unit is usually the Forest Supervisor. We have been striving mightily over the course of the last 7 or 8 years, to get such a recreational plan for each National Forest. But no matter how far along our plans are, we always find that there are questions that they do not answer. Consequently, there are folks who would like to have a specific question answered. That is, who feel that the plans are either inadequate or insufficient as to detail.

We have reviewed the existing summer home tract areas with this specific question in mind about what are the changes in land use that we can foresee sufficiently clearly over the course of the next 10 to 15 years to feel that we should now notify the permitholders that at the end of the term, 10 or 15 or 20 years hence, they should plan on doing something else as to their summer home place.

We have about 700 summer home permittees to whom we have given notice that at the end of the present term their term permit will not be renewed because the land will be needed for what our plans indicate is a higher purpose.

I would have to add, Mrs. May, that there is still some planning to be done. I think that this represents pretty generally where we are. For instance, a new highway is constructed some place which changes the picture or when a change in priority occurs within a State highway organization, or a project that has been set for sometime in the future is moved up in priority and comes forward sooner in time. This changes our situation, because when a highway comes in, then of course there are a number of public uses along that highway which change all of the land uses within the land area reachable from the highway.

I am sure that within the course of the next 5 or 10 years we will develop much more detail in the plans and we will have to notify some people in addition to the 700 already notified.

Mrs. MAY. How many years notice have they had?

Mr. GREELEY. They have all had 10 years or longer.

Mrs. MAY. You do not give them a right to the 20-year tenure?

Mr. GREELEY. There are some that have had 20 years.

Mrs. MAY. What makes the difference whether you offer them 10 or 20?

Mr. GREELEY. It depends probably on various things. It depends upon the state of readiness of our plans, how firm the things seem to be that would cause changes in the future. In a good many cases for which the term ended in the late fifties or the early sixties, we could see 10 years ahead and we thought that at the end of that next 10 years the land was going to be needed. In other cases if we could go the full 20 years, we went the full 20 years.

I guess that is about as precise as I can be, Mrs. May. It is a matter of trying to estimate the time when the use pattern in the area will change so much that we would feel it absolutely essential to make the changes in land use and to bring about provisions for public use for campgrounds and picnic grounds, et cetera.

Mrs. MAY. It strikes me that we are not facing up to the problems we have had in the Forest Service and that the problem remains the same and that we would have far less problems with summer home permittees if that summer homeowner had any idea that the Forest Service plan had jelled. Since 700 have been told to move, I can see where the confusion arises with the other summer home users because they really do not know about their own permanency.

Mr. GREELEY. Just to complete my part of the story, I think that I should also say that there are a good many of them, of the 19,000, to whom we said that we do not see anything in the future that will make any change. We are sure that at the end of the next term your residence can be continued.

Mrs. MAY. I wish that you would give them more assurance on this, as to whether they may be on a yearly permit or on a 20-year permit.

Mr. GREELEY. We have frequently said this in terms of reports to the associations or officers of the permittee associations, or in contact with individuals that "We are not able to make a commitment beyond the 20 years."

Mrs. MAY. Yes.

Mr. GREELEY. But we have said that our plans are such that we do not see any reason for any anticipated change.

Mrs. MAY. You do give those assurances and let them make their own plans?

Mr. GREELEY. We have not made a project of doing this, but I know of many circumstances where we have done so. I know of other circumstances where undoubtedly we could, but I do not know whether we have.

Mrs. MAY. Of these summer homeowners, what percentage would you be prepared to say who might have come to you and said, "We are on such and such an area, we have been there for so many years—this is where we are—can you give us some idea whether we are in the overall plan for public recreational development in 20 years?" Are you no further along in your planning than for the 700 that you are going to cancel? And there are the others to whom you have given some assurances. What percentage would it be in that case?

Mr. GREELEY. I think that we could undoubtedly give such assurance to at least two-thirds or three-fourths of the summer homeowners.

Mrs. MAY. At this time?

Mr. GREELEY. At this time, yes.

Mrs. MAY. Two-thirds to three-fourths of the summer homeowners?

Mr. GREELEY. Yes.

Mrs. MAY. Have you ever considered, as a Forest Service policy, to prevent the confusion and the worry on the part of the summer homeowners that it might be well to let them know as best you could, to give them some assurance in that regard by way of a letter or by way of meetings—I do not know what particular method you might use or has it been handled by just contacting them when some situation comes up in the Forest Service or they come to you to ask questions?

Mr. GREELEY. As I have indicated earlier, I do not think that we have made a project of attempting to so inform the permit holders. In almost every location, where there are summer home permits, the permit holders have been in touch with the rangers over the course of quite a few years. There have been many informal contacts.

Mrs. MAY. We have run into some indications where it seemed that sometimes the ranger would tell the home permittee one thing and then later on in contact with the regional director, or sometimes with the agency back here, there would be apparently another decision. We ran into that in some of the testimony we heard, and it is in many of the letters that have been written on this subject. I do not know whether in this situation there has been a breakdown in communications or what.

Mr. GREELEY. I cannot speak for each individual in the organization, Mrs. May, as to how we have handled this. We have not issued any policy from here about a consistent way to do it or about a consistent way to make plans. I know of two specific instances where our people locally started out with a rather grandiose idea about what should be done in the way of changes that were made, and upon review here, a rather critical review, we significantly changed the plans that had been made by the local people. This had a bearing with reference to that area, but in that particular area there were some 100 or 150 summer home permittees that were very upset. They still remain upset, even though in the meantime we told them, "When your term is up next time the permit will be renewed for a full 20-year term, without any strings attached. There will be nothing other than a summer home use here." I think that most of them are still upset about it.

Mrs. MAY. I think that is the problem that we have. And that as reasonable people we must try to resolve it. I am hoping that as the result of our hearings that both your Department and our committee here can come up with some sort of help, to give them some final answer.

Thank you. I did not want to take all of the time that I did.

Mr. McMILLAN. Thank you, Mr. Greeley. We are delighted to have had you before us this morning. I once again say that we enjoyed our visit out through the Western States. I know that you have your problem and have other uses for some of this property that is now used by private enterprise. We should encourage you people to use the property as much as possible. I know about the problems you have had and do have.

Mr. Hansen.

Mr. HANSEN. I have no questions, Mr. Chairman.

Mr. TEAGUE of California. Mr. Murray has some questions.

Mr. McMILLAN. Mr. Murray.

Mr. MURRAY. Mr. Greeley, of the 19,000 summer home permits, what percentage and number of those are terminable permits and what number are term permits?

Mr. GREELEY. I have some figures here. The term permits are about 7,700, and the balance are terminable.

Mrs. MAY. What were those figures?

Mr. MURRAY. He said 7,700 were term permits, and the balance terminable.

Mrs. MAY. Those were what?

Mr. MURRAY. 7,700 were term permits and the balance, 11,300, were terminable permits. How does that compare with the overall issued permits—what percentage of the number of total permits issued?

Mr. GREELEY. I do not have the figures before me to give that, so may I provide that for the record?

Mr. MURRAY. Yes.

Mr. GREELEY. I think that I should point out, though, that we have not particularly attempted to discourage having people take term permits. This is true in areas other than summer home permits. Some of these permit areas involve quite substantial investments. And even with the substantial investment it is debated as to which form of permit they prefer to have. I will have to get that for you.

Mr. MURRAY. That will be fine.

(The information follows:)

Of the 19,000 recreation residence permits, 7,700 or 37 percent are term and 11,300 or 63 percent are terminable. Of all special-use permits, about 15 percent are term and 85 percent are terminable.

Mr. MURRAY. When a permittee takes a term permit, is the rental set for the whole term of the agreement or is that negotiated periodically?

Mr. GREELEY. The term permit provides that the fee may be revised every 5 years.

Mr. MURRAY. How many permits are terminated or are not renewed or were last year, or, for the last 4 years? Do you have that information, or can you furnish that for the record?

Mr. GREELEY. I do not have it by years. We will have to provide that for the record. We have terminated, or I should say, more precisely, not renewed between 350 and 400 permits over the period that we have been keeping these records, but I would have to get that information and provide it for the record to give it to you by years.

Mr. MURRAY. The final question would be in regard to what is in my mind a question relating to the general real estate law. When these people build a home on this land do not the structures become part of the real estate—do they not become a part of the land itself? How could permit holders be permitted to remove the buildings when the term of the permit expires?

Mr. GREELEY. May I ask Mr. Florance to answer that question, please?

Mr. MURRAY. Yes.

Mr. FLORANCE. By the terms of the permit it is provided that the structures belong to the permittee. This is not particularly an unusual situation, because there are a number of such type of arrangements under which a lessee, for instance, would put structures on a piece of property under an agreement by which he owns the structure. It is true that those buildings are attached to the land and if they were put there by the owner of the land they would become, in effect, a part of

the real property, but under the terms of the agreement they remain the property of the permittee.

Mr. MURRAY. Is it the agreement that the structures may be removed and that the title to the land remains with the United States when it is restored to its original condition?

Mr. FLORANCE. There is such a condition that upon the termination of the permit the structure should be removed by the permittee. If he fails to remove them they become the property of the Government, and the Government can either leave them there, but if it removes them it could do so at the permittee's expense.

Mr. MURRAY. Thank you, Mr. Chairman.

Mr. McMILLAN. Thank you again, Mr. Greeley.

Mrs. MAY. May I ask just one other question?

Mr. McMILLAN. Mrs. May.

Mrs. MAY. Have the permits always had that provision about restoring the land to its original use. Has that been from the beginning, or is this a development that has come about in later years?

Mr. FLORANCE. I am informed that has been in the permit since about 1916, so that goes back a good long ways.

Mrs. MAY. 1960?

Mr. FLORANCE. 1916.

Mrs. MAY. I thought that you said 1960.

You said, Mr. Greeley, that you terminated in about the last 5 years, is that it, about 350 to 400 permits?

Mr. GREELEY. I have found the figures that I was looking for. It is 395 permits, that is summer home permits, which have been terminated.

Mrs. MAY. Over what period of time?

Mr. GREELEY. My information is that that is all of the permits that we have terminated.

Mrs. MAY. All since the beginning of the time that you gave out these?

Mr. GREELEY. Yes.

Mrs. MAY. Would they go back to 1916?

Mr. GREELEY. Yes.

Mrs. MAY. How does that break down—have most of those been in the last 5 or 10 years—do you have any figures showing that?

Mr. GREELEY. I do not have the figures here. I will get those.

Mrs. MAY. Would you supply those for the record?

Mr. GREELEY. I will supply them for the record.

(The information follows:)

The records are fairly accurate for the past 15 years during which time about 240 permits were terminated. Previous to that time some 200 permits were terminated but the actual year of each termination is not known. Nationwide, about 50 terminations were recently completed in addition to those already reported. This increases the total from the previously reported 395-400 to about 450. Including recently reported cases and considering cases consummated, there are now about 725 permittees on termination notice.

The number of terminations for each of the past 15 years is:

1966 to present	77	1957	4
1965	10	1956	2
1964	12	1955	10
1963	38	1954	1
1962	23	1953	1
1961	32	1952	0
1960	13		
1959	17	Total	243
1958	3		

At the hearings, we reported 395 permits had been terminated. This figure did not include additional actions taken within the past 10 months, which brings the total up to the amount shown above.

Mrs. MAY. Thank you very much.

That is all, Mr. Chairman.

Mr. McMILLAN. Thank you.

At this time we will hear from Mr. Mathias. We are glad to have you before us.

STATEMENT OF HON. ROBERT B. (BOB) MATHIAS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. MATHIAS. Mr. Chairman and members of the subcommittee, I want to thank you for this opportunity to appear to testify.

Before I start my testimony I would like to show to you these telegrams supporting my bill. Also in my office are many letters concerning the same subject.

I am here today to discuss a very crucial problem—one which affects small cabin owners throughout this Nation. These people, on the basis of a government use permit, sometimes work for years to build a summer home. Many of these people find that when their site is improved, after a great deal of invested time and money, the Federal Government has dispossessed them of their interest.

I am urging favorable committee action on my bill, H.R. 4884, which would give protection to the private investment of these cabin owners.

Let me tell you more about the problem:

In many cases, families in their efforts to escape the air pollution, and traffic congestion of the city for a weekend in the clear air and seclusion of the mountains, have in good faith obtained use permits to build summer cabins. They invest in water systems, roads, and sewer works, with knowledge of a terminable contract. But in most cases, I say most cases, small cabin owners are told by the Forest Service that the form they signed was a mere formality and that the renewal of the use permit a technicality. Although they have built their cabins to rigid specifications, paid annual rent, possessory interest taxes, and property taxes—some for as long as 40 years—they find themselves ordered out of their summer homes without any compensation whatsoever.

I am a strong believer in the maximum land use; however, I fear we lose more than we gain when the Government arbitrarily decides that a cabin site development should serve more people as a public campsite, or for other reasons. I believe it can be clearly pointed out that the Government loses untold amounts of revenues by such action and certainly, the people who have lived there for many years suffer when they must move without any compensation.

I am sure you will be hearing additional testimony this morning on facts and figures concerning the benefits to the national forests and public in general of these special use permits.

I believe the policy of the forest service should be revised to allow the cabin owners holding use permits a more realistic and equitable solution for this program.

In a letter I received from Secretary of the Interior Udall, he admitted that this is a problem that has caused great concern to the Department for many months.

I believe your interest here today, and the concern to the Department of the Interior shows us that this matter must be given serious thought by the Congress.

Thank you.

I might add, to this, that my bill is very general and broad in scope. I would not object whatsoever to this subcommittee or the full committee making an amendment to just include the home site tracts for the small cabin owners.

Thank you very much.

Mr. McMILLAN. Mrs. May.

Mrs. MAY. Mr. Mathias answered the question I was going to ask. I wanted to ask about this bill, whether to include what Mr. Greeley said to amend it as all of these other permittee types. I wondered if there would be any objection to providing for this.

Mr. MATHIAS. No. I would not object to it.

Mrs. MAY. Thank you.

Mr. McMILLAN. Thank you very much for your testimony. I hope that we can resolve this question before we complete action on this proposal.

Mr. Hansen, any questions?

Mr. HANSEN. I would like to say that I share Mr. Mathias' concern about this. We have several problems in my own State with regard to this situation and I hope that we will be able to resolve them. Also Mrs. May brought out a point that is important and I think you clarified this very well.

That is all, Mr. Chairman.

Mr. McMILLAN. Thank you, Mr. Mathias.

Mr. MATHIAS. Thank you.

Mr. McMILLAN. I have a number of telegrams and letters which have been received from many sources. I would like to have the names of these people inserted into the record at this point.

(The telegrams and letters were received by the chairman from the following people all expressing support of the present legislation:)

Mr. and Mrs. John C. Willard, 2112 Royal Ave., Simi, California 93065.
 Mr. and Mrs. Donald H. Knight, Box 1562, Lot 23, Havasu Lake, Calif.
 Mr. and Mrs. Melvin A. Smith, Box 11-2, Lot 17, Havasu Lake, Calif.
 Kenneth E. Jeffress, Secretary Treasurer, Havasu Lake, Calif. (Owners Assoc.).
 Mr. and Mrs. Ed Stein, 33260 No. Boquet Canyon Rd., Saugus, Calif.
 W. A. Flood, Pres. Snowcrest Heights Improvement Ass'n, Los Angeles, Calif.
 Edgar H. File and Marjorie R. Drew, Fresno, Calif.
 Mr. and Mrs. Larry Mandot, 3414 Boquet, Canton Rd., Saugus, Calif.
 A. H. Lantis and Lee A. Smith, Havasu Lake, Calif., Santa Maria, Calif.
 G. K. Fiondella, 7855 Bacon Rd., Whittier, Calif.
 John, Betty, Carol and Jeff Immel, 1604 Woodland Dr., Stockton, Calif.
 V. L. Riedsel, NFRA Member, Huntington Lake Ass'n, Inc., Fresno, Calif.
 Willis F. Jaynes, 536 East Mendocino St., Altadena, Calif.
 Mr. and Mrs. Emil Hauschild, 33144 Boquet, Canyon Dr., Saugus, Calif.
 James J. Siffrin, 33716 No. Boquet, Canyon Rd., Saugus, Calif.
 Philip, Anne, Charles Parks Berolzheimer, 3139 Polk Way, Stockton, Calif.
 Walter H. Daniel, Banning, Calif.
 Walter Prusait, (Dr.) Downey, Calif.
 Mr. and Mrs. Birl F. Stevens, 602 Hartley West, Covina, Calif.
 Orin Martin, Needles, Calif.
 Norman F. Brown, Pres. Echo Lakes Ass'n, San Jose, Calif.
 Lester Craig, 6207 Prospect Bell, Huntington Park, Calif.

- Mr. and Mrs. C. H. Woodhams, Jr., 601 Melville Ave., Palo Alto, Calif.
 Marvel and Howard Benedict, Laguna Hills, Calif.
 Donald W. Krell, 34615 Boquet Cynn Rd., Saugus, Calif.
 Mrs. Barbara J. France, 9946 Gierson Ave., Chatsworth, Calif.
 John C. Hagar, 938 3d Street, Santa Monica, Calif.
 Dr. George Smallbone, Box 44, Almanor, Calif.
 Jordan L. Paust, 17000 Ventura Boulevard, Encino, Calif.
 Stanley S. Cohelan, Silver Creek—Tahoe Improvement Association, Tahoe National Forest, Calif.
 R. B. McClellan, 376 St. Andrews Way, Lompoc, Calif.
 Don Myers, Huntington Lake Association, Fresno, Calif.
 Mr. and Mrs. Oscar H. Fisher, Jr., 44 Forest View Drive, San Francisco, Calif.
 Elmer E. Walter, and Thomas H. Harris, Almanor Improvement Association, Almanor, Calif.
 Mrs. Kathryn Blewett, Temple Bar Leaseholders Association, Baldwin Park, Calif.
 Mike Grega, Twin Crags Improvement Association, and Waterside Terrace-Thompson Homeowners Association, Alameda, Calif.
 M. H. Davis, 400 Highland Dr., Los Osos, San Luis Obispo, Calif.
 Mrs. F. C. Thomsen, 741 West Weldon, Fresno, Calif.
 John K. Lamphear, 4442 East 16th Street, Tucson, Arizona.
 Mr. and Mrs. B. L. Winslow, 31 Charles Hills Rd., Orinda, Calif.
 Lloyd F. Kelinia, 3580 Savage Ave., Pinole, Calif.
 Lela Mae Adams, 5213 La Canada Blvd., La Canada, Calif. 91011.
 Bill Lattin, Box 166, Fallon, Nev.
 Robert H. Baird, 1082 W. San Ramon, Fresno, Calif.
 George C. Ricca, Chairman of Mohave Co. Board of Supervisors, Kingman, Ariz.
 Ethel and Edward Cochrane, 6534 E. Shaw Ave., Clovis, Calif. 93612
 Ray E. Carr, Sec. Fish Lake Cabin Owner's Ass'n, 157 N. Main, Richfield, Utah 84701.
 Arnold D. Peters, 1425 Farris Ave., Fresno, Calif. 93728.
 Lylal Asay, M.D., 2453 Mountain Ave., Upland, Calif.
 George T. Campbell, 20873 Locust St., Hayward, Calif.
 Dr. Vincent E. D. Bragg, 720 East McKinley Ave., Fresno, Calif. 93728.
 H. M. Sherman, 1293 Echo Ave., Fresno, Calif.
 R. H. Appling, Sec. Treas. Deadman's Flat Improvement Ass'n, Stanislaus Nat'l Forest, California—509 Medera Drive, San Mateo, Calif. 94403.
 Delvin R. Ranche, 10727 Cotter Street, Oakland, California.
 Mr. and Mrs. G. E. Graham, 245 Berkeley Park Blvd., Berkeley, Calif., 94707.
 Dr. and Mrs. Kenneth Devo, 16953 Superior St., Sepulveda, Calif.
 Mr. and Mrs. Harry E. Forster, Box 9, North Fork, Calif. 93643.
 Mr. and Mrs. Joseph C. Bledsoe, 4258 N. 4th St., Fresno, California 93726
 V. L. Riedesel (Jack), Huntington Lake Lumber Co., P.O. Box 463, Huntington Lake, California.
 Leo Rossier, Pres. Havasu Lake Home-Owners Ass'n, Box A2, Havasu Lake, Calif.
 Willis F. Jaynes, 536 E. Mendocino St., Altadena, Calif.
 Thomas H. Harris, 45 Ralston Ave., Mill Valley, Calif. 94941.
 Mrs. Harry E. Forster, Box 9, North Fork, California, 93643.
 Mr. and Mrs. Donald R. Alexander, 2431 North Street, Redding, California 96001.
 Mrs. Allen W. Capron, 701 So. Central Ave., Visalia, California 93277.
 J. K. Lamphear and Charles F. Malimann, Temple Bar, Ariz. 86443.
 Stanley Thomsen, 916 Trenton Blvd., San Pablo, Calif.
 Buford E. Oeland, LeMoore, Calif.
 Francis H. Moffitt, 721 San Luis Rd., Berkeley, Calif.
 C. M. Flanigan, 3201 Harvard, Bakersfield, Calif.
 Mr. and Mrs. Robert H. Bussian, 34948 Bouquet Canyon Rd., Saugus, Calif. (and fourteen others in same area).
 George E. Jacobsen, President, Hume Lake Cabin Owners Ass'n, 557 E. Pleasant Ave. Tulare, Calif.
 Willis F. Jaynes, 536 East Mendocino St., Altadena, Calif.
 Ray J. Gantz, 2109 Redrock Court, Los Angeles, Calif., 90039.
 Mr. and Mrs. John Kroeger, 2231 Cambridge Drive, Visalia, Calif., 93277.
 Mr. and Mrs. Haig Aslanian, 6766 E. Kings Canyon Rd., Fresno, Calif. 93702.
 Mr. and Mrs. Berkeley W. Johnston, 1955 Stratford Ave., South Pasadena, Calif. 91030.

Blaine Ellis, Pres. Huntington Lake, Fresno Co., Calif., Big Creek, Calif.
 Thelma Flanagan, 3201 Harvard Dr., Bakersfield, Calif.
 Elmer E. Walter, Pres. Almanor Home Owners Ass'n., Keddle, Calif.
 Harvey E. Moose, 1931 Lejos Dr., Escondido, Calif.
 William D. Parish, Reno, Nevada.
 Charles R. Adams, June Adams, Quilici Henry Adams and Myron Adams, 1107
 Riverside Dr., Reno, Nevada.
 Paul G. Bissiri, 3458 Flower St., Santa Maria, Calif. 93454.
 Mr. and Mrs. John Koreger, 2231 Cambridge Drive, Visalia, Calif. 93277.
 R. G. Bauer, Spring Creek Tract Association, Oakland, Calif.
 Lewis G. Teachenor, Ice House Canyon Improvement Assoc., Mount Baldy, Calif.
 Mr. and Mrs. J. I. Sullivan, Almanor Improvement Association, Almanor, Calif.

Mr. McMILLAN. Our next witness is our colleague, Mr. Johnson, of California. We shall be glad to hear from you now, Mr. Johnson.

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

Mr. JOHNSON. Mr. Chairman and members of the subcommittee. I would like to say that in my congressional district we have about 2,000 to 2,400 summer home owners on public lands, either in the Forest Service or in other lands that make up a good portion of my district.

First, may I express my appreciation for the consideration which this committee is giving the legislation we now have before us.

Past discussions with this committee, I am sure, have familiarized you with the general problem we face and the serious inequities which I believe this legislation will correct.

The bills presented by my colleagues and myself provide that anyone who has made improvements on national forest lands shall have a possessory interest in these lands.

I would like to say at this point in regard to the question asked by the gentlewoman from Washington that I, too, would be willing to have this particular act amended to apply only to the summer home tracts on Forest Service lands. That would cover the problem that we are here discussing with you today.

It is clearly pointed out by specific language in the legislation that this in no way gives the people who are on the national forests with summer homes or other purposes any right or title to the property whatsoever.

Basically, Mr. Chairman and members of this committee, what we are trying to accomplish is to protect the investment of the special use permittees in the improvements which they have made over the years.

Under existing law the Forest Service recognizes no such right under certain circumstances.

At this point I think I should clarify any questions which might arise relating to the type of permits under which these people operate.

There are two such types of permits, both of which I have here today and would like to submit to the committee for the record.

One identified just as a "special use permit" under the act of June 4, 1897 or February 15, 1901, is for no specific term.

It is a revokable and nontransferable permit.

The other, identified as a "term special use permit" under the act of March 4, 1915, as amended July 28, 1956 or the act of March 30, 1948.

The former, issued under the 1897 act, is revokable at will.

Persons who hold this type of permit are at the complete mercy of the Federal Government who at any time may cancel and permit and force the removal of improvements from the lands involved completely at the expense of the permittee.

I want to recite a little happening that took place in my district as it related to Interstate Highway No. 88. It was to the effect that the summer tract where there are 80 homesites and one resort facility, after much discussion, and after a try at legislation we were unable to negotiate or have passed any relief at the Federal level. We took the matter back to our State, after consultation with the attorney general's office and the State highway department and the Governor's office, and we were able to get a piece of enabling legislation passed in the State legislature, which was passed unanimously, to allow the State to compensate these people for their property which was going to be taken or removed. And this was worked out. And the enabling legislation was passed. And this was payment to these people for these improvements.

In the case of the latter, the permit does provide that if during the term of the permit the Forest Service requires the land for public use, they may compensate the owner for his improvements.

The fine print, however, makes it clear that in the final analysis, it will be the Forest Service and no one else who determines the price which will be paid for these improvements.

This principle does become active or is in order when they cancel the term permit. They have to remove the improvements within the term of the permit.

I do want to emphasize that as a practical matter, the Forest Service had not proceeded under this authority but rather whenever the situation arose, merely waited until the permit expired and then proceeded to force the permittee to remove his own improvements without compensation.

You will recall that during the 89th Congress this committee held hearings on a special problem at Pinecrest, Calif.

I believe that this can be used as an excellent example of the problem we are talking about.

Following these hearings the full committee, you may remember, adopted a resolution asking the Secretary of Agriculture not to require the removal or abandonment of summer homes in the Pinecrest area until after the Public Land Law Review Commission had completed its work.

August 2 of last year, Secretary Freeman refused to accede to the committee's recommendations and request.

This is a closed case because following this refusal, the three people immediately under the gun had to act.

Two of the three paid out of their own pockets the substantial costs of moving these homes and accepted the loss of such improvements as landscaping, fencing, sidewalks, et cetera.

The third gentleman, an elderly man who had much of his life savings tied up in the considerable investment he had made in this place, apparently could not afford to move his home so he was faced with the only alternative of tearing it down, which he did.

Mr. Chairman, nothing can be done to help these people in this instance but I do believe that steps must be taken in order to prevent individual citizens from suffering heavy losses due to the progress

which demands the greater and higher uses by the public of lands which have been developed by individuals at the invitation and in accordance with the requirements of the Forest Service.

The Forest Service over the years has laid out certain parcels of land, subdivided them, in effect, and put the lots up for lease.

With this invitation individual cabin owners have come in and built improvements as I said above, in accordance with Forest Service regulations.

You will note the permits themselves require, in section 3, that—

Development plans; layout plans; construction, reconstruction, or alteration of improvements; or revision of layout or construction plans for this area must be approved in advance and in writing by the forest supervisor.

In section 4 it is required that—

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

Federal Government, therefore, has complete control over the type of building that is developed and the manner in which it is maintained.

I would like to submit at this point a section from the Forest Service Handbook which demonstrates the detail to which the Forest Service delves when they consider the development of these summer cabins.

These are no lean-to's; these are no sheds.

These are homes which usually involve a basic investment—if the individual does much of the work himself—from \$5,000 to \$10,000, although according to Forest Service estimates of some years ago, values ran up to as high as \$25,000.

The Forest Service also requires, within these subdivisions, development of adequate water resources, of adequate roads, of adequate fire protection, of adequate sanitation facilities—all accomplished at the expense of the cabin owners who normally form into groups to achieve this purpose.

The Forest Service does not bear one single cent of this expense; they do not even bear the cost of snow removal on the access roads; they bear no cost of the maintenance of roads; they bear no cost of the maintenance of the water system.

The only cost that they have is the printing of the forms by which they issue their special-use permits.

In return they require an annual rental fee approximately 5 percent of the value of the property.

In other words, on a 20-year permit, the Forest Service without any expense to speak of, recovers for the Treasury of the United States the full value of the land.

Mr. Chairman, in previous discussions with the Forest Service about the problem, their officials have maintained the position that the cabin owners not only lack legal rights for compensation but lack moral rights for compensation, because they should be able to amortize their investment over a period of 20 years.

This is very unrealistic reasoning.

Let us look at the case:

A cabin owner comes in; he invests \$10,000 in the actual construction of the home, which in my country must be built with very solid foundations, with heavy timbered sides, steep-pitched, heavy-timbered roofs to withstand the pressures of snow.

This is a requirement of the Forest Service.

In some areas where I know there are summer cabins, today if you flew over them, the snow is still so deep that you probably might not even see the cabins.

The snow has completely covered them.

This, of course, I realize is not true in the majority of places, but still, I emphasize the needs for heavy type of construction in order to protect against damage.

In addition, the cabin owner is required to spend as much as \$1,000 more to construct the roads and water and sewer systems, and also must contribute \$50 to \$100 or more a year to maintain these utilities.

I should point out that the Pinecrest Cabin Association, for example, has invested approximately \$440,000 in utilities and other developments.

Thus they spent more than 25 percent of the total development of their homes in the cost of the utilities and they tell me their annual expense in operating these fire, water, sewer, and other utilities runs to about \$250 to \$300 each year.

In addition, he is required to pay annual rentals to the Forest Service of \$100, \$125, or \$150 which reflects the 5 percent of the lot value; and, in addition, he must pay to county government annual taxes not only on improvements, but on the possessory interest which he holds in the land.

As an example of the impact of the tax burden I would like once again to turn to the Pinecrest situation where a substantial number of cabins have been developed with an investment totaling \$1.5 million.

The possessory interest taxes paid by the cabin permittees to Tuolumne County for the use of this Federal land adds up to \$20,000 a year.

In other words, the cabin owner is paying a full tax rate on the land in addition to paying his landlord—the U.S. Government—the full value of the land over a period of 20 years.

And he gets no title to the land in return, only the threat of eviction after 20 years.

You would ask why anyone would accept a deal like this when he would be faced with the possibility of being forced off the lands after 20 years.

The only answer is that people when they entered into the leases had no idea that there was any possibility of losing this property at the end of the 20-year term.

In talking to many, many of them, I find the general feeling is they have a 99-year lease.

Now the Forest Service will tell you that there is no such thing.

Maybe not.

But somebody, somewhere, and I can only attribute it to the Forest Service, in years gone by has indicated that the lease these people are getting is just as good as a 99-year lease.

To substantiate this position I would like to call to your attention a letter which was placed in the record of the Select Subcommittee on Real Property Acquisition of the House of Representatives in hearings held at Pinecrest, Calif., October 5, 1963.

Mr. J. V. Wulff, a U.S. Government official, who was Supervisor of the Stanislaus National Forest during the period that many of the

cabins in that area were developed—and I should emphasize that the Pinecrest area was one of the first cabin areas to be developed in the Nation—confirmed that the people were told that these were as good as 99-year leases.

While the original letter is no longer available, I would like to submit for the consideration of this committee a copy of this letter from the hearings of the select committee.

The letter was addressed to Mr. Archie Stevenot, of Sonora, who was the witness who presented the letter to that committee.

There is no doubt in my mind that throughout the entire West, prior to World War II, the general impression given by the Forest Service was along the same lines—that these people were in effect receiving 99-year leases whether they accepted the term permit or the revocable permit.

Mr. Chairman, in view of these facts, it is my feeling that the Forest Service should be required, if it takes these lands now held by special use permittees, to do one of two things regardless of the type of permit held:

(1) Compensate the permittee for the improvements that are being taken, or,

(2) Pay the costs of moving these improvements to other similar lots.

I believe this would be a fair and equitable solution to the problem. This is the goal we are trying to achieve in this legislation.

Other witnesses today will emphasize one other point I would like to make.

That is this will not impose a tremendous financial burden of the Federal Government.

While there are 19,000 cabins located on Federal forests as a result of special use permits, few are on areas needed by the Government for greater public uses.

While only a few cabins may be involved at the moment, I believe the rights of the few are just as important as the rights of the many.

There is legislative precedent for this action, Mr. Chairman. It is found in Public Law 89-249 which was enacted by Congress October 9, 1965.

Section 6 gives commercial concessionaries a possessory interest in national park lands on which they make improvements.

Individuals and corporations who are in business, making a profit by utilizing Federal lands and capitalizing on the attractions publicized by the Federal Government through the National Park Service, have the protection which we seek here today.

What is good enough for a person or a corporation making a profit off the public lands certainly, to my way of thinking, is good enough for an individual who is investing his own life's savings.

Let us look at the figures: National park concessions with a "book value" investment in improvements of only \$33 million, in 1965 had gross revenues of \$67 million, but they paid only \$1,100,000 in franchise fees.

Some 19,385 summer cabin owners in national forests have a total investment of \$100 million and paid a million dollars in annual receipts.

The summer cabin owners with three times the investment at stake

are paying almost as much for the right to enjoy a few weeks or a few months of their use as are the concessionaires who are making their livings off the profits of their businesses.

In return they are receiving no protection for their investment.

In addition, the cabin owners are paying the full costs of water development, sewer development, fire and police protection, snow removal, and road maintenance.

In the case of the park concessionaires, these items are paid for largely by the U.S. Government through the National Park Service.

Therefore, Mr. Chairman, I would conclude with the plea that in the name of equity, we give the individual citizen—Mr. John Q. Public—the same rights, the same privileges, and the same protection that we give big corporations.

They are paying the price. Let's give them the protection.

Basically, Mr. Chairman, I therefore plead for favorable consideration of legislation, be it in the form of H.R. 740 or whatever form this committee may determine in its wisdom just and fair, to require the Forest Service, when it is retrieving lands now held under special use permit, to compensate for the improvements or to move them regardless of whether the term of the permit has expired.

This, in my mind, is the only fair thing we can do.

Thank you.

Mr. McMILLAN. Thank you.

We have a quorum call and we will have soon to leave.

Mr. JOHNSON. I would also like to put into the record two types of permits mentioned and the regulations that cover these summer homes, and also a letter taken from the record of the public hearing that was held in Pinecrest, a letter from Mr. J. V. Wolff, as contained on page 144 of those hearings.

Mr. McMILLAN. Without objection those will be included in the record.

Mr. JOHNSON. I would also like to ask for unanimous consent of the subcommittee to state that Senator Kuchel, our senior Senator for California, has a right to put a statement in the record in support of this legislation pertaining to summer home tracts.

Mr. McMILLAN. Without objection they will be included in the record at this point.

(The information follows:)

U.S. SENATE,
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
June 13, 1967.

HON. JOHN McMILLAN,
Chairman, Forests Subcommittee, Committee on Agriculture, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: On the occasion of your hearings on H.R. 740 and H.R. 4884, bills to establish certain policies with respect to certain use permits for national forest lands, I would like to commend my colleagues from California, Representatives Harold T. Johnson and Robert B. Mathias, the authors of the measures being considered, for bringing before the Congress this very disturbing problem facing users of lands administered by the Forest Service.

Although the bills before you deal only with Forest Service lands, the same problem faces users of lands administered by the Department of the Interior. Finding a resolution to the often competing uses of public lands by owners of cabins and the general public, is a problem which must be resolved in an equitable manner. The problem certainly is not all one-sided.

When there was little public demand to use the public lands, many persons were granted leases or permits to build and occupy cabins on national forest or

other public land. While these leases or permits had set termination dates, often there were representations by government officials, clothed with at least ostensible authority to make such representations that renewals of these leases or permits would be granted as a matter of course. For a time they were so renewed. With the increasing demand for recreational areas for the general public, many of these leases or permits were not renewed and notice of intention not to renew were issued to others. Often the lessees or permittees made substantial investments in their cabins, and built and maintained them to conform to the strict regulations of the management agency.

As a member of the Public Land Law Review Commission, I recently heard testimony by many of the concerned parties. I was impressed with their sincerity and sympathized with their dilemma.

It is essential that an equitable solution be found which will free necessary public land for the higher use of general public recreation, while granting relief in some manner to those who in good faith relied on the representations of government officials, expended money, and made long-range plans relating to their cabins.

I urge your subcommittee to carefully consider this distressing problem, and formulate such relief as you deem appropriate. I will look forward to your recommendations.

With kindest regards,

Sincerely yours,

THOMAS H. KUCHEL, U.S. Senator.

United States Department of Agriculture Forest Service		NAME OF PERMITTEE	KIND OF USE
SPECIAL USE PERMIT Act of June 4, 1897, or February 15, 1901 This permit is revocable and nontransferable		DATE OF PERMIT	FILE CODE
REGION	STATE	FOREST	RANGER DISTRICT

Permission is hereby granted to _____

of _____, hereinafter called the permittee, to use subject to the conditions set out below, the following described lands or improvements:

This permit covers _____ acres and/or _____ miles and is issued for the purpose of:

The exercise of any of the privileges granted hereby 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 _____ Dollars (\$ _____) for the period from _____ 19____, to _____, 19____, and thereafter annually on _____ Dollars (\$ _____):

Provided, however, Charges for this use may be made or readjusted whenever necessary 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 _____ months, and construction, if any, shall be completed within _____ months, from the date of the permit. This use shall be actually exercised at least _____ days each year, unless otherwise authorized in writing.

3. Development plans; layout plans; construction, reconstruction, or alteration of improvements; or revision of layout 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 precautions 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 applicable 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. 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 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 may be authorized by permit to him if, in the opinion of the issuing officer or his successor, issuance of a permit is desirable and in the public interest.

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

14. The temporary use and occupancy of the premises and improvements herein described may be sublet by the permittee to third parties only with the prior written approval of the forest supervisor but 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 or at the discretion of the regional forester or the Chief, Forest Service.

16. 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.

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

DATE	SIGNATURE OF ISSUING OFFICER	TITLE

United States Department of Agriculture
Forest Service

NAME OF PERMITTEE

TERM SPECIAL USE PERMIT

Act of March 4, 1913, as amended July 28, 1956, or Act of March 30, 1948

DATE OF PERMIT

REGION	STATE	FOREST.	RANGER DISTRICT
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Permission is hereby granted to _____

of _____
hereinafter called the permittee, to use subject to the conditions set out below, the following described lands or improvements for the period of _____ years from the date hereof:

This permit covers _____ acres and/or _____ miles and is issued for the purpose of:

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 _____ Dollars (\$ _____) for the period from _____ 19____, to _____ 19____, and thereafter annually on _____ Dollars (\$ _____):

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 _____ months, and construction, if any, shall be completed within _____ months, from the date of the permit. This use shall be actually exercised at least _____ 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 timbers other 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.

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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 applicable 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 _____ to _____ attached hereto and made a part of this permit.

DATE	SIGNATURE OF ISSUING OFFICER	TITLE
DATE	SIGNATURE OF PERMITTEE	

TITLE 2700—LAND USES MANAGEMENT

All national forest regulations and State laws as to fire protection, fish and game, etc., must be observed.

g. Sample Specifications for Development of Recreation Residence Sites.—The development plan for the area¹ will be as designated by the forest supervisor. The size of the lots will be limited to that actually needed for the building or buildings, plus an adequate buffer area to preserve the natural forest setting. The location of buildings, roads, and other necessary developments will be approved by the forest supervisor before any construction is authorized. Permittee's layout plan approved by the forest supervisor and showing the locations in which all facilities are to be built will be a part of the permit.

Permittee's plans for proposed buildings, including architectural designs, dimensions, and type* of materials to be used, must be submitted to and have the approval of the forest supervisor before any construction is undertaken. On sloping building sites, a plot plan showing the foundation elevation in relation to the finished ground line may be necessary.*

No changes in approved layout or building plans will be allowed without prior approval of the forest supervisor.

The following are some of the minimum requirements:

(1) *Architectural Plans.*—Architectural plans will include design and type* of materials to be used. This will include floor plans; a perspective sketch, or simple front and side elevations; and construction details for foundation, sills, size and spacing of floor joists, framing, roof pitch, size and spacing of rafters, electrical wiring, and flue construction.

(2) *Architectural Design.*—Simplicity, good proportions, and an appearance of naturalness to the forest setting are desired in the completed structure. Ornate, elaborate, pretentious, or showy structures, or parts thereof, will not be approved. Experience has indicated that a residence smaller than 16 feet by 20 feet is not practical.

(3) *Building Materials.*—Footings are required under all foundation walls or piers for proper distribution of superimposed loads. Footings may consist of either masonry, plain or reinforced concrete. They shall extend below the prevailing frostline but not less than 12 inches below finished grade, unless set on solid rock. Foundation walls or piers shall be built of masonry or poured concrete and extend a minimum of 8 inches above finished grade. The space between the finished grade and the ground-floor level is to be enclosed by either a properly vented foundation wall or by a properly vented curtain wall. Curtain walls may be of vented closed construction, or may be of footing-supported masonry or of wood construction protected from contact with the ground as hereinafter specified. The ground-floor level shall be so established that wood construction and siding will be a minimum of 8 inches above finished grade. Additional clearance, or facing with fireproof materials, should be provided where necessary to insure against ignition from ground fires. A clearance not less than 18 inches shall be provided between the bottom of floor joists and the ground level beneath them. Where this clearance results in an interior ground level below outside finished grade, adequate precautionary measures shall be taken to insure positive drainage at all times.*

Exterior walls and porches may be of peeled logs, either round, sawed, or hewed; log siding; edge, peeled slabs; rough lumber, manufactured sidings; or native stone. * * * Frame and adobe stucco are appropriate in the desert and semidesert type and blocks of concrete, pumice, etc., are also acceptable in appropriate design in all types. The use of bright-colored mortar or stucco, corrugated iron, tar paper, or cobblestones will not be approved. Stains are preferable to paints for outside wood surfaces. The natural wood color may be retained or stains may be colored to produce a neutral brown or weathered gray. Where paint is required, soft browns and grays are preferred except that cream, gray, or light tan may be approved in the desert and semidesert types. Window and door casings and other outside trim must harmonize with the background and should not present strong contrasts.

Stone, brick, or concrete block chimneys must extend to a solid ground foundation with adequate footing below frostline, and must be of fireproof construction lined with flue tile or fire brick. All exposed surfaces must be in keeping with the exposed building foundation. Factory-built chimneys and fireplaces shall

¹ Amended July 1960, Amendment No. 106.

be Underwriters' Laboratories listed and installed in accordance with the UL listing.²

All roofs must be designed for the maximum live loads of the area in which construction is contemplated in accordance with FSH 5651. Pitched roofs are preferable.

Shed-type or flat roofs may be used when in harmony with the building design and forest setting. The following roof coverings are acceptable: for high-pitched roofs—shakes and other wood shingles, composition shingles (mineral-surfaced and asbestos), tile, Fiberglas and other flexible materials; for low-pitched or flat roofs—composition or built-up roofing with a gravel topping * * * is permitted. Certain modern types of metal roofing may be used when specifically approved by the regional forester. These may be of aluminum or steel and must be painted. Tin, flat sheet metal (other than aluminum), corrugated metal, single-ply roll roofing, or tar paper will not be permitted. Roof colors must harmonize with the walls.

(4) *Sanitation.*—Water supply will be developed and sewage disposal facilities installed in accordance with plans submitted by the permittee and approved by the forest supervisor prior to construction. Superstructures required in connection with the development of these facilities must harmonize with the residence. All ground water sources, such as wells and springs, should be protected from contamination. Septic tanks, sewers, and subsurface pits must be located in accordance with local, State, and Federal public health service standards.

Fly-tight metal containers will be required for the storage of garbage and refuse. Garbage and refuse will be disposed of in areas and under conditions to be specified by the forest supervisor. No deviation from sanitation standards will be allowed.

(5) *Fire Prevention.*—When necessary, spark arresters shall be installed on chimneys. The roofs of all buildings shall be kept clear of leaves and other flammable material.

All stoves, heating systems, and electrical wiring shall be so installed as to minimize the danger of uncontrolled fire and comply with the building and electrical codes of the National Board of Fire Underwriters.

The need for, location of, and details incident to firelanes and other area fireproofing will be determined by the forest supervisor.

Campfires are prohibited except in prepared fireplaces which have been approved by the forest supervisor.

(6) *Landscaping.*—Natural forest conditions will be preserved to the fullest extent. Tree pruning and clearance will be held to the minimum and may be done only under the direction of a forest officer. Urbanlike flowerbeds and mowed lawns are not desired. Walks must be gravel or native stone and the use of painted or whitewashed rocks or trees and other types of decorations foreign to the natural environment are not approved.

(7) *Signs.*—No more than one sign will be permitted for each residence. Text will be limited to the owner's name and/or name of residence. Over-all dimensions will be the minimum required to present the text in letters of reasonable size. Only rustic, routed type signs with painted letters and stained background will be permitted (FSH 5630.)³

STOCKTON, CALIF., September 29, 1963.

DEAR ARCHIE: This letter is to confirm my telephone conversation with you relative to the original development of Pinecrest.

We laid out 31 lots around 2 sides of the lake, leaving what we thought was ample room for a beach.

The lots were wide enough to allow entrance to the lake shore and the permittees were to understand that entrance from the road to the lake shore was not to be considered as trespassing.

When we issued a special-use permit for rental of a lot the permittee was told that it was comparable to a 99-year lease revocable only for violation of Federal, State, or county laws.

The permittees were informed that accepted sanitary septic tanks had to be installed to prevent polluting the lake.

We also impressed upon the permittees that no boisterous parties could take place at their homes which would bother their neighbors.

Nothing was stipulated as to the permanency of the fee for the permit which was as I recall, \$10 a year.

² Amended July 1959, Amendment No. 48.

³ Amended July 1959, Amendment No. 48.

The above stipulations were developed at the district foresters' headquarters in San Francisco.

Also, Archie, we were assisted in the original layout by an engineer from our San Francisco office who had done similar work on the Angeles National Forest.

With very best regards to you and Rosie from Ruby and me.

Sincerely,

J. V. WOLFF.

STATEMENT OF L. S. NELSON, VICE PRESIDENT, LAKE ALPINE IMPROVEMENT
ASSOCIATION

Mr. Chairman and Members of the Committee: My name is L. S. Nelson. I am Vice-President of the Lake Alpine Improvement Association. This is an organization of permittees of summer home sites in the Lake Alpine tract of the Stanislaus National Forest. There are 38 summer homes in this area. Owners of eleven, or approximately 30%, of these properties were notified January 2, 1954, that their permits would not be renewed upon termination. (Nine permits terminate December 31, 1967, and the remaining two about four months later.)

The eleven lots now in tenure occupy an area of 3.2 acres. Six of these are designated as lake front properties, three are located on the south rim of a rather deep canyon which separates the three acres from a relatively large campground, and the remaining two lots are second row lake front sites.

Permittees have been advised that no compensation is to be paid for their condemned properties. On the basis of replacement cost these properties are valued in excess of \$150,000.

The Forest Service in its notice of January 2, 1954, offered in-lieu lots, if and when available, to the eleven permittees adversely affected by its "phase-out" policy. Two years ago, eleven sites were laid out in a totally unimproved area remotely located from the lake and community center. Eligible permittees were then notified of the availability of these lots. At the same time, they were advised that permits for in-lieu lots would only be issued to those who agreed to remove the properties and clean up the areas now occupied at their own expense. This requirement was not included in the original agreement of January 2, 1954. Also, no indication was given by Forest Service personnel prior to issuance of the availability notice of two years ago that a new demand was being made. In effect, this demand is a price which has been set on the in-lieu lots, thus removing them from an in-lieu category. It imposes a financial burden on holders of original twenty-year permits who are not required by the provisions of their permits to remove presently occupied properties.

The Forest Service, when questioned by the permittees as to the reason for refusing renewal of the subject eleven permits, advised that the three acres involved were needed to meet growing demands for camping sites. Subsequently, an existing campground was improved, a new campground for trailers was developed, and last year construction was started on new camp and picnic grounds on the north shore of the lake. Subsequent questioning two years ago developed the fact that the Forest Service intended to use the three acre tenure property for picnicking purposes rather than for camping as had been previously indicated. The permittees are firmly convinced that they have never been fully informed on the real reason for cancelling, effective December 31, 1967, the eleven summer home permits.

Lake Alpine's permittees are also firmly convinced that little, if any, thought has been given to possible alternatives to cancellation. Administrative personnel have been repeatedly questioned on this matter, and to date have made no meaningful reply. Offers of mutual assistance in resolving tenure problems have been ignored. No hearings on the matter have been held or are currently scheduled. The permittees are convinced that satisfactory alternatives to the disruptive and completely uneconomical destruction of valuable properties can be found if honest and sincere attempts are made to do so.

Association members consider the planned destruction of properties valued in excess of \$150,000 and development of the three acres which they now occupy for picnic purposes cannot be justified on any reasonable economic, operating, or other basis. They will testify that picnickers are rarely seen in the lake area. This for the simple reason that three to six hours are required to make the round trip to the nearest valley towns. Distances are far in excess of that which people will normally travel for picnicking purposes.

Substitution, as proposed, of picnic tables for properties of high value cannot be justified on the basis of relative man-day use. Completion of State Highway #4 to the Lake Alpine recreation area's west boundary makes year round use of these summer homes possible. Camping and picnicking in the high altitude Lake Alpine area is now and will continue to be limited to a three-months period.

Permittees made their investments in good faith and with Forest Service assurance that their permits would be reissued on a continuing basis for as long as desired, providing the laws of the land and Forest Service regulations were respected and obeyed. They had no reason to believe that their properties would be confiscated, through implementation of a centrally developed directive, for visionary "higher use" and highly uneconomic purposes.

There is no evidence that the Forest Service in developing and implementing its phase out policy has given the slightest consideration to individual permittees' ability to finance relocation or reconstruction expenses. This is a particularly difficult problem since lending institutions will no longer make loans if supported by the present insecure Forest Service permits.

The dilemma in which these permittees find themselves is not one of their own making. The Forest Service opened the Lake Alpine Tract and encouraged responsible people to build on the sites provided. The Forest Service is now of the opinion that a mistake was made in permitting occupancy of lake front lands. It has and currently continues to correct this mistake by refusing to renew permits at termination and by saddling the permittees with the expense of removing their properties and conditioning the land for picnicking purposes.

Forest Service action in forcing the removal of the subject eleven summer homes is discriminatory. The concept of multiple-use of public lands to meet essential needs of the people is well understood and generally accepted. Under this concept all major interests, mining, logging, grazing, recreation, etc., are guaranteed equal consideration in determining land use.

There is nothing in public law, of which we are aware, that authorizes federal agencies to discriminate between groups making up any one of the foregoing categories as has been done in the field of recreation. Top priority has been accorded picnickers for water-oriented land use regardless of the cost to the Forest Service or to individual permittees or of the man-days use which might be reasonably expected of such land by picnickers. Bottom priority for some unexplained or unexplainable reason has been assigned summer home permittees. Use of water-oriented land for summer homes assures a maximum monetary return to the Forest Service and to the county. It also assures a greater daily use for longer periods of time than would be the case if the land was restricted to picnicking activities only. Sandwiched between, in the order indicated, are campers, commercial enterprises and organization camps. Such a classification establishes the summer home permittees as recreation's "whipping boy" a position obviously unfair and entirely unjustified. Correction of this situation is long overdue.

In our opinion, studies and/or directives which may have prompted initiation and implementation of the permit cancellation program at Lake Alpine thirteen years ago are no longer valid for these reasons:

(a) They fail to take into account the planned development of extremely large recreation areas at nearby Utica and Union Reservoirs (a part of the Calaveras County water development project) and at several locations along the Stanislaus River between the Reservoir sites and Calaveras Big Trees State Park. Recreation in these areas, according to published plans will be restricted to camping, picknicking and boating activities. Completion of this project most likely will remove any existing pressure for additional camping and picnicking facilities at Lake Alpine for many years to come.

(b) They fail to take into account the development of an 800 acre privately owned tract two miles west of Lake Alpine. This project will provide approximately 600 summer sites, motels, recreation facilities, a relatively large commercial center and such other improvements as may be necessary to attract and hold vacationers, day visitors, etc. A sizable lake is also located within the boundaries of the tract which will be open for public use.

(c) They fail to take into account the effects of relocating Highway #4 at a considerable distance from the lake and at a much higher elevation than is now the case. This will force travelers to make a considerable detour from the highway to reach Lake Alpine and its commercial, camping and picnicking facilities. Long time summer residents of the Alpine area are firmly of the opinion that very few people will make this detour, but instead will drive on to higher and more scenic locations to the north and east.

(d) They fail to take into account the possibilities inherent in the undeveloped portions of Lake Alpine shore areas.

(e) They fail to take into account the funds generated by implementation of the recently approved Land and Water Conservation Act which will be made available to the Forest Service for acquiring new lands, constructing new facilities, developing water sources and the like.

In view of the foregoing, a new study of the situation at Lake Alpine seems well justified and, in simple justice to the permittees, should be made.

Another very basic fact which should be taken into account in considering the tenure problem at Lake Alpine is the ever increasing concern of permittees, not currently affected by the phase-out program, over possible expansion of this program to include their properties. This concern is very real and was given added emphasis fairly recently when the Forest Service made a determined effort to extend its cancellation program at nearby Pine Crest to a sizable number of summer homes remotely located from the lake front.

The permittees of Alpine's tenure lots desire above all else to retain their properties. They sincerely hope the Forest Service will reconsider its cancellation decision and issue new 20-year permits.

If for sound reasons not currently apparent to these permittees, the Forest Service cannot issue 20-year permits then it is requested that extensions be granted for five years or for periods of sufficient length to permit final action on pending pertinent legislation and on approved recommendations of the Land Law Review Commission.

Finally if the Forest Service refuses to consider either of the foregoing proposals, the permittees respectfully request the Congress to take the following actions:

(a) Develop and approve legislation requiring prompt payment to permittees, whose properties are taken over for public use, sums equivalent to the current market value or replacement cost of these properties.

Bill HR 740, submitted last January by the Honorable Harold T. (Bizz) Johnson results from long study and the most serious consideration of the compensation problem by Mr. Johnson and his colleagues. We respectfully request the committee to take prompt and favorable action on this bill.

This bill, if approved, will permit fair and equitable treatment of permittees who stand to lose their properties through no fault of their own. It will also force executive departments to give long and careful thought before making changes in land use which seriously disrupts communities, and individual economic and social well being.

(b) Develop and approve legislation requiring that a moratorium be declared on permit cancellations pending finalization of the compensation problem.

Recognizing that the formulation, consideration, and implementation of corrective legislation takes considerable time, the Lake Alpine Improvement Association requested that the Forest Service grant a moratorium on further cancellations pending settlement of the compensation problem and establishment of tenure fee and other policies pertinent to the use of public land for summer home purposes. This request was denied on the basis "that it was impossible to forecast the parts of the large body of public land law that will be reviewed in detail by the commission, nor what sort of conclusions will be reached. It is not practical to defer actions or decisions which might be touched on by the commission in the course of its work. We believe this is not a basis to stop administrative actions or to defer decisions that have been made." This reply obviously considers only Forest Service immediate interest. It fails completely to recognize the well-earned right of the permittees involved to receive utmost protection of their equities.

The Lake Alpine Association considered its request reasonable and in the public interest. Denial of its proposal seems incredible in view of the manpower, time and money being spent in reviewing and corrective legislative controls and administrative practices.

It is recognized that demand for more recreation facilities has increased since the cancellation notice of January 2, 1954 was received. It is also recognized that demands will continue to increase through the foreseeable future. However, we feel that the Forest Service has panicked to a degree in trying to meet what, at best, are considered visionary demands.

We were advised two years ago that the Forest Service had developed plans for several hundred campgrounds and picnic areas throughout the western states. We were also advised that no priority had been established for develop-

ment of such areas. Administrative personnel were advised that, in our opinion, priorities could be established and schedules of construction developed which would assure easing of pressures for new camp and picnic areas which require destruction of valuable properties and loss of revenue in fees and taxes.

I thank you, Mr. Chairman, for this opportunity to express the views of the Lake Alpine Improvement Association and particularly the eleven permittees adversely affected by the Forest Service phase-out program.

L. S. NELSON, *Vice President,*
Lake Alpine Improvement Association.

Mr. JOHNSON, Mr. Chairman, as evidence of the widespread interest in and support of the legislation we have before us, may I list for the hearing record the names of those who have sent me their comments.

Telegram from Norman F. Brown, president, Echo Lakes Association, representing 250 permittees in El Dorado County, Calif.

Letter from Chresten M. Knudsen, president, Barton Flats Cabin Owners' Association, Redlands, Calif.

Letter from Mr. and Mrs. G. E. Graham, cabin owners in Tahoe National Forest, Berkeley, Calif.

Letter from Mrs. Allen W. Capron, member of Hume Lake Home Owners Association, Visalia, Calif.

Letter from H. M. Sherman, cabin owner at Hume, Calif.

Telegram from Mr. and Mrs. Howard Benedict, Laguna Hills, Calif.

Telegram from Sarkis Takakjian, Fresno, Calif.

Telegram from Mr. and Mrs. John C. Willard, Simi, Calif.

Telegram from Leo Rossiter, president, Havasu Lake Home Owners Association, Havasu Lake, Calif.

And also, Congressman Sisk would like to have a statement appear in the record, if he has that opportunity. He is in support of the legislation.

And the same request for a statement by the Honorable Edward R. Roybal to be included in the record at this point.

And also the statement of the Honorable Charles S. Gubser.

Mr. McMILLAN. Without objection, those statements will be included in the record.

(The statements follow:)

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

Mr. Chairman, as author of H.R. 1285, I would like to express my complete support for the concept which is set forth in this bill and the companion bills introduced by our good friend and colleague, Mr. Mathias, who is a member of this fine Subcommittee, by Congressman Charles Teague, who is a member of the full Committee, and by our mutual friend, Congressman Johnson, who drafted the original legislation.

I have given very close attention to the statement presented here this morning by Congressman Johnson and I have reviewed the statement which one of my fine constituents, Mr. O. S. Peterson, of Fresno, has prepared for presentation to this committee tomorrow morning. Mr. Peterson, will of course, be testifying as President of the National Forest Recreation Association Association.

I would also like to point out to the committee that the situations which he will describe in his testimony, and also were outlined to you earlier this morning by "Bizz" Johnson, do exist in the National Forests of Madera and Fresno Counties, California, which I represent. I would like to reaffirm the concensus among the people who have built homes on national forest lands in accordance with special use permits issued by the Forest Service, that they were very definitely lead to believe that their tenure on the land was the equivalent of 99 years

regardless of the type of permit issued, whether it be terminable at the will of the Forest Service or the one issued for a specific term.

I have been in many of these areas of my district, including Bass Lake, Shaver Lake, Dinkey Creek, Huntington Lake, and other areas of the national forests, and I have been in these summer homes, and I know for a fact that these homes which were built in accordance with Forest Service regulations, were constructed in effect to last for the full 99 years. These are permanently built homes which withstand for instance, at Huntington Lake, heavy pressures of many feet of snow during the winter.

Many of these people have invested tremendously in these properties. They have paid their taxes; they have paid annual permit fees to the federal government; and they have provided all the services associated with the maintenance of these tracts. And as a result of their earlier pioneering interest in many of these areas, the public demand has increased to the place where occasionally public use requires the removal of the cabins.

I don't think it is at all fair that these people should bear the full burden of the expense of their removal or the demolishing of their homes under such conditions.

STATEMENT OF HON. EDWARD R. ROYBAL, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF CALIFORNIA

Mr. Chairman and Members of the Subcommittee: As one of the authors of the legislation which you are considering today—my bill is H.R. 9913, I want to associate myself with the comprehensive remarks submitted by the principal author of this legislation, my good friend and colleague, Harold T. Johnson.

As I am sure you are aware, Congressman Johnson's district covers approximately one-third of the State of California and contains the vast majority of the summer and winter mountain recreation areas which attract visitors from throughout the state and, in fact, from throughout the nation.

Those of us who represent urban districts, from which people go to the mountains for much of their outdoor recreation, appreciate Congressman Johnson's knowledge and judgment in matters of National Forest management and administration.

In addition to this, however, I understand that many people from my own district have summer cabins in the National Forests, and I fully appreciate the problems which these cabin owners face under the presently restrictive laws governing compensation for improvement where land previously under special use permits is needed for higher priority public use.

The cabin owners, of course, are understandably dismayed whenever the lands on which they have built their summer homes are taken for highways, camp grounds, etc. This feeling is shared by anyone who loses his home because of progress and the needs of the public, but this progress cannot be impeded.

Where the homes being taken are situated on private lands, we of course can compensate the owners. In such cases where an agreement cannot be reached, the courts through condemnation can determine an equitable price.

This is not true, however, in most instances, when we must recover for greater public use National Forest lands which are now used as summer homes in accordance with special use permits.

I cannot challenge the occasional need to recover these lands for public use. But, I can, in my own heart, challenge the right of the Federal Government, to accomplish this without providing proper compensation to the individual property owner, as now is often done.

Mr. Chairman, I would recommend favorable consideration of this legislation so that the individual citizen no longer will be forced to bear the great financial burden he now suffers in the name of "progress and the public good."

Thank you.

STATEMENT OF HON. CHARLES S. GUBSER, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF CALIFORNIA

Mr. Chairman: It is a pleasure to present this statement to you and the members of your committee in support of H.R. 740, a bill introduced by Congressman Harold T. (Bizz) Johnson to establish certain policies with respect to certain use permits for national forest lands.

Real property acquisition by the Federal Government has on frequent occasions presented the individual citizen with an inequitable and unhappy situation. This was brought to my attention quite forcefully some years ago when the United States Forest Service announced a plan to eliminate 162 cabin sites occupied by permittees in the Pinecrest Recreation Area of the Stanislaus National Forest of California.

Although making available more public recreation areas is a worthy goal, I believe it is noteworthy that a large number of permittees are people of modest means who, because of a love of the out-of-doors chose to invest time, money and effort in outdoor recreation. This was a privilege which was offered by the government to all, not just a select few. I found that a number of my constituents had accepted this offer and had acquired permits from the Forest Service which allowed them the use of land in the Pinecrest area. In most cases these permits had been acquired several years ago, some having been held for 20 to 30 years. Many of these constituents had invested thousands of dollars in their cabins and other improvements in the area. Further, I found that they did not hold these possessions selfishly, but made them available year around to their friends and acquaintances on a cost free basis. Improved facilities paid for by permittees were not only for their own benefit, but accrued to the benefit of campers and other recreationists in the area.

After being directly responsible for building Pinecrest into a truly fine recreational community, further, after enjoying the cooperation of the Forest Service in this effort for many years, it was indeed a shock to these fine people to receive an ultimatum that their land use permits were to be terminated. Not only were they to lose their permits, they were ordered by the United States Forest Service to remove or abandon their cabins and other improvements without any compensation.

The fundamental unfairness of such a situation is evident and I was gratified when my colleague, Congressman Harold (Bizz) Johnson, who has long studied the inequities of property acquisition, introduced a bill in the last Congress providing proper recognition of the rights of holders of special use permits. I joined Congressman Johnson in his efforts at that time by introducing H.R. 17216, and although I did not reintroduce my bill in the 90th Congress, I pledged my full support to his bill, H.R. 740, which is before you today.

I contend, Mr. Chairman, that there were two parties to these land use agreements, namely, the permittee and the United States Government. Should the United States Government, therefore, have the right to break the agreement without any consideration of the other party's rights in the matter? I believe not, and I am sure this committee will recognize the worthiness of this legislation.

I urge that H.R. 740 be favorably reported so that the Congress may have an opportunity to correct this glaring inequity in procedures involving the holders of special use permits.

Thank you.

Mr. JOHNSON. There are many things I could say about this particular legislation, Mr. Chairman. I heard the representative of the Forest Service, Mr. Greeley, state the case as to the number of overall permits on the national forests. While we drafted this legislation to be very broad legislation, to bring this up before the committee, I want again to assure you that we would be satisfied with legislation pertaining to the summer home tracts that has been developed on the part of various individuals and they number about 19,000. And in these 19,000 they have investments of better than \$100 million. They are paying in annual fees to the Federal Government, plus keeping their place up, plus paying their lease permits, plus paying the possessory interest and taxes to local governments, they are paying into the Federal Government better than \$1 million a year.

In behalf of those national park lands as concessionaires who have all types of facilities, homes, business establishments, resort facilities,

their investment amounts to about \$33 million throughout the United States. They pay in about \$100 million also.

So you see that these people on the summer home leases are paying their share, and their annual fees based upon an adjustment of 5 years pretty much compensates the Government for that land in full, yet they own no right or title to the land.

Mr. McMILLAN. Thank you for your excellent statement, Mr. Johnson.

Mrs. May, any questions?

Mrs. MAY. I want to thank Mr. Johnson for an excellent statement. I think the sentiment of the people of California was reflected also in the three States in which we had hearings a few months ago, Mr. Johnson.

I did want to ask while Mr. Greeley is here if he could submit for the record three things.

One I think that would be helpful would be if you would submit for the record the various types of permits that you have in force now. I think you know what I mean. I do not think any were introduced in the record during the hearings, as I recall it.

Could we have figures on what income we get from these permittees that are on national forest lands, broken down this way: The income from all types of permittees and then the income from just the summer home permittees. And then would it be possible for you to give us the projected potential cost if this bill were amended to apply only to summer home permittees?

You have stated in the record that the potential cost might be \$1 billion, Mr. Greeley, and could you give us what that percentage would be if it were just the summer home permittees?

Mr. GREELEY. Yes.

(The information follows:)

(a) Income from all special-use permits was \$1,900,000 for FY 1966.

(b) Income from summer home permits only for FY 1966 was about \$1,000,000.

If the bill were amended to apply only to summer home permittees, the estimated gross value of the structures and improvements covered would be from about \$100,000,000 to \$120,000,000 for the 19,000 summer homes and related improvements.

Mr. McMILLAN. We have a rollcall. Can you come back tomorrow, Mr. Greeley?

Mr. GREELEY. Yes. I can be back tomorrow.

Mr. McMILLAN. Mr. Baring.

STATEMENT OF HON. WALTER S. BARING, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEVADA

Mr. BARING. Mr. Chairman and members of the subcommittee, I should like to ask permission to have my statement put into the record at this point in support of Mr. Johnson's bill and in behalf of my own bill, H.R. 3893.

Mr. McMILLAN. Without objection, your statement will be placed in the record at this point.

(The prepared statement Congressman Baring and a statement from Congressman Don Edwards follows:)

STATEMENT OF HON. WALTER S. BARING, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF NEVADA

Mr. Chairman, I thank you for the opportunity to speak on behalf of my bill H.R. 3893, which is identical to Congressman Johnson's bill, H.R. 740. This legislation proposes to provide relief for people who own summer homes on national forest land leased to them by the U.S. Forest Service.

Leases of summer homes on national forest lands are not of the 99 year variety but are renewable annually. The lessees were led to believe that their investment would not be in jeopardy by the cancellation of the lease nor would it be used for other purposes.

Almost without exception, cabin owners have, in good faith, invested considerable capital to improve and maintain the land on which their cabins are located. This has enhanced the land value as well as attracting people to these areas.

It should be pointed out that the cabin owners were invited by the Forest Service to develop the facilities. Not one penny was spent by the Forest Service in the way of fire or police protection nor in the upkeep of the property in and around the cabins.

Yet the Forest Service with its Special Use fees, which runs around 5 percent of the total value, will over a 20 year period get full value of the land without spending any money.

Add to this the special county taxes imposed in many areas.

So, you can see that the initial investment to have a summer home or any kind of a home is only a small part. There are the continual improvements and maintenance costs which are necessary to protect not only the cabin owners investment but the public lands on which they are situated.

The 89th Congress enacted Public Law 89-249 where, in Section Six, concessionaires were given possessory possession of the land. Yet the cabin owners have no protection whatsoever.

I feel sure that the special fees paid by cabin owners on national forest lands throughout this country bring in more revenue to the U.S. Forest Service than fees paid by concession owners.

Yet these same cabin owners face cancellation of their leases in order that the land can be converted to camp and picnic sites without any compensation. This is hardly fair to the thousands of cabin owners who have spent untold dollars in the maintenance and improvement of the forest land.

Therefore, Mr. Chairman, I ask that your committee give favorable consideration to Congressman Johnson's bill, H.R. 740, which I have co-sponsored with my own bill, H.R. 3893, and which grants a possessory interest to anyone who has prior to enactment of this legislation acquired or constructed a structure or improved any national forest lands pursuant to any permit issued by the Secretary of Agriculture, and that such possessory interest shall not be extinguished by the expiration or other termination of the permit (including failure to renew or extend) and may not be taken for public use without just compensation being equal to the sound value of such structures, but not to exceed fair market value.

STATEMENT OF HON. DON EDWARDS, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF CALIFORNIA

Mr. Chairman, I want to thank you for the opportunity to assure the Committee on Agriculture of my conviction that this bill, HR 4713, and companion legislation (HR 740, 1285, 3779, 3893, 4122, 4884, 5041, 8921, and 9913) represent a just and valid correction of what is now an inequitable situation for many Californians who have summer cabins in national forest lands. These persons have their cabins under special land use permits issued by the Department of Agriculture, but are without any protection or guarantees at all as to their rights.

These bills would assure use permit holders a "possessory interest" to "consist of all incidents of ownership except legal title". Title to the land would remain in the hands of the government—so that the property can be recovered for a greater public use if so determined. Authority to engage in any business is not included or implied in "possessory interest" and the use of any improvements would remain subject to the provisions of the permit as well as the law and regulation respecting the particular land.

However, the crucial point is that under the present law, the use permit holder is himself responsible for costs involved when the government does in fact recover the land and require removal of improvements. If HR 4713 became law, just compensation would be awarded use permit holders for improvements in which they have invested.

I respectfully urge your committee to pass favorably upon this legislation as providing just and equitable treatment to persons with use permits on national forest lands.

JUNE 14, 1967

Mr. McMILLAN. Mr. Louis Clapper is our next witness.

We will be happy to hear from you now.

**STATEMENT OF LOUIS CLAPPER, NATIONAL WILDLIFE
FEDERATION, WASHINGTON, D.C.**

Mr. CLAPPER. Mr. Chairman and members of the committee, I would like to express the regrets of Mr. Kimball, executive director of the National Wildlife Federation, for being unable to be present with you. I should like to present his statement.

By way of identification, the National Wildlife Federation is a private, nonprofit organization which seeks to attain conservation goals through educational means. The federation has affiliates in 49 States. These affiliates, in turn, are composed of local groups and individuals who, when combined with associate members and other supporters of the National Wildlife Federation, number an estimated 2 million persons.

We welcome the invitation to comment briefly upon H.R. 4884 and others relating to use permits for national forest lands.

The National Wildlife Federation is vitally concerned about the Nation's natural resources, both privately and publicly owned. Our organization long has recognized the immense national wealth in federally owned forest and grazing lands, in the mineral deposits, in the abundant waters, and in wildlife resources. We appreciate the vast recreational and educational values of these publicly owned resources, present and potential. We believe, and so testified, before the Congress several years ago, that these resources should be managed on a multiple use basis and held in trust for the benefit of all the people. In fact, we are convinced that the utilization of Federal resources should be permitted on appropriate areas under leasing arrangements which retain final control in the Federal Government.

The history of public land management in the United States is widely known and I shall not take the time to detail it here today. However, this history is replete with examples of scandalous methods and conduct whereby unscrupulous groups and individuals came into possession of valuable Federal lands and other resources. Many efforts at "land grabs" have been made. While H.R. 4884 is not in that category, we view with alarm and suspicion any proposal designed to give private groups of individuals a possessory interest or right on publicly owned properties.

As a matter of policy, we do not oppose the use of appropriate national forest lands for grazing, or for timber harvesting, or for mining, or for recreational purposes including homesites if the practices are in accord with wise resource management principles. When compatible, many suitable national forest lands can be used for more

than one purpose at the same time. However, the use of these lands for any private or public purposes should not carry an implication of any right or interest to them.

In short, we do not believe that the privilege should be extended.

Forest use permits are of two types: (1) terminable, which can be canceled when the Forest Service decides termination is in the best public interest; and, (2) terms, issued for only a specific period of time. Both types of permits actually constitute legal agreements and both parties are fully aware of their provisions. Acceptances of permits constitute approvals; thus, permittees understand that the Federal Government is not obligated to compensate them for "any structure, fixture, or improvement" placed on national forest lands.

It is our understanding that Forest Service permits are issued for at least 80 different purposes. Permittees for many of these purposes get the use of national forest lands at "bargain basement" prices. Certainly, the fees for summer home and grazing purposes, for example, are modest enough and the granting of a possessory interest or compensation for terminating a permit would constitute a windfall which cannot be justified as being in the public interest. In some cases, permit fees are so low that they are not competitive with the open market for similar facilities or benefits.

Further, Mr. Chairman, we expect that the subcommittee and/or the Forest Service would encounter all sorts of knotty questions in endeavoring to apply the authority conveyed by H.R. 4884 to specific cases. In what land would a grazing permittee get a possessory interest if he constructed a pond or watering trough? How much land for facilities constructed by a logging company? For snow fences? What could the Forest Service do with many of these facilities if they compensated the permittees for them?

Mr. Chairman, as we see it there are two other basic reasons why we hope the subcommittee rejects H.R. 4884:

1. Multiple use management, to be effective, must involve changes to meet varying conditions. Summer home sites approvable today may be needed for public purposes tomorrow. However, if permittees are given a "locked-in" possessory interest, the Forest Service would lose its flexibility of management. The result would be the reservation of public benefits for a fortunate and favored few.

2. While the bill specifically mentions the Forest Service, precedent established by it undoubtedly would effect other Federal properties such as public domain lands, facilities managed by the Tennessee Valley Authority, Bureau of Reclamation, and others.

In summary, Mr. Chairman, we do not believe this proposal is in the best public interest.

Thank you for the opportunity of making these remarks.

The Wildlife Federation has asked permission to be associated with these remarks.

Thank you for the opportunity of making these observations.

Mr. McMILLAN. Thank you, Mr. Clapper.

Any questions, Mr. Hansen.

Mr. HANSEN. I defer to my colleagues at this time.

Mr. McMILLAN. Mr. Teague.

Mr. TEAGUE of California. No questions.

Mr. McMILLAN. Mrs. May.

Mrs. MAY. Mr. Clapper, were you here yesterday?

Mr. CLAPPER. Yes, ma'am, I was here.

Mrs. MAY. You then heard some of the testimony submitted by the Forest Service, in that they would have no objection if this legislation were changed to refer to summer home permittees only?

Mr. CLAPPER. It would certainly reduce the difficulties, yes, ma'am. It certainly would.

Mrs. MAY. I also notice that you say on page 2 that: "Those types of permits actually constitute legal agreements and both parties are fully aware of their provisions."

However, we have heard in the hearings that we have had that this is not the case, that a great many of the summer home permittees have for some reason that we cannot be sure of, not been aware of the terms of the type of permit that they have in regard to termination. Although, I do not think that those who have this land now should have it for perpetuity.

In view of the fact that the summer home site people have been on these lands for many years under the Forest Service rules and regulations for the use of this land, does not this come within one portion of the multiple-use concept?

Mr. CLAPPER. Yes.

Mrs. MAY. We hope that we can come out with something that is equitable so as to protect their interests, giving them sort of assurance for their future use of the land and at the same time protect the basic principles of the use of public lands in the Forest Service for all of the people for generations to come.

Mr. CLAPPER. We were a little concerned yesterday where the Forest Service was, so to speak, castigated to some degree over the references, apparently, as to promises that have been made that were not legalized. Some of our people think that some of the real estate operators, perhaps, have been a little bit in this same category, in the same way—even some of the people who have sold their homes have misconstrued or have deliberately misled some people in this respect, too.

Mrs. MAY. I agree with you completely on that. I hope that we can come to some equitable solution. It may be that the Forest Service has been in part responsible for some of this. I think that we have a number of reasons why perhaps there has been some misunderstanding. I do not intend to put all of the blame on the Forest Service. We just have a situation to face up to as of now. I certainly do not myself hold the Forest Service representatives wholly responsible, by any manner of means.

Mr. CLAPPER. Thank you.

Mrs. MAY. That is all. Thank you.

Mr. McMILLAN. Thank you very much for your statement, Mr. Clapper.

We will now hear from Mr. Kenneth B. Pomeroy, Chief Forester, the American Forestry Association.

STATEMENT OF KENNETH B. POMEROY, CHIEF FORESTER, THE AMERICAN FORESTRY ASSOCIATION

Mr. POMEROY. I am Kenneth B. Pomeroy, Chief Forester of the American Forestry Association.

I would like to present for the record, if I may, an article published in the American Forest magazine, April 1967, entitled "A \$1 Billion Mistake."

Mr. McMILLAN. Without objection it will be made a part of the record at this point.
(The article follows:)

[American Forests, April 1967]

A \$1 BILLION MISTAKE

(By Kenneth B. Pomeroy)

Would you give a tenant a possessory interest in your land if such action was solely for the tenant's benefit? Should users of public land be given such an interest, one that will establish a \$1 billion precedent?

Three holders of special use permits on the Stanislaus National Forest in California think the federal government should give them such a right. Two thousand other summer home permittees are supporting this raid on the public lands by forming an association and pushing the claim in Congress.

Eight Congressmen have introduced a proposal, H.R. 740 and related bills, "that any person who . . . acquires or constructs . . . any structure, fixture or improvement on any national forest lands shall have a possessory interest therein . . . Such possessory interest shall not be extinguished by the expiration or other termination of the permit (including failure to renew or extend) and may not be taken for public use without just compensation . . . just compensation shall be the amount equal to the sound value of such structure, fixture, or improvement at the time of taking by the United States. . . ."

At this writing there is no companion bill in the Senate.

If this proposal becomes law, it will establish a precedent for 63,000 permits covering 80 different uses of national forest land. Permittees have constructed improvements valued at \$1 billion on these tracts.

How did this situation come about?

The Act of March 4, 1915 (16 U.S.C. 497) authorized the Secretary of Agriculture "to permit the use and occupancy of suitable areas of land within the national forests, not exceeding five acres and for periods not exceeding thirty years, for the purpose of constructing and maintaining summer homes. . . ." This authority "shall be exercised in such manner as not to preclude the general public from full enjoyment of the natural, scenic, recreational, and other aspects of the national forests."

In 1917 the Forest Service began to issue permits for summer homes in the Pinecrest Recreation Area. These were annual permits. Apparently there was a mutual understanding, not confirmed in writing, that the permits would be renewed as long as the land was not needed for a higher public use, provided permittees fulfilled the terms of their permits.

By 1938 special use permits for 394 summer home sites had been issued. Each permit authorized occupancy of about one-half acre. A community with roads, stores, and a water system developed. Permittees assessed themselves over \$511,000 for construction of improvements. Other assistance was provided by the County and by the Federal government through the work of Civilian Conservation Corps enrollees.

The permittees paid property taxes to local authorities on the value of their improvements but leased the land from the United States at nominal rates. Annual fees of \$20 to \$25 per permit were increased to \$80 annually during a re-evaluation in 1962.

The total number of permits (394) remained about the same from year to year. But the identity of individual permittees changed as people sold their interests in improvements. Each new owner had to obtain a revised permit from the Forest Service, a permit that specifically stated that it could be terminated at the discretion of the Chief of the Forest Service.

During the period 1948-1950 most of the Pinecrest authorizations were changed from annual permits to 20-year-term permits so that the permittees might be assured of occupancy for a stated term.

About this time Forest Service personnel noted that expanding recreation use soon would tax campground and beach facilities. Administrators either would have to (a) restrict public use of public lands, or (b) remove conflicting

private-privilege use enjoyed by a few summer home permittees so that areas in heavy demand could be available for public use. The second alternative was selected as the best means of providing the "greatest good for the largest number in the long run."

Accordingly, in 1950, sixteen summer home permittees, occupying a key section on Pinecrest Lake received permits for only a 12-year period. Each permittee agreed, when he signed his permit, that he would remove all structures upon expiration of the permit. At the same time the Forest Service agreed that if the public interest necessitated earlier termination, the government would purchase the improvements or pay for their removal.

Prior to 1962 the Forest Service gave these 16 permittees an opportunity to obtain lots in another area at Pinecrest. Assignments were made following a random drawing of lot numbers. Eleven permittees accepted new lots and moved at their own expense. Two permittees had their permits terminated for reasons not associated with this problem. The remaining three permittees accepted "in lieu" lots but did not move. Instead they asked their Congressman to help them obtain a possessory interest in public land.

The Secretary of Agriculture allowed them to remain in possession while he explored all aspects of their problem. Early in 1966 the Secretary informed these permittees that they had no case and would have to move. In September 1966 two permittees moved their cabins to the in lieu lots they had retained since 1962. The final permittee sold his interest to someone who wanted his in lieu lot. The purchaser promptly tore down the former occupant's cabin. The Pinecrest Home Owners Association began at the same time to clean up and restore all three lots for other public use.

Much has been said about customs born of long usage. But the three recalcitrant permittees were comparative newcomers. One took his permit in 1950. The other two bought the improvements of others since 1961 and received amended permits at that time. All three knew of the impending termination date.

A check of Forest Service records shows that during the course of time 375 other permittees in other areas across the nation have moved at their own expense when their permits terminated.

Therefore, I repeat, why should three newcomers receive preferential treatment, treatment that could establish a \$1 billion precedent?

The Congressional spokesman for the group says his bill is being modeled after the Concessionaire Act (Public Law 89-249) that applies to national parks. There is a difference, however. It is in the public interest to have concessionaires construct lodges and other service facilities in or adjacent to national parks. Some of these structures are expensive. In order to borrow money from banks for construction, the concessionaire must have some color of legal title.

The summer home permittee is seeking a concession from the government for his own private interest.

If you have an opinion on this subject, let your Representative or Senator in Congress know how you feel about it. The Honorable W. R. Poage, Chairman of the House Committee on Agriculture will receive testimony when a hearing is held.

Mr. POMEROY. The testimony of previous witnesses has raised a few questions in my mind. If the summer home permittees are to be given a possessory interest in the land, why does not the Government issue permits in perpetuity to begin with?

If these people are to be granted a permanent right, why does not the Government sell them the land? The Government could always reclaim it if needed by means of eminent domain.

Why is the Government buying private recreational land with money from the land and water conservation funds and then turning it over to other private users?

Why should this small group of privileged summer home permittees be given exclusive use of public property to which the general public is denied access?

I do not know the answers but it occurs to me that perhaps our association should ask the public what it thinks.

These thoughts prompt the American Forestry Association to recommend that H.R. 4884 and related bills not be enacted.

Thank you.

Mr. McMILLAN. Thank you, Mr. Pomeroy. Do you know how much money the Forest Service collects from these people?

Mr. POMEROY. No; I do not know that statistic, but with 19,000 permits at approximately \$100 for each permit it would be of quite some magnitude, I presume.

Mr. McMILLAN. I gathered from your statement that you thought it was free.

Mr. POMEROY. No. I at one time considered taking one of these permits myself. And after thinking it over I thought that \$25 a year at that time did not make a good investment, so I did not do it.

Mr. McMILLAN. Are there any further questions?

Mrs. May.

Mrs. MAY. You said in your statement that if it becomes necessary for the Forest Service to obtain the land, that is, you stated, "If it becomes necessary for the landlord to reclaim control of the land before expiration of the permit, then the permittee should be compensated for his loss."

But it has been testified in these hearings that in many cases that they have no possibility of compensation. Some of these people have made considerable investments in their properties. And they have been encouraged; that is, the Forest Service has encouraged the people to come on the land. They have installed waterworks and sewage and other facilities. We do have that possibility, and as I said earlier I want the Forest Service to remain the landlord, as it were, because it is public land and we all recognize that.

And you, I think, ought to know that under the law that the Forest Service cannot sell these rights.

Mr. POMEROY. I knew the Forest Service could not sell land and that a special act for this purpose would be needed.

Mrs. MAY. However, many of these people have been there for many years, as summer home permittees. And I am sure that many of them realize their situation in terms of their permits. And it might penalize the users in their continued use if we did something diverse to their interests. I understand that the Forest Service today has the policy of not granting such a use in many areas any more. At present they have 19,000.

Mr. POMEROY. I think that you have a very nice philosophy, Mrs. May.

There is one thought that occurs to me. Under the Mining Act we have a clause that refers to the prudent investor. It seems hard for me to believe that a person who has accumulated enough wealth so that he can spend \$40,000 for a summer home would not understand the terms of the permit when he signed it.

Mrs. MAY. I agree with you. That has occurred to me, too.

Mr. POMEROY. Quite so.

Mrs. MAY. I think maybe that they did not want to hear the practical aspects of this. I would like to point out, however, that many are not luxurious summer homes of this kind. The sites have attracted a great many retired, low-income people to these places.

Again, I am just trying to come to some equitable solution to all that is involved in this situation. We do have a problem.

MR. POMEROY. I am sure that you will find an equitable solution.

MRS. MAY. We will have to reach one.

Thank you.

That is all, Mr. Chairman.

MR. McMILLAN. Any questions, Mr. O'Neal?

MR. O'NEAL. No questions.

MR. McMILLAN. Thank you, Mr. Pomeroy.

Our next witness is Mr. O. S. Peterson, president, and Mr. Mayhew H. Davis, executive secretary, National Forest Recreation Association, San Luis Obispo, Calif.

We will be glad to have any statement that you gentlemen care to make.

MR. PETERSON. I will yield to Mr. Davis for a preface to my statement, if permitted.

MR. McMILLAN. Will you advise the committee which bills you are interested in?

MR. PETERSON. In H.R. 4884 and related bills.

MR. McMILLAN. Thank you. You may proceed.

**STATEMENT OF MAYHEW H. DAVIS, EXECUTIVE SECRETARY,
NATIONAL FOREST RECREATION ASSOCIATION**

MR. DAVIS. Mr. Chairman and members of the Subcommittee on Forestry, my name is Mayhew H. Davis and I am the executive secretary for the National Forest Recreation Association. This association was organized December 19, 1948, and is the official representative of its members in matters affecting ownership and operation of recreation business enterprises and the ownership and use of summer homes located within and adjacent to the national forests and other public lands. We are a nonprofit association, incorporated under the laws of the State of California, and consist of four separate operating divisions—three involving recreation concessionaires on public lands consisting of resorts, winter sports, and packer-outfitter-dude ranch facilities, and the fourth consisting of organized homeowner groups.

I appreciate very much the opportunity to testify before this committee in support of H.R. 740 (Mr. Johnson, California), and H.R. 4884 (Mr. Mathias, California).

Our association through the years has worked very closely with the U.S. Forest Service and we have supported that organization on many of the issues such as the establishment of wilderness areas, the multiple-use program, and have established very close friendships in many cases with forest officers and we feel confident, enjoy a mutual relationship and respect which we are sure constitutes a healthy climate for the discussion to be presented here now.

We do have problems. Our association lacks recognition as a full partner in the multiple-use program with other industry participants in use or harvest of national forest resources. Our problems, in the main, involve matters of (1) tenure, (2) fees, (3) taxes, (4) loan capital, (5) insurance, and in addition, principally in connection with homeowners situated on national forests and on lands under the jurisdiction of the Department of the Interior and the Department of the Army, a "phaseout" trend which is of great concern to our membership, and we are certain to many others who are not members

of our association. It is in this latter "realm" that we wish to address ourselves to your committee today.

There are some 19,000 summer homes under permit within the national forests alone. This is in addition to homes situated on lands administered by other Federal agencies. H.R. 740 and H.R. 4884 are intended to correct an injustice presently involved through termination of permits or refusal to renew permits or leases at the expiration of a term period and the fact that, in such instances, no compensation is provided for under existing law. It is true that permits and leases for specific periods legally bind the user to the terms of the lease but it is historically a fact that many hundreds of permittees on the national forests were encouraged to accept permits to build homes and facilities, including residences, fences, water systems, communication, fire protection, and so forth, with full assurance that renewal of permits was merely a formality. Furthermore, in most instances, permits on a term basis for up to 30 years require high standard maintenance of the improvements involved, which means that the value of the improvements at the expiration of the use period generally is greater than the value of the improvements at the beginning of the use period. There has not been a term depreciation factor. Furthermore, many of the homes or cabins involved have been handed down from one generation to the next and this involves sentimental factors.

It may be said that we plead for survival of the free enterprise recreation business and family residence permit or lease system, long in vogue on our public lands. In good faith, our members have invested their money with encouragement and, in many cases, solicitation of Federal agencies. We believe we are warranted in seeking stability and security for our equities (including possessory interest) and in seeking fair compensation when the Federal Government takes over our equities. We plead for understanding as to the difference between presumed amortization and actual net worth of the properties involved. The administering agencies frequently claim that at the expiration of a term permit or lease period, a place has been amortized. We submit respectfully that this is not the situation. Rather, through adherence to initially approved plans and through a high standard of maintenance and the economic system itself in vogue in this country, that there is a valid, tangible worth as indicated before, greater than the value at the beginning of the term period. For this reason, condemnation proceedings or exercise of administrative decision to "phase out," we feel is confiscatory of the individual's property. May we respectfully submit also that under the present tax structure involved in many States and in many counties, the burden imposed upon permittees and lessees taxwise, in itself, is indicative of the existing value of these properties.

In summary, we plead on behalf of the several thousand homeowners who are members of our association, and others who are likewise involved, for understanding and correction of the discrimination in exercise of the rule of eminent domain by adoption of H.R. 740 and/or H.R. 4884 or other equitable provision for reimbursement to the permittee or lessee in the event of condemnation or termination of such permit or lease.

We have attached to copy of this statement presented to you a copy of a brochure prepared for the Public Land Review Commission

by our association. We hope that you will find opportunity to study it and to feel free to call upon us at any time we can be of constructive assistance.

If I may deviate briefly, in view of the fact that the previous individual, Mr. Pomeroy, introduced a statement from the April issue of the American Forests magazine, may I protest the manner in which this article in this issue of this magazine was prepared and printed without any opportunity to our association which by innuendo refers to it in a manner that we feel is very, very unfair. Since he has introduced it in evidence, we feel that we are entitled to make this statement, and we would be extremely happy to have cooperated with Mr. Pomeroy, the editor of this article and the author of this article, had the request been made.

And in order to provide you with other salient features of this problem, I will defer and request recognition of Mr. O. S. Peterson, who is president of our association and who is prepared to present to you the balance of our testimony.

I appreciate the opportunity of meeting with you and assure you that our organization is vitally concerned and interested in the best possible use of our public lands in the public interest. We do feel that recreation and free enterprise provision of facilities and services, and enjoyment of residential use of public lands where consistent with the multiple-use policy adopted by the Congress, is distinctly in the public interest.

Thank you, gentlemen, for your courtesy and the opportunity afforded to me.

Mr. McMILLAN. The document referred to will be made a part of the record at this point.

(The document referred to follows:)

RECREATION ON PUBLIC LANDS

(Prepared for the Public Land Law Review Commission by the National Forest Recreation Association)

GENERAL STATEMENT

The National Forest Recreation Association is an organization of public service operators and recreation residence permittees in the twelve western states. Our membership numbers approximately three hundred commercial public land concessioners and approximately 2500 home owners occupying publicly owned lands (National Forest and Department of Interior lands). Our operations range from the simple to the sophisticated and vary greatly as to services provided, but all provide essential services to the public who uses the National Forests for recreational purposes. We are the private sector that invests its capital in providing the accommodations and services that the public demands. These services include food, lodging, boat rentals, pack and saddle stock, guided trips to the back country, winter sports operations, etc. Our 2500 home owner members well represent that portion of the public who knows and enjoys the recreation opportunities of the National Forest and public land areas. Members of our Association thoroughly understand the challenges, opportunities and needs of the recreation-seeking public.

The future of our business lives and our enjoyment of our recreation residences depend on the ability of the Forest Service to maintain the attractiveness of the recreation resource. Our experience with the Forest Service provides abundant evidence that the Service does a commendable job of managing public lands under the multiple use program in the best interest of the public.

Historically, the Forest Service has encouraged private development of recreation improvements such as resorts, organization camps for youth groups and churches, complete winter sports complexes and summer home sites. Most re-

cently, the Forest Service has authorized, on a limited basis, condominiums as highly developed recreation complexes.

At annual and sectional meetings since 1948, our membership has considered mutual problems among concessioners and permittees. The members have consulted with the Forest Service and other Federal and state agencies, in order to strengthen our abilities to serve the public.

POLICY POSITION

The following general policy positions have been consistently supported by the officers and members of the National Forest Recreation Association throughout the life of our organization. We will continue to support and endorse these policies.

1. We support the multiple use management concept. We endorse the plan-wise development and use of the wood, water, wildlife, range, mineral and wilderness resources, as well as the recreation values in which we have a primary interest. We know that the long-range public good requires the carefully coordinated use of all these resources from the public properties, in order to meet the complex needs of our increasing population. We know, too, that the patterns of need and use change with time, and that public lands' management must also be subject to change if the management is to fulfill its highest mission.

2. We support recognition in multiple use planning of private enterprise development of commercial concessions, in order to provide needed public services to the maximum extent feasible. Appropriate permit conditions which allow a reasonable profit opportunity to the successful concessioner should be maintained, so that adequate services will be assured.

Federal lands and land acquired by the state with Federal funds should be open for summer home use to an extent consistent with current and anticipated demands and a balanced multiple use program. Sites designated for home use should be suitable for the purpose and as desirable as those selected for other recreational purposes.

3. We support the establishment of additional recreation residence developments, as well as the continuation of existing developments, as the highest and best use of many tracts of public lands. In taking this position, we realize that retention in public ownership may be essential in view of other associated values, including watershed protection, scenic and aesthetic conditions and most efficient land management in the overall public interest.

4. We support recreation development by the Federal government to meet the needs of the ever increasing number of recreationists. We urge that concessioners be allowed to carry out such developments as can reasonably be provided by private enterprise. Public camp grounds and picnic areas should be on a user pay basis; but development of these facilities, and others, such as roads, trails, observation sites and visitor information centers, all of which receive extensive general public use, would require Federal funds.

THE PROBLEMS

We have over the years struggled to arrive at equitable solutions to certain problems and would welcome the opportunity to consider proposals for their solution.

Equitable Fees

1. *The problem of equitable fees.*—We would concur with the theory of comparability with private land charges *if or when* real comparability exists. We maintain that permit conditions, short operating seasons, geographic situations, lack of true capital gain opportunity and other factors make the theory impracticable of application. Competitive bidding may be an essential procedure for establishing new concession operations, but after the initial five year period it is not an appropriate measure of site value. We believe the land use fee should be based on the earning capacity of each individual site as measured by past experience. We urge that fees for concession operations on all public lands and other permit provisions be analyzed and reviewed in the light of P. L. 89-249 (H.R. 2091) and the current Forest Service fee study, and that equitable treatment and provisions apply to National Forest concessioners as well.

Tenure

2. *Tenure provisions.*—An adequate amortization period is an essential sound business practice when making and financing major capital improvements. We

urge reissuance of full length term permits when major additional capital investment is programmed by the concessioner and the government.

Legislation is urgently needed to establish legal authority for National Banks to issue loans with Government leases or permits as valid collateral. Statutory authority exists for thirty-year term permits. We urge full use of this authority as policy in issuance and renewal of all types of use permits unless special considerations are involved.

Taxes

3. *Taxes.*—To maintain a fair competitive situation with private land operations and with those on other public properties, we maintain that property tax and "in lieu of tax" payments need a major overhaul at both Federal and state levels. The present hodgepodge of in-lieu payments from various Federal and state land holdings and from the "25 per cent payments" from Forest Service receipts varies greatly from forest to forest and county to county, depending upon the nature of the resources and their marketing. Likewise, the assessment of possessory interest taxes in addition to taxes on the improvements and possessions is spreading. These have been highly variable and in some cases exorbitant in the light of the aggregate return to local government from the land, when 25 per cent funds plus possessory interest taxes are measured against taxes from similar properties on other land ownerships.

Cancellations

4. *Permit cancellations.*—We maintain that except where special considerations exist, every permit for residential or concession occupancy carry a minimum obligation of twenty years use, and that major concession investments require a maximum legal period. Should it become necessary in the public interest to terminate the permit for a higher public use during any permit period, the permittee should be compensated. Controls should assure that all reasonable alternatives to cancellation are considered before final definitive action is taken.

PRESIDENTIAL CONSERVATION MESSAGE TO CONGRESS (1962)

"CONCESSION RIGHTS IN THE NATIONAL PARKS"

Statement by the President Upon Signing Bill Establishing Policies Governing Concession Rights, October 9, 1965

"I have today signed into law H.R. 2091 establishing policies governing concession rights in our national parks . . . It is designed to stimulate the development of better facilities for the tens of millions of Americans who enjoy our national parks each year. In essence it writes into law the concession policies that have been followed by the Interior Department in the past on a regulatory basis.

It is not enough, however, to establish such policies for one department alone. Both the Department of Agriculture and the Corps of Engineers provide recreation opportunities for millions of Americans each year. To the extent that it is practical to do so, the Government should have a common policy governing concessions on federally-owned lands . . .

It is important that the operation of attractive facilities be encouraged in our national parks. It is just as important that lands belonging to the whole people be managed in a way that benefits the people for whom they are held in trust."

As enacted, the Bill (H.R. 2091) is Public Law 89-249.

"CONSERVATION . . . can be defined as the wise use of our natural environment: it is, in the final analysis, the highest form of national thrift—the prevention of waste and despoilment while preserving, improving and renewing the quality and usefulness of all our resources."

Mr. McMILLAN. Are there any questions? If not, we will be glad to hear from you now, Mr. Peterson.

STATEMENT OF O. S. PETERSON, PRESIDENT, NATIONAL FOREST ASSOCIATION

Mr. PETERSON. Mr. Chairman, members of the Subcommittee on Forestry, my name is O. S. Peterson and I am the president of the National Forest Recreation Association, which is an organization rep-

representing the mountain outdoor recreation industry and organized homeowners occupying Federal lands under permit or lease, authorized by the Congress through the several executive agencies of the U.S. Government.

We welcome and appreciate the opportunity to appear before you to testify in connection with the legislation involved in H.R. 740 (Mr. Johnson of California) and H.R. 4884 (Mr. Mathias of California). This legislation provides a method for reimbursement for the value of improvements and possessory interest to permittees or lessees where such possessory interest is taken over by the U.S. Government for other use purposes.

There is a well established precedent throughout our land for the compensation to owners for property taken over for public purposes. A relatively small segment of American society has become isolated from this traditional treatment; namely, holders of leasehold interest or permits for occupancy of Federal lands for seasonal or year-long residence purpose. Some 19,000 permits are involved on national forests, most of which are on a term occupancy basis. A much smaller number are involved on Department of Interior and Army Engineer Corps administered lands.

Phasing out of occupancy status has been indicated in some areas, generally through termination of permits at the end of the permitted period. Cancellation through this means results in serious loss to the homeowner since no compensation is provided. Even though permits or leases clearly state termination rights of the Government, most permittees or lessees were, and have been assured, of routine renewals upon expiration of a current term period so long as conditions of the lease or permit were complied with. Termination without compensation in some cases involves equities of many thousands of dollars—\$10,000 to \$30,000, and more.

Our organization, the National Forest Recreation Association, supports the following policy changes in line with the legislation proposed:

1. Recognition of residential use of Federal lands as a desirable class of use and for full consideration under the multiple use policy declaration of the Congress for national forests.
2. Provide for automatic renewal of leases or permits for residential use upon termination of annual or term period.
3. Provision for compensation at current replacement value if permit or lease must be terminated for a higher public need at any time.

A statement in support of proposed Federal residence use policy for Federal lands administered by agencies of the Government.

For well over 50 years, Federal public domain lands have been utilized for many purposes subject to policies adopted by the Congress and have been administered by Federal agencies in accordance with laws adopted from time to time.

The Congress has enacted legislation defining the "multiple use" policy of the Federal Government as it relates to national forests. Much confusion still exists, however, with regard to many classes of Federal lands administered by different agencies and departments of the Government, particularly as to the status, tenure, and equities involved with regard to use for residence purposes (summer, winter, or year-long) of these lands.

More than 19,000 permits for residence occupancy of national forest lands are in force. These involve permits issued by the U.S. Forest Service, some on an annual basis, some on a term basis extending from 5 years upward to the maximum allowable of 30 years. Much confusion exists because of uncertainty as to administrative policy of incumbent departmental personnel. Illustrative of such confusion is termination of permits to long-term occupants on the Stanislaus National Forest in California and elsewhere within the national forests, and the confusion resulting from publication of proposed policy by the Secretary of the Interior, as published in the Federal Register for November 15, 1966, under the heading, "Proposed Cabin Site Regulations, Title 43, Part 21" (also see (A) Federal Register Document 65-7472 re "Phasing Out Cabin Site Permits," published July 14, 1965; (B) Public Law 88-639 of Oct. 8, 1964).

We believe that lands used for residence purposes can well provide the highest possible return to the Federal Government and to the counties, of any use for which these lands may be dedicated. For example, 20 percent of the total area of the State of California is within the boundaries of national forests administered by the Forest Service. These 20 million acres of national forest lands include areas dedicated to grazing of livestock and wildlife; growing and harvesting of timber crops; recreation of all types, and commercial services and facilities necessary to care for recreation users; residence use; water storage; hydroelectric development, and so forth.

Land uses for residence purposes approximate one-quarter acre per permit. Economic return to the Government involves 75 percent of the user fee. Current minimum appears to be pegged at about \$100 per annum on the basis of 5 percent of the appraised private land value (\$2,000) of the land under permit for residence use. Hence, the Federal Government's share of the \$100 would be \$75.

County cash return: (1) 25 percent of the permit value (on national forests); (2) full personal property tax value; (3) possessory interest tax value which is becoming of major significance in many counties in California.

Other States like California are adopting possessory interest tax programs which enable the counties to place an assessed value on the exclusive right provided by the permit or lease to occupancy of the lands. Many of the improvements situated on lands under permit or lease by Federal agencies have a clear current value of many thousands of dollars. These include fences, water systems, landscaping, roads, flood control, and fire protection features which with structures thereon must be maintained to a standard satisfactory to the administrative officers involved under peril of cancellation for noncompliance.

It is apparent then that regardless of the age of the improvements, current value to the lease or permitholder is not related to a depreciated or wornout property but rather to a property under high standards of maintenance.

It is a long-accepted public policy that confiscation of personal property equities for use by governmental agencies automatically carries the obligation to reimburse the owner of such equities for the full value of such equities. Permittees and lessees who have not owned the land upon which their residences and related improvements have been installed have not been accorded this recognition. They must submit to confiscation of these equities without 1 cent of reimbursement.

Many residence sites have been handed down through succeeding generations, and in addition to a tangible dollar equity, a substantial sentimental equity is involved. However, this is an intangible equity. No fee title benefits accrue. We believe two types of situations are involved.

1. Existing permits or leasehold residence sites: We recognize some of these sites presently are needed and will be needed for higher public use. The three-point policy recommended in this presentation provides a fair and equitable means of acquiring such sites from funds appropriated to the administrative agencies. It is our judgment that relatively few of the total existing residence sites now under permit or lease honestly are needed for higher use at the present time. We question if this number would exceed 150, nationwide. We believe that administrative agencies should be required to measure justification on the basis of payment from their appropriated funds as a control against indiscriminate termination and cancellation of existing residence sites.

2. Additional tracts on public lands for residence use: Under the multiple-use policy for national forests, use for residential purposes should be recognized as the "highest" use in the public interest for properly designated areas.

We believe it of vital public concern that the taxpayer at all levels be enabled to secure the economic return which adoption of this recommended policy would make possible. In other words, the tax revenue derived by counties and the direct revenue to the Federal Government from the use of public lands for residence purposes can and should be of increasing importance to the taxpayer. Many thousands of acres in the State of California within the 20 million acres of national forest alone are best suited to residence occupancy use, either for summer vacation, winter sports use, or year-long residence use and should contribute substantially to the county and Federal tax and revenue base. The same applies to the Department of the Interior and the Department of the U.S. Army (Engineers) lands, such as Havasu Lake along the Colorado River, and other similar areas.

This association is keenly aware of the so-called population pressures and the increasing competition for occupancy and other uses involving the public lands of the United States. We believe the policy proposed by our presentation and the legislation involved in H.R. 740 and H.R. 4884 is strictly in the public interest, and, if adopted, will provide substantial economic and social benefits to the citizens of our land. We stand anxious to cooperate in any manner possible with your committee and with the executive agencies concerned with the administration of the policies determined by the Congress.

Gentlemen, we fully support the legislation proposed and will appreciate your consideration, and, we hope, recommendation for adoption of this legislation.

Mr. McMILLAN. Thank you.

Are there any questions?

Mr. TEAGUE of California. I do not have any questions, Mr. Chairman. I do want to say that I thank Mr. Davis and Mr. Peterson for a concise and factual and still a well-done presentation.

Mr. DAVIS. Thank you.

Mr. PETERSON. Thank you.

Mr. McMILLAN. Mr. O'Neal?

Mr. O'NEAL. I have one question, perhaps two.

Is it true that the Forest Service gives a minimum of 10 years' notice before cancellation?

Mr. PETERSON. That has been the policy here lately. I understand that they have given a 10-year notice in some cases.

Mr. O'NEAL. Do you know of any instances in which they have cancelled the permit in less than 10 years?

Mr. PETERSON. No, I could not recall anything at this time, but when you get a piece of property or a mountain home, under a 10-year lease, with a termination, that man is dead so far as trying to sell it is concerned. His investment is gone, because nobody will buy that piece of property with that 10-year termination hanging over his head. He cannot sell it to anybody.

Mr. O'NEAL. Of course, if he has had it for, say, 40 years, he has not sold it to anybody during that period, either.

Mr. PETERSON. These change hands and go down, as we have pointed out, from generation to generation. Some have gone as far as four and five generations.

I might point out that as Mr. Davis' statement pointed out that in many of these cases where I come from, Huntington Lake, for illustration, there was a hydroelectric built by the Southern California Edison, which put in a dam and formed a beautiful lake. The Forest Service did not have the wherewithal to develop that particular area. So they invited the public to come up and build their cabins, to start a community and they have made a recreational area out of it. It is a beautiful place. Because of that, it has caused the State to build a road up there, a beautiful highway, and without these cabin owners there would be no recreational area at Huntington Lake. This has occurred in a lot of places.

Mr. O'NEAL. Let me ask you one more question, a hypothetical question.

Suppose instead of the Government being the landlord, the landowner of these lands, suppose that some individual or some private company owned them, do you think that you would have grounds for a suit for damages for these cancellations?

Mr. PETERSON. Very definitely. The right of eminent domain. In other words, if a highway goes through, which we have in California as you know—

Mr. O'NEAL. No, no. I think that you misunderstand.

Mr. PETERSON. Maybe I do.

Mr. O'NEAL. Suppose that it was some private person or some company standing in the place of the Federal Government in connection with the ownership of the land in issuing these permits, and they issued permits which permitted the permittee to use the property, and then the private party or the private company decided to cancel the permit—do you think that the permittee would have a suit for damages against them?

Mr. PETERSON. You raise a technical question. I have an idea that this permittee, if he had bought this land from a private developer, that he would have made a bona fide lease, on a contractual basis there. I do not think that he would be under the same impression that they are under these present leases or permits.

Mr. O'NEAL. Thank you. That is all.

Mr. McMILLAN. Mrs. May.

Mrs. MAY. First of all, I would like to ask Mr. Davis a question. As I understand it, you objected to the article published and put in the record by Mr. Pomeroy. I have not seen the article. Do you wish to make any comment on why you think that the statements made in this article cannot be backed up, or would you like to respond to it otherwise?

Mr. DAVIS. I am very happy to do so, Mrs. May. I am proud of the fact that I have been a professional forester all my life. I know these people. I have worked with them. I tried to retire and in the position that I am now in, it is simply because I could not give up the ghost. I felt that there was a cause here.

As a professional forester I believe in fairplay.

We did not see the article in question until after our arrival here in Washington, D.C.

Mrs. MAY. I have not seen it either.

Mr. DAVIS. I will try to be fair and unemotional in this thing.

We feel very keenly that there are parts in this article where, for example, the inference is that the special use permittee formed the organization which we represent because of the particular issue involved in this legislation. That is false. This organization which we represent, the National Forest Recreation Association, was formed in 1949. It was organized by the resort concessionaires on the national forests in order to provide for better communications with the U.S. Forest Service, to cooperate with the U.S. Forest Service.

We later brought into its membership winter sports operations, concessionaires, outfitters, dude ranches, but not until 3 years ago was there eligibility provided for membership in this organization by cabin owners as such.

Today we have the four separate operating divisions, each headed by a vice president. The cabin owners are only eligible for membership on the basis of organized use, such as Pinecrest, which Mr. Peterson referred to, and Huntington Lake, a group in California. We have groups in Montana, Wyoming, Idaho, Oregon, Washington, and California.

So that the inference in this article that our association, for whom we are here to testify, was organized by the cabin owners is false.

There is reference, too, in the article to a raid on the Federal Treasury by a small group of cabin owners. We protest this as an unfair statement.

We believe the statement we have submitted on behalf of all members of our organization, the eligible people, is fair, factual, and ethical. And for this reason, since it was introduced as evidence, the inference is that it is an attack on our organization, on the people who make up our organization.

And as a professional forester I just could not resist protesting what I considered the unfairness and the manner in which this has been done.

Had Mr. Pomeroy of the American Forestry Association made any attempt to advise us, to confer with us, we would have been happy to have cooperated with him in the preparation of the article which would have been fair, factual, and helpful.

Now we feel that this is a simple statement of fact. I, personally, feel that some of the statements in that article are erroneous.

Mrs. MAY. Mr. Chairman, it occurs to me that perhaps Mr. Peterson and Mr. Davis should have the right to submit a further statement if they so desire evaluating and analyzing some of the statements made in this article so that we would have that information as well.

As I say, I have not seen the article referred to. That is, it was submitted earlier this morning.

Mr. O'NEAL (presiding). I have not seen it either. I understand that it has been admitted into the record.

Do you, Mr. Davis, and you, Mr. Peterson, desire to make or to submit a further statement for the record in reply to the article?

Mr. DAVIS. Mr. Chairman, we certainly propose—and we have already notified Mr. Pomeroy—that we would request the right to rebut the article in this magazine and we would be very happy to see to it that you receive a copy of it.

Mr. O'NEAL. How much time do you want for that?

Mr. DAVIS. Not at this hearing.

Mr. O'NEAL. I understand that. Do you mean by tomorrow, or when?

Mrs. MAY. May I suggest that he submit a statement for the record?

Mr. DAVIS. To submit a statement?

Mr. O'NEAL. I thought there should be some time limit on it.

Mr. DAVIS. You mean to prepare the statement?

Mr. O'NEAL. Yes.

Mr. DAVIS. We would appreciate 30 days if we could have it, or whatever time you can give us. We have to go back. We will have a terrific job of getting the information.

Mr. O'NEAL. This is something new to me. It would seem to me that 30 days is pretty long.

Mr. DAVIS. We would be very happy to submit a statement within whatever time limitation you say.

Mr. O'NEAL. Do you think that you could do it in 10 days?

Mr. DAVIS. We will be happy to do so.

Mr. O'NEAL. Is there any objection to that?

If not, without objection, it is so ordered.

Mr. DAVIS. Thank you, sir.

(The information follows:)

STATEMENT SUBMITTED BEFORE THE SUBCOMMITTEE ON FORESTS, COMMITTEE ON AGRICULTURE, U.S. HOUSE OF REPRESENTATIVES, AS REBUTTAL TO AMERICAN FORESTRY MAGAZINE ARTICLE (APRIL, 1967)

Mr. Chairman and Members of the Subcommittee on Forests, during our testimony before you on Wednesday, June 14, we took exception to an article entitled "A \$1 Billion Mistake" printed in the April, 1967, issue of American Forests magazine and submitted in evidence by Kenneth B. Pomeroy, Chief Forester for the American Forestry Association.

You granted permission to us to submit in behalf of the National Forest Recreation Association a rebuttal statement to this article.

Attached please find a letter dated June 16, 1967, addressed to Mr. Pomeroy which outlines our position and reasons for challenging the fairness and accuracy of statements contained in the article. This letter (attached) constitutes our rebuttal statement and is for the hearing record for H.R. 4884 (Mr. Mathias); H.R. 740 (Mr. Johnson), and related bills.

Thank you for your consideration and courtesies extended to us during our presentation.

NATIONAL FOREST RECREATION ASSOCIATION,

Fresno, Calif., June 16, 1967.

Mr. KENNETH B. POMEROY,
 Chief Forester, The American Forestry Association,
 Washington, D.C.

DEAR MR. POMEROY: Reference is made to your article in April, 1967 issue American Forests, "A \$1 Billion Mistake", your testimony of June 14 before the Subcommittee on Forests, House of Representatives' Committee on Agriculture, and your introduction as evidence at this hearing of a copy of the Magazine and article described above.

You will recall that the Subcommittee Chairman granted, upon our request, ten days within which to submit a response to your article and statement.

This letter, a copy of which is being submitted to the Subcommittee on Forests, is our response.

First of all, if we had been accorded the opportunity, we would have been happy to have cleared up the misstatements and implications which we feel are not up to the traditional "fair play" for which the American Forestry Association is respected. Specifically—to set the record straight:

1. The title of the article, "A \$1 Billion Mistake", implies this is the tangible cost of someone's "blunder". Is this factually correct (as to your intent) and, if so, who do you accuse of this "mistake" and why?

2. In your article, paragraph five reads as follows:

"If this proposal becomes law, it will establish a precedent for 63,000 permits covering 80 different uses of national forest land. Permittees have constructed improvements valued at \$1 billion on these tracts."

To be a \$1 billion "mistake" you have to assume terminations or refusal to renew permits or condemnation of *all* 63,000 special use permits of any and all types and reimbursement therefore to constitute your evaluation of a \$1 billion mistake. In effect you are saying, we believe, none of these permits should have been issued—*every one has been a mistake*.

3. Your first paragraph asks a question which implies that the sole beneficiary of a special use permit is the permittee. You fail to recognize that the permittee is paying the *fair market price for the rental* and in addition going county personal property tax assessed by the county in which situated and in many cases an additional "possessory interest" tax on the land itself—even though ownership is vested in the United States. Did you present an unbiased statement, factually?

4. In paragraph two of your article you state:

"Three holders of special use permits on the Stanislaus National Forest in California think the federal government should give them such a right. Two thousand other summer home permittees are supporting this raid on the public lands by forming an association and pushing the claim in Congress."

We believe this paragraph involves misstatement in fact.

5. Two thousand plus, now approaching 3,000 homeowners, *through individual homeowners associations*, have affiliated with the National Forest Recreation Association—the only organization which can meet the phrasing of your statement. This Association is in its 19th year as an outdoor recreation concessioner's trade association. It cannot be construed as having been formed to push the homeowner claims before Congress—and your statement that National Forest Recreation Association has launched a "raid on the public lands"—is not worthy of your personal professional status nor of the American Forestry Association.

You were present during the submission of testimony on behalf of National Forest Recreation Association in regard to H.R. 4884 and related bills in the Forests Subcommittee hearing room, House of Representatives on June 14. This testimony was submitted by Mayhew H. Davis and myself. It factually presented the position of our Association.

We request the publication of this letter which constitutes the statement to the Subcommittee on Forests in order that your readers may have available the true facts of this unfortunate situation.

Finally, we extend to you and the American Forestry Association a cordial invitation to attend our 19th annual convention to be held at the Golden Tee Lodge, Morro Bay, California, November 7-9 this year. You are invited to present any statement before this convention you may feel appropriate.

Sincerely,

O. S. PETERSON.

Mr. O'NEAL. Mrs. May.

Mrs. MAY. Mr. Davis or Mr. Peterson, you were here yesterday during the testimony and you heard some of the discussion based on the Forest Service statement about the overall implication of these bills that we have before us and that it would include all types of permittees, and, therefore, that it could mean that the Government would be faced with \$1 billion to pay out. A question was raised following that as to whether or not it might be better to amend this bill so that it would refer only to the summer-home permittees and not to the commercial recreational people and the other groups. I wonder if you would want to comment on this suggestion?

Mr. DAVIS. Thank you, Mrs. May. I would be happy to comment. If this inference was correct it would mean that the Forest Service has made a \$1 billion mistake in classifying the land so involved, but I am sure that they did not mean it in that vein.

Mrs. MAY. I do not think that I understand that statement.

Mr. DAVIS. The implication of the bill as indicated, as I understood the comment, the implication was that it would cost \$1 billion to liquidate the equities that we are referring to. He testified also that in the history of the Forest Service there had only been 395, I believe that was the number, of terminations to date of homesites. We certainly feel that the three-point program that we have referred to is sound and that this would apply only to the cabin owners. And if it did we would see no objection to an amendment of the bill to apply it only to the residential permittees. I hope I have understood your question.

Mrs. MAY. That is what I wanted you to comment on.

In Mr. Peterson's statement, the three points on page 2, in point 2 you state, "Provide for automatic renewal of leases or permits for residential use upon termination of annual or term period."

Let me see if I understand this. This gives the summer-home permittee a lifetime interest in this property on Forest Service lands?

Mr. PETERSON. I understand what you are driving at. I think it would be phrased in such a way that they would not get a lifetime permit. However, it would be about the same as if they owned it in fee simple title.

I think that privilege should be retained because we have so many of these older people who are retired people, as you pointed out, I think, earlier in the proceeding. Maybe they may have a heart attack or something, or the doctor says, "You cannot go into the high altitudes." I think that they should have the privilege of selling or transferring the permit from one to another.

However, I do not see where it makes any difference if the matter of compensation would go through. It would be like in the situation of eminent domain. If a highway goes through you take the property for some higher use. What difference does it make as to what type or any type of permit you have if they knew that they had compensation coming. From year to year it would make no difference.

Mr. FOLEY. If you will yield.

Mrs. MAY. Yes.

Mr. FOLEY. What difference would it be under a fee ownership?

Mr. PETERSON. There would be a lot of difference because you have no title to the land here. You have no loan value on your land.

Mr. FOLEY. Is it not true, though, that when these permits are approved that actually all that is involved in the sales price is the value of the permit—that is all that is involved?

Mr. PETERSON. No.

Mr. FOLEY. Do you not know that it is just sold for the value of the improvements and nothing else?

Mr. PETERSON. That is all they have. That is all they have to sell.

Mr. FOLEY. I agree with you that theoretically that is all they have to sell or to buy, but I know of cabins in my area that have been put up for \$2,000 or \$3,000 worth of improvements and up to \$5,000, and that they sell for \$10,000. That is the part that is sold. And that is the price that is received by the permittee.

Mr. PETERSON. What happens when you take a mountain property, the cost of maintaining them, in building and keeping them up to Forest Service specifications is getting out of hand. It costs you a lot. However, I will agree that the particular location of the lot has a lot to do with the salability of it.

Mr. FOLEY. Are they freely available now?

Mr. PETERSON. No; they are not.

Mr. FOLEY. Excuse me, Mrs. May, for interrupting. I will yield back.

Mrs. MAY. Would you like to finish the answer to the question?

Let him finish his answer to your question.

Mr. PETERSON. We will agree that there is an inflationary value put on some of these cabins. However, that is brought about by the fact that the Forest Service will not issue any more permits. And in this particular type of use it is limited even in the private areas, so that private acreage in my particular area is available at a terrific price \$6,000 to \$8,000 for a little parcel of land. But there is not any land available for this type of recreational purpose.

Mr. FOLEY. The permittee sells it; does he not?

Mr. PETERSON. No. I might clarify something here. If this lease is in jeopardy you cannot sell one. I know that in Huntington Lake in 1962, when there were 130 cabins under jeopardy of being taken, there was not a cabin that could be sold.

Mr. FOLEY. I understand—I agree with what you are saying, but on the other hand, what you are suggesting is that not only should we give assurance to the permittee, that we should give a continual unending assurance to the permittee which would require compensation by the government if it takes it at the market value, which is probably what it would bring at a private sale. You do not put any restrictions on the amount of what I think is a questionable enrichment which the permittee can make himself for the property. I think that you have a real problem and that the permittees have a problem. If I may say so respectfully, your suggestion does not provide any balance in this question.

Mr. PETERSON. Our suggestion would be the replacement value rather than the other.

Mr. FOLEY. Would you accept an amendment that would provide that in the event any person holding a permit wishes to make a sale that the property should be sold at the appraised value of the improvements only, discounting any value of the land, and that such sale shall first be afforded to this qualified purchaser offered by the Forest Serv-

ice, to be determined by lottery, so that the permittee would have no control over the passing of his property once it left his individual permit—no inheritance, no sale to any person in or outside of the family, the party purchasing being willing to purchase at the appraised value of the improvements, plus 10 percent—I will allow that—to take care of some reasonable estimate of costs but opening it up again to the public?

What I do not understand is why we have to have forever property rights to the permittees. I am willing to see that they get some reasonable assurance that they can have the use of this property, but when they go to sell it I do not see why they should make a lot of money on it and pass it on forever as if it were a family estate.

Mr. PETERSON. There is one more item in the value of the lot. You are overlooking the fact that the permittee has had to put in his own water system, his own roads, the whole ball of wax.

Mr. FOLEY. I get that. And to give them a reasonable value for it.

Mr. PETERSON. I say a reasonable value. I think so. In other words, it is a very costly thing when a summersite has been terminated, because according to the lease you have either to take it off or if you have not taken it off or you do not have the wherewithal to take it off the Forest Service takes it off and charges you for it.

Mr. FOLEY. I am acquainted with that point of view, but I am, on the other hand, concerned with the fact that I do not think the Forest Service can open it up to unlimited homesites. So we now have the problem where there is something like 19,000 summerhomes, which is one out of every—what would it be—10,000—1,000 Americans can have a homesite in the forest lands, and there is no provision made for getting an opportunity to others who might want to have this privilege. I would be in favor of giving some security to those who live there, perhaps for a period of 20 or 30 years, or even longer, but when they give up their possession, I think that it ought to go back into the public domain.

Mr. DAVIS. May I make a comment?

Mr. FOLEY. Yes.

Mr. DAVIS. I think the question is this: There are two facets to this thing. No. 1, the inflated value on special use permits is contributed to by the fact, I believe—I have not heard anybody ask the Forest Service whether the present multiple use of the Forest Service contemplates realistically consideration of summerhomes and summerhome tracts as a part of the overall multiple use program—whether they contemplate select areas for multiple use programs for summerhome tracts in order to make the best long-range use of the areas.

For example, in California, out of 20 million acres there just cannot be any question but what the allocation of well suited areas, considering all of the competitive multiple uses, the highest form of use, the highest economic form of use is for homesite use. If this was realistically considered, with some check and balance, you would see immediately a tendency toward inflationary values for that.

The other point that should be recognized is that if a family has a special use permit and the parents become deceased, there should be the right of the survivors in that family itself.

Mr. FOLEY. Why?

Mr. DAVIS. As Mr. Peterson pointed out, in some cases five generations have used the same property.

Mr. FOLEY. I am not sure that may be true. I might or might not think that policy is one that we ought to follow. I think that we have 19,000 homesites, and that is all, that they may be giving somebody a lifetime use of Federal land that is in great demand and that it should not continue for five generations.

Mr. DAVIS. We feel that the 19,000 homesites are not enough.

Mr. FOLEY. Let me ask you this. I think Mrs. May knows my area and the surrounding properties. You could have made yourself millions of dollars if you had gone out after World War II and had just bought up a lot of property which was available. In one tract that I know of it was purchased in 1930 for \$5,000, and \$3,000 worth of improvements were made to it, and it sold for \$58,000 in 1956.

If the Federal Government is going to open up new homesites, are we not going to come to some criticism from private real estate operators who say it is \$20,000 in this place and \$10,000 in that place, and you are coming in now for \$150 a year. That is a serious problem. That is the problem that the Forest Service has. How many should they open up? The thing has changed since most of these permits were issued in 1930. There is fantastic national interest in recreation today. And the immense desirability of recreational properties.

Mrs. MAY. You were coming out with the kind of questions that I think are necessary.

At this point, Mr. Chairman, with your permission, since we have heard Mr. Greeley yesterday, and Mr. Peterson has submitted a statement, I think that at this point in the record we might, if Mr. Greeley would be willing, to let him respond to this question if there is any change in policy—that is, in the Forest Service policy—as to what emphasis they are going to put on future summer homesites as to the multiple use problem of the Forest Service.

STATEMENT OF ARTHUR W. GREELEY, ASSOCIATE CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. GREELEY. Mr. Chairman, I would like to comment, but I think that I could preface my comments with the remark that this is a fairly good-sized subject.

I would like to preface my comments by saying that this is a fairly good-sized subject, I repeat. We have had some preliminary discussion within the Forest Service about this. We have not given this as detailed a staff study as we would need to say that I now once and for all am committing the Forest Service on this point, but I think that our approach, basically, is that summerhome use is a much more restricted and much more nearly private type of use of public property than other categories of use, such as campgrounds, picnic grounds, organization sites, youth facilities, winter sport facilities. And for that reason we have always felt that summerhomes come lower in priority for the available space than these other types of recreational uses that I have mentioned.

We recently have made a new inventory of the future needs for recreational use of national forest lands. We find that the projections of use are more and greater than the last time we made such a projection. Although we have inventoried the sites that are available within the national forests for future development for campgrounds and picnic

grounds and for winter sport areas and for organization sites, and although we know the uses in the areas which are first in priority for each of these new types of recreational uses, we have not attempted to extend these projections as far as we would like—for the year 2000 and beyond, for example—and to be able to say for sure where there might be some area that could be used for private types of recreational use. Until we have made this type of projection, and until we have satisfied ourselves that we have made absolutely sufficient provision for all of the other types of recreation use where the public should be accorded priority, we would not want to have any more areas dedicated to summerhome use.

My boss last fall announced the policy of no more summer home permits being issued; that is, specifically, there would be no new summer home permits issued except for transfers. We might offer transfers where we had made commitments or where it would be desirable to make a commitment to offer a lieu lot to somebody, that is a permit-holder who had been put on notice that his use would not be renewed at the end of a term. We have made such commitments. We have also made such commitments where we find a cabin has been constructed on a mining claim with someone holding what they thought at the time was a valid mining claim but which on contest turns out to be invalid. Here because of the equities involved we may offer a permit for a residence as a means of regularizing that type of thing.

I think, to give a generalized answer to your question, as I see the future of the national forests, I do not think that there is going to be a very much larger place for summer home permits than is now the case. There may be some small increase, but not the significant kind of stepped-up increase that I think Mr. Peterson and Mr. Davis are asking for.

Mrs. MAY. How many new summer home permits have you issued in the last 5 years?

Mr. GREELEY. I doubt if we have issued any new summer home permits in the last 5 years, Mrs. May. We may have.

Mrs. MAY. How many previous to that, then?

Mr. GREELEY. Could I dig up some figures? I would need to check the records on this. We have issued some permits that involve the issuance of a permit for a lieu lot to transfer a cabin onto. I have not thought of those as being new summer home permits. There are some places where a residence tract has some vacant lots in it, and we have not instructed our field people to refrain from issuing permits where there is a vacant lot in an existing approved tract.

It is possible we have issued permits for new homes on these tracts that have vacant lots in them. There have been no new residence tracts approved in the last—well, in the last 10 years at least there have been no residence tracts approved by the office. And we require that tracts be approved here.

Mrs. MAY. There has not been any discussion of a future development of summer home permits under the multiple-use concept and you now have only 19,000—

Mr. GREELEY. That is correct.

Mrs. MAY. Thank you.

That is all, Mr. Chairman.

Mr. O'NEAL. I want to thank you, Mr. Peterson, and also Mr. Davis and Mr. Greeley for appearing here today.

It will be necessary for us to adjourn at this point.

May I inquire of the clerk if Congressman Lloyd has submitted a statement?

Mrs. MAY. I think that Mr. Burton did that for him.

Mr. O'NEAL. Has it been formally put into the record?

Mrs. GALLAGHER (clerk). Yes, sir.

Mr. O'NEAL. I understood also that Congressman Laird desired to offer a statement.

Mrs. GALLAGHER (clerk). Only when we reach his bill. We have other witnesses on that.

Mr. PETERSON. With your permission I have two statements that I would like to submit for the record which were sent to me to be submitted to the subcommittee. Could that be done?

Mr. O'NEAL. You mean by somebody else?

Mr. PETERSON. That is right.

Mr. O'NEAL. Would you give us their names?

Mr. PETERSON. One of them is by Mr. Nelson.

Mrs. GALLAGHER (clerk). That was inserted in the record yesterday.

Mr. PETERSON. I am sorry. Then I have one from Mr. Halford H. Cochrun, Twin Lakes, Mammoth, Calif.

Mr. O'NEAL. Without objection the statement will be admitted into the record.

Mr. PETERSON. Thank you.

(The letter dated June 11, 1967, follows:)

LOS ANGELES, CALIF., June 11, 1967.

Mr. O. S. PETERSON,

National Forest Recreation Association, in care of Dwight H. Barnes, Secretary to Congressman Johnson, House Office Building, Washington, D.C.

DEAR SIR: May I add my support to the enactment of Bills HR 740 and/or HR 4884 and urge the passage of the enactment that (1) Automatic renewals for permits and leases for residential use and (2) Full reasonable compensation for termination of a permit are just.

The personal property tax on structures on the land plus the annual fee for the lease permit are substantial and amount to a large investment in a lot only used two months out of a year.

Very truly yours,

HALFORD H. COCHRUN,
Twin Lakes, Mammoth, Calif.

JUNE 15, 1967

Mr. O'NEAL (presiding). The subcommittee will come to order.

I will first announce that because of the fact that Chairman McMillan finds it necessary to wear another hat this morning, he being also chairman of the House District Committee, and is engaged in connection with some other matters, I will preside in his place.

The Chair is informed that Mr. Lewis Sigler, Assistant Legislative Counsel of the Department of the Interior, is here at the request of several members of this subcommittee. Will you come forward, please? We will hear from you first.

I am very sorry that I was not present when Mr. Sigler's presence was requested, but I understand that Mr. Murray may have some questions that he would like to ask.

Mr. MURRAY. Mrs. May, in particular, wanted to ask Mr. Sigler about Public Law 89-249, passed in the last Congress, as to whether it applies to certain areas. She is not able to be here right away. She has another meeting to attend. But, with your permission, I will

go ahead and ask the general questions that she wanted to go into.

Mr. O'NEAL. Go ahead.

Mr. MURRAY. During the testimony that we have had before the subcommittee up to this point there has been a reference to Public Law 89-249 and its possibility of establishing a precedent as to the matters covered in the present bills which are before the subcommittee.

Would you be so kind as to comment on the general background and the reasoning for Public Law 89-249 and, in particular, whether there are any distinctions between the bills which are before the subcommittee at the present time and the reason for the enactment of Public Law 89-249.

**STATEMENT OF LEWIS A. SIGLER, ASSISTANT LEGISLATIVE
COUNSEL, DEPARTMENT OF THE INTERIOR**

Mr. SIGLER. Mr. Chairman and members of the subcommittee, I shall be glad to do this, Mr. Murray.

The background of Public Law 89-249 is set forth at some length in the House Interior Committee report on that bill while it was going through the Congress. It is a long history. Perhaps, this short summary might serve your purpose.

When the concession program started in the national park system, it was necessary to induce private capital to come into the parks and to build the hotel-type accommodations upon the national park lands.

It was difficult for private capital to get financing for that kind of venture, because they could not own the title to the land on which their buildings were placed and they would not own the buildings themselves, because they became fixtures on the land.

In order to induce concessionaires to come within the park, a practice developed of writing contracts which would give them what has since grown into the term "possessory interest." This was an evolutionary process, but the contracts provided in substance that when the contractor left, or when his permit was terminated or expired, he would have some protection for his investment. That protection took various forms.

One of them was to say that any subsequent concessionaire who came in and took over the facility would be required to pay the first or original contractor.

During World War II development almost ceased within the national parks. Following World War II, the problem became acute. Out of the negotiations with the various concessionaires came Public Law 89-249.

That law did little more than put into statutory form the policy that had been followed up to that time.

I may say, also, that the policy within the national parks with respect to concessionaires was the subject of differences of opinion within the Congress. The House Interior Committee and the Government Operations Committee and the Appropriations Committee all had different views about the policy which should be followed. Those differences of views did not necessarily relate to the possessory interest, but the whole policy of concessions in the national park system was under careful scrutiny by those three committees.

When the possessory interest clause was written into Public Law

89-249, it represented a consensus between the executive branch, the congress, and the concessionaires.

In substance, what it does is to state that if a concessionaire comes on park land under a contract or a permit from the Department and constructs a building, he will be entitled to a possessory interest in that building. Bear in mind, that the title to the building is in the United States. The concessionaire builds it, but it is our building. It is our land and our building.

The possessory interest means that the concessionaire who builds that structure is entitled to what is called by statutory authority a possessory interest, meaning that anyone else who uses the structure will have to pay the original builder. If the Government uses the structure, the Government will have to pay for it, also.

In addition to that, Public Law 89-249 provides that the Secretary of the Interior will, by contract, include whatever other provisions are necessary to protect the concessionaire's investment in the property.

All of this stems from the fact that it is necessary to offer this kind of an inducement before private capital can be persuaded to come within the park area and invest in a building on Government land that becomes the property of the Government.

This is all designed to provide a service, to induce the concessionaire to provide a service, for the general public that will be visiting the national parks.

You asked me for the distinction between that program and the one that you are considering. The distinction that I would draw is that the ordinary summer-home owners within the national forest—and I think the same thing is equally true of the summer-home owners on land under the jurisdiction of the Department of the Interior—come there for their own purposes, not to serve the public, but to use the public land for limited purposes, private purposes. Moreover, the conditions under which they enter are understood and agreed to at the time that they come on the land.

As I indicated, in the case of the national park concessionaires, we handled the problem by contract, and still do. I may repeat that the contracts were necessary in order to induce the concessionaires to come. I understand this is not the case in the ordinary summer-home owner case.

Mr. O'NEAL. To state it simpler, the Government does not need to offer them inducements—they come there of their own volition?

Mr. SIGLER. I think that is correct, Mr. Chairman.

Mr. O'NEAL. You may proceed.

Mr. MURRAY. For the record, also do the summer-home owners on Interior Department land have possessory interest rights?

Mr. SIGLER. Emphatically, no. They do not. And we would be very much opposed to giving it to them.

Mr. MURRAY. Those are all of the questions that I have. Thank you, Mr. Chairman.

Mr. O'NEAL. Mr. Foley.

Mr. FOLEY. Could you briefly tell us what the present policy of the Department of the Interior is in respect to summer-home permits on Department of Interior land?

Mr. SIGLER. Congressman Foley, I am not prepared to give you a detailed answer. The problem, I suspect you are aware, is acute in the Lower Colorado River area where "squatters" came onto the land with-

out any permission and built various kinds of structures, including summer homes. The Department has been attempting for several years now to bring some order out of that original trespassing situation.

My understanding is, and I would have to check it to be sure, that permits have been granted to most of those people—permits under which they have accepted voluntarily a limited occupancy and at the end of that time, if public use requires it, their permits will be terminated. If the lands are not needed for public use, then I think that there will be a continuation of the private permits.

Mr. FOLEY. Are these private permits in that case term permits, or do they run for 5 or 10 years, or what?

Mr. SIGLER. They are term permits.

Mr. FOLEY. Are there annual permits issued by the Department of the Interior similar to those issued by the National Forest Service?

Mr. SIGLER. I am not familiar with the Forest Service permits for summer homes. You say for summer homes?

Mr. FOLEY. Yes.

Mr. SIGLER. I do not know what the summer-home permits within the Park Service provide.

Mr. FOLEY. Could the Department supply us for the record, information as to the types of permits, the number of permits issued, by the Bureau of Public Lands, the Bureau of Reclamation, and any other Interior agency that issues permits for summer-home occupancy?

Mr. SIGLER. I will be glad to provide it for the record.¹

Mr. FOLEY. Thank you very much.

With respect to the national park concessionaires, in the event that some change in the concessionaire is anticipated and the sale of the possessory interest is contemplated, is this subject to the approval, as I would assume it would be, of the Secretary of the Interior?

Mr. SIGLER. No. My recollection is that it is not. The statute says that the possessory interest may be assigned, transferred, encumbered, or relinquished with no qualifications.

Mr. FOLEY. There is no review or control over the transaction by the Secretary?

Mr. SIGLER. Not with respect to the sale of the possessory interest in the building. We have the control, of course, of the land and the owner of the possessory interest could not use it for a business purpose without a permit from us covering the land.

Mr. FOLEY. Thus, for example, if a hotel were operated in a national park with a restaurant facility, the building could be sold without the permission of the Secretary, but it could not be used for any commercial purpose without the Secretary approving it?

Mr. SIGLER. That is almost correct. The possessory could be sold. The legal title to the building is in the United States. The possessory interest could be sold without any control by the Secretary, but it could not be used without a permit.

Mr. FOLEY. Would that be for any purpose, or just for a commercial purpose?

Mr. SIGLER. A commercial purpose.

Mr. FOLEY. The only way that you could sell it, sell the hotel, would be to turn it into a private residence?

Mr. SIGLER. Let me check first; just a moment. I think that it may

¹ See p. 66.

not be used for any purpose other than for commercial purposes, but let me be sure. I do not find it quickly.

Mr. FOLEY. What I am driving at is, if the Secretary has to give permission for a commercial use or any use he, really, does control, technically, the sale, if he wants to, because no one, I assume, will pay a large sum of money for a possessory interest in a building that cannot be utilized either for private or commercial purposes.

Mr. SIGLER. That is correct. And the buildings we are talking about are commercial buildings. They are not residential buildings.

Mr. FOLEY. Do you have any possessory interest, then, which can be transferred, or assigned, or sold?

Mr. SIGLER. I am not prepared to answer you on that. This is handled by part of the National Park Service.

Mr. FOLEY. Would you ask them, for the subcommittee, if they could supply us with any information relative to the sale, transfer, or assignment, or contemplated use, you know, under the present law, under Public Law 89-249?

Mr. SIGLER. Yes; I shall be glad to do so.

Mr. FOLEY. I would be interested in that. Thank you.

That is all, Mr. Chairman.

(The information above referred to, follows:)

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 22, 1967.

HON. W. R. POAGE,
Chairman, Committee on Agriculture, House of Representatives,
Washington, D.C.

DEAR MR. POAGE: During the course of the recent hearings before the Subcommittee on Forests on H.R. 741 and H.R. 4884, identical bills "To establish certain policies with respect to certain use permits for national forest lands", Congressman Foley requested this Department to supply the following information for the record:

1. *Permits issued by the Department for summer homesites which have not yet expired*¹

a. National Park Service-----	207
b. Bureau of Sport Fisheries and Wildlife-----	134
c. Bureau of Reclamation (estimate)-----	500
d. Bureau of Land Management (estimate)-----	200
Total -----	1,041

2. *Number of sales of possessory interests under National Park Service concession contracts for 1965*

	Made	Proposed
a. Sales to private parties-----	4	0
b. Sales to Federal Government-----	0	0
Total-----	4	0

We are enclosing a copy of the regulations which the Department recently issued with respect to occupancy of cabin sites on public conservation and recreation areas administered by it.

We hope that the above information will be helpful.

Sincerely yours,

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

¹ The terms of such permits are from 1 year to 20 years.

TITLE 43—PUBLIC LANDS: INTERIOR

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 21—OCCUPANCY OF CABIN SITES OF PUBLIC CONSERVATION AND RECREATION AREAS

JUNE 6, 1967.

Notices of proposed rule making were issued on July 15, 1965 (30 F.R. 8912) and November 15, 1966 (31 F.R. 14563), to create a new Part 21 of Title 43 of the Code of Federal Regulations concerning occupancy of cabin sites on public conservation and recreation areas administered by the Department of the Interior.

Interested persons were given an opportunity to participate in the rule making process through submission of comments. As a result of such comments the Department will withhold regulations concerning the issuance of new permits for cabin site occupancy, pending further study and further proposed rule making. Accordingly, pursuant to the authority vested in the Secretary in 5 U.S.C. 133z, the following 43 CFR Part 21 is issued effective upon publication in the FEDERAL REGISTER:

"Sec.

"21.1 Purpose.

"21.2 Scope of regulations.

"21.3 Definitions.

"21.4 Occupancy under permit of privately owned cabins on recreation areas and conservation areas.

"21.5 Occupancy under permit of Government-owned cabins on public recreation and conservation areas.

"21.6 Cabin site occupancy where a recreation or conservation area has been leased to, or turned over to, another Federal or non-Federal public agency for administration.

"21.7 Occupancy by trespassers.

"21.8 Appeals.

"AUTHORITY: The provisions of this Part 21 issued under 5 U.S.C. 22, R.S. 161, as amended. Sec. 10, Reclamation Act of June 17, 1902: 43 U.S.C. 373, 32 Stat. 390. Certain acts relating to lands under the jurisdiction of the Bureau of Land Management: 43 U.S.C. 682 (a)-(e), 52 Stat. 609, as amended; 43 U.S.C. 1201, R.S. 2478 (see also 43 CFR 2236.2); and 43 U.S.C. 869, 44 Stat. 471, as amended and supplemented. Certain acts relating to the Fish and Wildlife Service: 16 U.S.C. 460(k), 76 Stat. 653; 16 U.S.C. 664, 48 Stat. 402, as amended; 16 U.S.C. 686, 33 Stat. 614; 16 U.S.C. 690, 45 Stat. 448; 16 U.S.C. 725, 43 Stat. 651; and 43 U.S.C. 315, 48 Stat. 1270. And an act relating to the National Park Service: 16 U.S.C. 3, 39 Stat. 535, as amended."

§ 21.1 Purpose.

This part establishes (a) when, and by what standards, use of conservation and recreation areas under private cabin permits must be modified or discontinued so as to allow the public use of such areas and (b) the procedures for renewing, extending, phasing out, or terminating private cabin permits. No current permits or any valid existing rights, are, per se, canceled by the provisions of this part. However, permits may be canceled for cause, or pursuant to termination provisions within the permit itself.

§ 21.2 Scope of regulations.

The provisions of this part apply to all recreation or conservation areas administered by the Department of the Interior, including recreation or conservation areas leased or transferred for administration to other Federal and non-Federal public agencies, wherever the Department of the Interior retains jurisdiction over the issuance of cabin site permits by such other agencies. The provisions of this part do not modify or cancel any existing arrangement whereby the Department of the Interior or bureau or office thereof has leased, or turned over for administration, a public recreation or conservation area to another Federal or non-Federal public agency. The provisions of this part will also provide policy guidelines for the Departmental handling of assignments, amendments, or modifications of existing permits or agreements, but do not apply to areas transferred by deed where the United States retains a reversionary interest, nor to areas of the National Park System other than those where private cabin sites are located.

(a) The policies set out in this part shall not affect occupancy by private persons who have private rights, or rights of occupancy adjudicated or confirmed by court action, statute, or pursuant to a contract by which they conveyed to the Government the land on which a cabin or other substantial improvement is located.

(b) The policies set out in this part shall not apply to any concession contract or to any other permit or occupancy primarily granted to serve public rather than private or individual purposes—such as, permits granted to groups who assist in maintaining historic trails, or permits for youth and church group camp facilities, etc.

(c) The regulations in this part shall not supersede or substantially contravene the implementation of the Lower Colorado River Land Use Plan.

§ 21.3 Definitions.

(a) "Public recreation area" or "recreation area" means any land, title to which is in the United States and under the administration or jurisdiction of the Department of the Interior that is suitable for recreational purposes, including all such areas of the National Park System not excepted by § 21.2, Bureau of Reclamation Reservoir areas, and any other areas dedicated to or administered by the Department for public recreational use.

(b) "Conservation area" means any land, title to which is in the United States and under the administration or jurisdiction of the Department of the Interior that is designated for fish, wildlife, or other conservation purposes, including all such areas of the National Wildlife Refuge Systems, National Fish Hatchery Systems, and any other such areas administered by the U.S. Fish and Wildlife Service; also, land administered by the Bureau of Land Management and suitable for conservation or protection of fish or wildlife.

(c) "Permit" means any lease, license, or other contract whereby a public recreation or conservation area is made available, in whole or part, to an individual or group for recreational purposes for a stipulated period of time, but does not include leases or transfers to other Federal or non-Federal public agencies.

(d) "Cabin site" means any area within a public recreation or conservation area whose occupancy and use is granted to an individual or group for a period of time by permit.

(e) "Substantial improvement" means any building, structure, or other relatively permanent facility or improvement affixed to a cabin site, utilized for human occupancy or related purposes, and costing or worth \$1,000 or more. It does not include trailers or similar removable facilities.

(f) "Investment" in a substantial improvement refers to the basic expenditure of moneys or property in kind in connection with a particular improvement. Thus, for example, where property is conveyed by testamentary or inter vivos gift, the donee will be seen only as occupying the position of the donor with respect to the time and amount of the investment since it was the donor who made the investment.

(g) "Amortization" is the process whereby the investor in a substantial improvement derives sufficient use and/or economic benefit from the improvement over a period of time as to reasonably compensate for his investment.

(h) "Trespasser" means any person who is occupying land in a public recreation or conservation area without a valid permit.

(i) "Authorized Officer" means any person or persons designated by the head of any bureau or office of the Department with administrative jurisdiction over a particular conservation or recreation area, to make determinations and take other actions, consistent with the regulations in this part with respect to such area.

§ 21.4 Occupancy under permit of privately owned cabins on recreation areas and conservation areas.

(a) In any area where the Authorized Officer determines that the recreational requirements of the general public are limited, and is an area where private cabin site use has heretofore been permitted, he may extend or renew permits. Each such existing permit and any extension or renewal thereof will be:

(1) Reviewed at least once in every 5-year period to determine that the continued use of the individual cabin site is not inconsistent with the needs of the general public for use of the area. In periodically reviewing whether the existence of private cabin sites conflicts with the best public use of an area, consideration shall be given to (i) existing and projected public need for the

area, (ii) compatibility between public uses and private cabin sites, (iii) development potential and plans for the area, and (iv) other relevant factors.

(2) Whenever the Authorized Officer determines that the public need for use of a recreation or conservation area has grown to a point where continued private cabin site use is no longer in the public interest, the procedures set forth in paragraph (b) of this section will be invoked to phase out existing permits by reducing and eliminating renewals, or extensions, consistent with protection of legitimate investment in improvements. These determinations and the reasons therefor shall be published in the FEDERAL REGISTER, together with such other forms of public notice as may be appropriate and necessary as determined by the Authorized Officer.

(3) Except as otherwise provided in an existing permit, no substantial improvement may hereafter be placed on any cabin site under permit without the prior approval of the Authorized Officer, and on such terms as the Authorized Officer may provide, consistent with public need. All renewed or extended permits shall contain this provision. Any such provision shall expressly state that the permission to place a substantial improvement on the site is a limited license subject to public need for the area and does not give the owner of the improvement any interest in the land or any special rights or equities, other than the right to remove the improvement at any time, subject to the land being left in reasonably unimpaired condition. This provision shall expressly stipulate that the owner shall have as a time period within which to amortize his investment in a substantial improvement placed on the site after the date of the regulations in this part, only the period of his existing permit, together with such extensions of his permit as may be granted consistent with the regulations in this part.

(b) Whenever the Authorized Officer determines, pursuant to paragraph (a) (2) of this section that the needs of the general public for a particular public recreation or conservation area are sufficient to be inconsistent with further use of that area for private cabin sites, no further extension, or renewals of permits for any individual site shall, except as otherwise required by law, be granted for any period extending more than 5 years after the effective date of that determination: *Provided, however*, That, except as otherwise required by law, if an investment was made in a substantial improvement upon a site before the effective date of this part, the extension or renewal of the permit for such site shall be made for a period sufficient to permit 20 years amortization of the investment from the date of the investment in the improvement upon the site, unless the Authorized Officer finds that the needs of the general public for that site require that the extension or renewal be for a lesser period. Thus, for example, if a permit for the site is purchased before the effective date of the regulations in this part with the substantial improvement then in place, for a consideration of \$1,000 or more, such amortization period runs from the purchase date, and is not affected, in any event, by the date of the determination under paragraph (a) of this section. The amortization period for any investment in a substantial improvement on or after the effective date of the regulations in this part is covered by paragraph (a) (3) of this section, this paragraph (b), and subparagraph (5) of this paragraph.

(1) Any permit, in an area required for general public recreation or conservation use, that expires prior to 5 years after the determination described in this paragraph (b), may, if otherwise authorized by law, be extended to the end of such 5 years if the Authorized Officer determines that such extension is necessary to the fair and efficient administration of this part.

(2) Any renewal or extension of a permit pursuant to this part shall be subject to the condition that the occupant maintain the site and the improvements thereon in a good and serviceable condition, ordinary wear and tear excluded.

(3) Any renewal or extension of a permit shall expressly state its termination date and that there will be no extension or renewal thereafter, except as provided by this part. Permits shall expressly state that they grant no vested property right but afford only a limited license to occupy the land, pending a greater public use.

(4) Upon termination of occupancy under a permit, its renewal or extension, the permittee shall remove his improvements from the site within 90 days from the date of termination, and the land shall be left in reasonably unimpaired condition and as near to its original undisturbed condition as possible. Any property not so removed shall become the property of the United States or may be moved off the site, at the cost of the permittee. Any renewal, or extension, of a permit shall state these requirements.

(5) Voluntary and involuntary transfers of cabin site permits, including by sale, devise, inheritance, or otherwise, may be permitted, subject to approval by the Authorized Officer, subject to the terms, conditions, and restrictions in the permit. No such transfer shall operate to extend the terms of a permit. A transfer after the effective date of the regulations in this part shall give the transferee no rights in addition to those which the transferor had. Where any transfer of a cabin site permit is approved, the approval shall state in writing the requirements of this subparagraph, and include the statement that the amortization period for any substantial improvement located on the site shall be limited to the period to which the transferor would have been entitled under the regulations in this part.

(6) Nonuse of a site for a period of more than 2 consecutive calendar years shall terminate the permit without right of renewal (subject to the specific terms of the permit): *Provided, however*, That where the nonuse is the result of the death, illness, or military service of the permittee the Authorized Officer may waive such nonuse. In such case, sale or transfer of the improvement may be made for the unexpired portion of the permit and subject to the provisions for amortization set forth in this section. The Authorized Officer may make exceptions to this termination provision in any case where he determines that the needs of the general public so require (see introductory text of this paragraph (b)). All permits renewed, or extended after the effective date of this part shall state the requirements of this paragraph.

§ 21.5 Occupancy under permit of Government-owned cabins on public recreation and conservation areas.

(a) Those permittees who occupy Government-owned cabins, including those whose permits currently have expired, but previously have been renewed on a year-to-year basis, may have their permits renewed up to July 1, 1969. After that date, the permits shall not be renewed and shall be terminated finally except upon a determination by the Authorized Officer that a renewal or extension is fully consistent with the public use of the area.

(b) The provisions for amortization of substantial improvements do not apply to this type of occupancy.

§ 21.6 Cabin site occupancy where a recreation or conservation area has been leased to, or turned over to, another Federal or non-Federal public agency for administration.

(a) After the effective date of this part, any agreement whereby a recreation or conservation area is leased or turned over to another Federal or non-Federal public agency for administration, shall include the requirement that any permits to individuals, groups or others issued or extended by another Federal or non-Federal public agency to whom an area has been leased or transferred for administration, shall comply with, and set forth on the face of the permit, the requirements stated in this part. Similar requirements shall be applied in situations where an existing agreement reserves such authority to this Department.

(b) All such arrangements between another public agency and a permittee (see § 21.2) shall be reviewed by the Authorized Officer to assure full compliance with those provisions of the permit which are designed to assure performance in the best interests of the general public.

(c) Renewals, extensions, or new leases or transfers to other Federal, State, or local agencies for administration of public recreation areas, shall be granted only pursuant to the policies set forth in this part, and only upon an affirmative finding by the Authorized Officer that they are fully consistent with present and future public uses. All applicable safeguards set forth in this part, including the protection of future public uses, shall be expressly incorporated into such leases or transfers.

§ 21.7 Occupancy by trespassers.

Occupants of cabin sites who do not hold a valid permit for the occupancy or use of the site, shall be required to surrender occupancy, failing which legal action shall be taken. Nothing herein shall grant any rights to a trespasser.

§ 21.8 Appeals.

Any determination made pursuant to any of the provisions of this part may be appealed within 90 days of the receipt of notice thereof to the head of the Bureau or office having jurisdiction (see § 21.3 (h)) who, if he shall not have issued decision within 60 days of receipt of the appeal, shall be deemed to have rejected the appeal. A rejection or denial of an appeal may be further appealed within 60 days thereafter to the Secretary of the Interior.

STEWART L. UDALL,
Secretary of the Interior.

Mr. O'NEAL. Thank you, Mr. Sigler. We appreciate your appearing here today.

We are now going to hear from Congressman McFall next with respect to his bill, H.R. 4122.

At the same time, I would like to apologize to Dr. Smith, who has been waiting here for 3 days to be heard. I understand that he has to leave town tonight. He is listed on the docket this morning.

I am sorry that these other things came up.

All right, Congressman McFall, we will be glad to hear from you now.

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

Mr. McFALL. Thank you for the opportunity to come here today ahead of the other witnesses, Mr. Chairman.

Your committee has what I think is a very important and, perhaps, a very difficult problem to work out, that is, the equities between some of these people who are in Forest Service lands.

I have a prepared statement which I would like to have you print in your record, and then I would say a few words about it.

Mr. O'NEAL. Without objection, it will be printed in the record in full at this point and will be studied, I am sure, by the subcommittee, and we will be glad to hear you speak further.

(The prepared statement of Hon. John J. McFall, a Representative in Congress from the 15th Congressional District of California, above referred to, follows:)

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

Mr. Chairman, I appreciate this opportunity to present a statement to your subcommittee in support of identical bills introduced by several of my colleagues and myself, calling for revision of policies affecting special use permits on national forests.

The proposed legislation would, in effect, provide a modicum of security to thousands of persons who have made considerable investment in the development of summer homes throughout the years by providing them with a possessory interest in the property. It also would apply to persons who acquire or construct structures, fixtures or improvements on national forest lands in the future.

Similar legislation was approved in the last Congress to benefit concessionaires operating within National Parks under the jurisdiction of the Department of Interior.

The effect of the enactment of the proposal under consideration, in my estimation, would be twofold: 1. It would provide equitable payment to cabin owners in the event their improvements must be dismantled or moved when the land is required for higher public use; and, 2. It would be a needed stimulus for the Forest Service to be absolutely certain that any plans they prepare for utilization of property previously set aside for summer cabin use actually are the best possible procedure to meet the higher public use under consideration.

Last year we had an example of just how adamant and unyielding this sub-agency of the Department of Agriculture can be in carrying out such a program. This occurred in connection with the Forest Service's determination to take over three lots on the edge of a small lake in the Pinecrest Recreation Area of the Stanislaus National Forest of California. Although I do not represent this locality in the Congress, the three cabin owners are permanent residents of my District.

By taking over the three lots, approximately one-third of an acre of beach has been provided as increased area for use by day visitors at Pinecrest Lake.

Present plans call for the eviction in 1972 of nine other summer home owners whose lots adjoin those of the three who were evicted. All together, however, only about three acres of beach area, picnic grounds and camping facilities will be added by the project.

As I commented when I appeared before your subcommittee a year ago in June in connection with proposed legislation to assist these home owners, the development plan did not appear to be a practical solution to meeting the admittedly greater recreational needs of people who travel to the Sierra region. Because of weather conditions, utilization of the beach is not practical until about June 1 of each year, and beginning about July 10 when the level of the lake by the Pacific Gas and Electric Company is lowered, there is a large amount of beach available.

An alternate plan to provide additional frontage for the public during the short period when it is needed was submitted to the Forest Service by the 12 home owners along the beach. While agreeing that it was feasible and could provide an additional acre of beach for about \$63,000, the Forest Service refused to accept it, claiming that it would create some danger to swimmers because of a steeper incline.

Following the hearings last summer, the full House Agriculture Committee approved a resolution, requesting the Secretary of Agriculture not to proceed with the eviction of the three home owners until such time, at least, that the Public Land Law Review Commission had completed its work. The Secretary of Agriculture refused, however, to accept the recommendation.

The three lots now are clear. Two of the home owners moved their improvements to in lieu lots away from the lake at considerable personal expense. The third had his summer home dismantled because he could not afford to have it moved.

Several Members of Congress, including Congressman Harold T. (Bizz) Johnson, who represents the Pinecrest area in Congress, and I attempted to convince the Forest Service that the public would be better served by concentration on development of other potential lake and recreation sites in the area, but to no avail.

The unfortunate part of this particular story is that many years ago the Pinecrest Recreation Area was set aside exclusively for summer home development by the Forest Service and the public was encouraged to build. They were led to believe that Pinecrest would always be a summer home site, and as a consequence, many of the 162 permittees made substantial investments in building homes that range upward in value to \$40,000 or \$50,000.

The home owners also have invested approximately \$440,000 in building roads, providing fire-fighting facilities and other necessary utilities. They have been paying taxes on their improvements throughout the years, in addition to paying rentals of approximately 5 per cent of the lot values to the Federal Government.

The bills under consideration today, would in effect merely be recognition of this possessory interest upon which local taxes are paid, while at the same time retaining legal title to the land itself by the Federal Government.

Earlier in my statement, reference was made to action taken in the 89th Congress whereby commercial concessionaries were granted possessory interest in National Park lands on which they make improvements. In my estimation, it would be equally fair to provide such protection to persons who have made large investments in their summer homes (many of which actually are used the year around).

In the event that higher public use does require home owners to relinquish their property, the Forest Service should be required to compensate the permittees for improvements if they cannot be moved, or pay the costs of moving the improvements to other lots which may be assigned in lieu.

I earnestly request, Mr. Chairman, that favorable consideration be given to the measures before the subcommittee today.

Mr. McFALL. I will not summarize the legislation. You know that this legislation is patterned after the legislation which this committee approved, giving possessory interests to the concession owners in the national parks and would permit the summer home owners required to relinquish their property, to be given either compensation or moving expenses when they leave.

The problem of these people is that they have made significant and salable investments over the years in building summer homes on these lands. They have paid the rental fees to the Government approximating about 5 percent a year. And the permits are for a short duration. And they provide for the Government to take over the land. This is always in existence.

As stated, they have made large investments in the building of roads and the bringing in of necessary utilities.

I heard the testimony of one of your first witnesses, and some of the questions that were asked. And there was brought out there is a difference in this respect, the possessory interest which has been granted by the legislation to these commercial interests who come in because they do offer a service to the public. There has been no inducement to these people, that is, to the private homeowners who come in for their own private purposes. They are not related to the public interests. And yet I would say to you that it depends upon the circumstances of each individual case.

Prior to World War II, there were inducements, oral inducements perhaps, but inducements, by another generation of Forest Service rangers who invited these people to come in, to develop the public lands for private use.

There is an example in California which was developed in the 1920's by private owners. They were asked to come in—they were invited to come in—by the Forest Service. They not only built homes, which are not the ordinary summer homes—they bought rather large, expensive homes. They developed their water service. They built roads. They provided fire service.

They provided utilities. The fact that they have a regular community there that they have built themselves is evident. Some three of these were asked to move. You have heard the testimony here last year about their plight. And by 1972 some other homes will be asked to move.

These people went in there with their own money and their own time and they developed the area.

I would believe from this experience that there are other areas throughout the national forest lands that have been developed in just exactly this way.

This generation of Forest Service people are not inducing private people to come in on this basis, because there is now a shortage of public land for private use and they do not need to induce them. But in those days, in prior years, there was a necessity to get the forests developed, to get these people in, and they did put their own funds in to much more than just the homes—they put in themselves. And so in each case, I would think that you have equities which can be valued, which would permit, in the case of the Pinecrest owners, the conclusion that they should be paid, at least, moving expenses or perhaps some compensation for their homes.

In other instances, there would be no such equities. And the homeowner would not have the right to such a thing.

I would point out that there is this difference in the testimony that has been brought before your subcommittee.

Thank you very much for permitting me to appear.

Mr. O'NEAL. Mr. Foley, any questions?

Mr. FOLEY. Yes, Mr. McFall, the subcommittee is going to be grappling with the problems of equities that you have mentioned in one aspect of your testimony.

Would you, personally, think that there would be any objection to a policy being issued by the Forest Service that if any permits were transferred on land on which improvements have been made, that the permittee be compensated for the improvements?

Mr. McFALL. This would be a way of reaching at this equity. I am not certain how it would work out in any particular case.

Mr. FOLEY. In other words, you say that this generation of forest rangers are not encouraging people to come into the forest?

Mr. McFALL. They are not. There is a shortage of land.

Mr. FOLEY. Many people would like to come in, but do not have the privilege to do so. The expression has often been made that this situation has been very unfair when permittees are, in effect, permitted to sell the premises.

Mr. McFALL. That is right.

Mr. FOLEY. Plus the value of the improvements thereon.

Would it not take care of any inequities to the permittees if they received the fair value of their improvements from a subsequent purchaser of the improvements only, but that that person would come in by some other equitable means?

Mr. McFALL. Certainly, it would be more equitable than just to throw him off altogether.

Mr. FOLEY. Do you think that he would have any complaint himself—does that seem to violate the equities of the original permittee?

Mr. McFALL. It would depend on whether or not you permitted him to continue if he wanted to do so.

Mr. FOLEY. Permitted to continue; yes, in other words.

Mr. McFALL. And to transfer to—

Mr. FOLEY. To transfer by sale or lease, or by other means.

Mr. McFALL. That would be more equitable.

Mr. O'NEAL. In other words, he would not be permitted to make a profit—that the profit would go to the Government.

Mr. McFALL. I do not think that there ought to be any profit involved in this thing, in holding an interest in forest lands. Even these people who have these interests which they acquired long ago, under different circumstances, should not have that. I do not think that there ought to be any profit involved here.

Mr. O'NEAL. Thank you.

Mr. McFALL. Thank you.

Mr. O'NEAL. Congressman Don Clausen is now recognized in behalf of his bill, H.R. 8921, which is similar to H.R. 4884.

We are very glad to have you here.

STATEMENT OF HON. DON H. CLAUSEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. CLAUSEN. Mr. Chairman and members of the subcommittee, first of all, I am pleased that I have this chance to follow Mr. McFall, because I find myself basically in concurrence with his point of view.

And I might also add in the responses that he gave to the questioning by Mr. Foley.

I attended the hearings that were held in the Pinecrest area. This was a special committee of the House Public Works Committee, that went out to Pinecrest in California at the instigation of Congressman Johnson, of District No. 2 in California. And many of the problems that were expressed during these hearings were, in effect, in Mr. Johnson's district, which I found very similar to some of the problems that I have in my congressional district, the First Congressional District, which is contiguous to Mr. Johnson's district in California.

I think that what we are faced with, Mr. Chairman, as a basic question is that the people who are the permittees who have these use permits issued by the Forest Service have developed these equities, which has been suggested by previous witnesses and, again, I am saying that I am basically in agreement with the testimony of Mr. Johnson, in that I think the examples cited are very similar to those in my area, but these people have developed these substantial properties. And it just seems to me that whenever they are asked to vacate the properties upon which they have these improvements by the Forest Service that they recognize that this is an interim permit, but I believe that there is an equity factor and I believe also that it will encourage the use of these lands that are, in effect, now locked up.

As you know, in California, we have a number of people coming in each day looking for recreational opportunities. And it would seem to me that it would be in the public interest to permit these people to recover whatever equity they have, should the Forest Service need to recover these lands, to take them back for whatever the need that the Forest Service might have under their land management programs.

Mr. Chairman, I want to thank you and the members of this subcommittee for extending me the privilege of testifying today on behalf of my bill, H.R. 8921, a bill to establish certain policies governing use permits for national forest lands.

I believe Mr. Johnson has stated the problems and examples very well so I will not repeat the details that apply to my own district other than to say that the cases are very similar, but I want to associate myself and agree with Mr. Johnson's statement before this committee.

With nearly 50 percent of the land in California now owned by the Federal Government and with a preponderance of national forest land included, this proposed legislation, needless to say, has great significance for the people of my district and the State of California.

Many of these people, Mr. Chairman, have a legitimate, vested interest in the national forest lands. Here they build their own homes, summer retreats, hunting cabins, and other various and sundry structures which, in many instances, represent substantial investments.

These lands also serve as a source of livelihood for lumbermen, miners, and others who depend heavily on these lands for making a decent living and earning a decent wage but who have not realized the full potential offered in the vast forest lands of America.

This proposed legislation, Mr. Chairman, has a specific intent to deal with a specific problem. At present, holders of use permits on national forest lands must bear the financial burden for damage to, removal, or alteration of their personal property and improvements which may result from Government recovery of the land. This bill attempts to correct this injustice by providing protection of the rights of use permit holders.

Enactment of this bill, however, would go far beyond its specific intent and, with your indulgence, I would like to briefly summarize the true potential of this legislation, as I see it.

One of the major problems limiting man's use of forest lands is the question of accessibility. I need not remind the members of this subcommittee of the devastation that annually plunders major forest lands in California—the result of forest fires out of control that cannot be reached by firefighters.

Three years ago, Mr. Chairman, the House Public Works Committee, on which I am privileged to serve as a member, increased allocations for forest access roads from \$70 to \$85 million a year for the Nation. Last year, we were successful in doubling this important authorization to \$170 million, thus representing a major advance by the Government in attempting to open up inaccessible forest lands.

I recount these points for the sole purpose of apprising this subcommittee of the many efforts that have been and are yet being made to deal with the access problem. As you can see, much remains to be done.

In areas in which forest lands abound, the economic picture is, indeed, bleak. Unemployment is steadily rising, money is getting tighter, and the mining and timber-oriented industries are experiencing a slump which has reached dangerous levels. Here again, much remains to be done if these industries, vital to our district and the Nation's economy, are to receive a much-needed "shot in the arm."

What will this bill do, if enacted into law, to resolve or help resolve the many problems which I have outlined here today?

First, it will correct the injustice to those holding special use permits in national forest lands by extending possessory rights to them. As such, they would be protected should the Government need or decide to recover these lands. Under the terms of this proposed legislation, the Government may continue unabated to recover forest land in the greater national interest. However, use permit holders would be reimbursed by the Government for any damage incurred in such cases. This would be accomplished on the same basis as is presently authorized for concessioners in national parks.

Second, it will contribute immeasurably to opening up thousands of square miles of back country through the resultant demand for extended accessibility into our forest lands. Accessibility for industry, for firefighting, for sport, recreation, tourism, and for those who wish to make their homes in the beautiful forests of America.

And third, it would greatly encourage future financing and building on forest lands, thereby dealing directly with the unemployment and slumping lumber and mining industry problems which I have outlined.

This proposed legislation, Mr. Chairman, embodies the principle of multiple use of our public lands—a philosophy I have long held and advocated. It is imperative, in my judgment, that maximum use be made of these lands to serve the greatest majority of our people.

Quite frankly, I know of no better example of this multiple-use concept than those provided in H.R. 8921, and the companion bills of my fellow California colleagues, Mr. Johnson and Mr. Mathias.

In closing, I urge favorable consideration and swift action for passage of this bill because, in my opinion, it is direly needed and deserves the immediate attention of Congress.

I have a number of permittees who have developed substantial equities in the improvements on Forest Service land.

I believe that they are entitled to compensation or relocation expenses for this possessory interest, should the Forest Service need to "take back" this property prior to the termination date of the use permit.

With the multiple-use philosophy applied to Forest Service land, it seems to me that more people could enjoy the privileges of these use permits, with the passage of this bill, as well as protecting the existing permittees. This would seem to be in the public interest.

It would, also, serve to help people finance cabins and/or personal recreational facilities with this type of possessory interest guarantee. This, in turn, would help our depressed home construction industry.

As one of the Members of Congress, I am a strong advocate of doing everything possible to see that the multiple-use concept for the Forest Service is advanced. And I think that by the passage, as previously stated, of this legislation that it would permit the possessory interest to be retained and protected by these guarantees.

If there are any questions in this respect, I believe, I shall be happy to try to answer them.

One other final point.

Some of you are familiar with the fact that the lumber industry is very much dependent upon access to these lands. Also, the mining industry. As it now stands, both of these industries are in a very depressed condition, and I would think that if there is an opportunity to encourage building on these lands, this might, in effect, help the lumbering industry during this period of time.

Thank you.

Mr. O'NEAL. Thank you, Mr. Clausen, for your very helpful statement.

Mr. Foley, do you have any questions?

Mr. FOLEY. You are not suggesting, Mr. Clausen, that timbering and mining companies be given possessory interests in roads and improvements on national forest lands; are you?

Mr. CLAUSEN. No, no. This is, principally, Mr. Foley, my principal objective for recreation, the summer-home people.

Mr. FOLEY. This seems to raise some question about the way that might be claimed; that is, in the bill—and that is why I asked the question. That is my reason for it.

Also, it seems to me that the object of the legislation is to provide, as Mr. McFall said, compensation as to the equity for the improvements or, at least, of the moving costs. The legislation seems, however, to be far more reaching than that in creating possessory rights.

Do you feel that some attempt by the Forest Service to compensate the terminated permittee would be all right?

Mr. CLAUSEN. I am inclined to think so. As you know, the legislation itself was developed to follow the pattern or the precedent established by the Park Service for concessionaires relating to so-called possessory interests. I think that your principal objective here, as you say, is to guarantee that the people who have these improvements, or who have made these improvements, would, actually, be compensated, or that payment would be provided for relocation costs should the Forest Service come back and reclaim the land for its own uses.

Mr. FOLEY. Would you see any objection to adopting a policy or a statutory provision that no transfer of any permit could be made except to a person willing to pay the reasonable value of the improvements thereon, and that such person be designated by the National Forest Service itself and taking away from the permittee any selection of the person?

Mr. CLAUSEN. I think it would be an improvement over what we have now.

Mr. FOLEY. And so far as you can see, there would not be any objection—you still would favor that legislation?

Mr. CLAUSEN. Yes.

Mr. TEAGUE of California. Will you yield?

Mr. FOLEY. Yes.

Mr. TEAGUE of California. A question involving moving costs: That seems to me that it presents a very difficult practical physical problem. There would be the difficult problem of these houses which have been designated by the Forest Service to be vacated, to be moved—they are surrounded by trees in many instances. I think Mr. Clausen knows about that. It might not be practical or possible to move these homes.

Mr. FOLEY. If you will yield back to me, I would assume that the moving costs would be the reasonable value of the improvements.

Mr. TEAGUE of California. Physically, in some instances, you could not meet that.

Mr. FOLEY. You could not do it in some cases, yes. I presume that if it is a brick structure which would require \$100,000 to move, and that its reasonable value was \$30,000, that would be the maximum amount to be provided.

Mr. TEAGUE of California. You would not contemplate cutting down a lot of trees, or to widen roads, to physically move such an installation?

Mr. FOLEY. That would be up to the Government; which is cheaper, to pay the reasonable value of the place in sight or to pay the reasonable moving costs? I do not conceive of allowing the permittee to move his house at any expense. The maximum expense would be at the option of the Forest Service as to the reasonable value of the property, the actual moving expenses. If they were less, I think that ought to be in the option of the Forest Service, as well.

Mr. CLAUSEN. I could not disagree with that. I would think, certainly, that we should keep in mind our overall objectives. These facilities are recognized to be temporary, because otherwise we would continually have the Government in competition with private land developers that do encourage the owners of the land to have a fee simple title. I think that your principal objective, again, is that this is land that is not being used, but the Forest Service does have a plan under the land management program for a future use for it. But it would seem that during this period of time when it is not being used and there are a number of people who could actually enjoy these lands and have access to them, should have that privilege, but that the facilities or the improvements thereon, certainly, should be recognized as a temporary facility.

Mr. FOLEY. I agree with your statement. It seems to me that one of the considerations that the committee has before it is whether the

rights are issued to individual citizens or whether we are issuing them to continuing generations of a family, and in that, we are getting very close to giving private title to public lands.

I would suggest that giving security to the permittees, if we give them to the individuals—and when they want to transfer them or to leave them and give them to other citizens, or to offer them to other citizens, I would be opposed to a private deed of public lands for a summer home.

I have said this to my own people, and I say it for the record, too.

Mr. CLAUSEN. I am in agreement with that, Mr. Foley, I think. I do want to make certain that what we do is not to place the Government in competition with private development firms, but by the same token, there are a number of people that would seek enjoyment and have enjoyment in access to these lands.

One final point. As you know, we have a vast problem associated with firefighting in this sort of thing. I think there is an opportunity to carry on educational programs and, hopefully, develop support for the desperately needed access roads into these lands, so that there is maximum utilization of the lands, rather than just sitting there dormant and saving everything for the next generation when, in actuality, there are people today who seek some enjoyment from the lands. I think that we can work it out. I am not married to the contents of my own bill.

If it goes too far, I leave it to the judgment of this very able committee that I am testifying before.

Mr. FOLEY. Thank you.

That is all, Mr. Chairman.

Mr. O'NEAL. Mrs. May?

Mrs. MAY. Mr. Clausen, coming back to your response to a question that Congressman Foley put to you, you said that you thought that some compensation for moving costs would be justified.

There is another part to this. We have heard from the testimony that many of these areas have people who have developed summer homes on them and have made substantial improvements on these plots of land. They have installed sewage systems, fire equipment, electrical equipment, water systems, and devices. I question whether we could confine compensation merely to the home moving costs. I think that there should be something to cover these other parts. That is, where there are 15 or 20 people who have gone together and have worked out these communities.

There are many problems where people are in an area which has been developed by a number of people.

Mr. CLAUSEN. Actually, the Pinecrest area in California is a classic example of what you are talking about. I think that Mr. McFall said that there, practically, were inducements made. And it would seem to me that in that particular aspect the Government has an obligation.

Mrs. MAY. In your statement, I noticed that on page two, I believe, you state, "Second, it will contribute immeasurably to opening up thousands of square miles of back country to the resultant demand for extended accessibility into our forest lands. Accessibility for industry, for firefighting, for sport, recreation, tourism, and for those who wish to make their homes in the beautiful forests of America."

In our testimony from the Department this week, I think that you should know that it has been made very clear that the Forest Service

policy at the present time is not to issue any new permits at all. Maybe some future day there will be a change in that policy, to give permission to build more summerhomes, but I would say that under the present policy of the Forest Service it is very doubtful. At least, I would assume that from the testimony of the Forest Service.

Mr. CLAUSEN. From some of their testimony, are you suggesting that there are not going to be any use permits granted for homes on these lands?

Mrs. MAY. As far as I can determine and interpret the testimony that has been presented, that would be correct, yes; which would be at the present time. They have studies being made on the best use of the lands in each forest. It may be that as the result of these studies that they might change their policy, but not at present, that is not their policy.

Mr. CLAUSEN. Was there any indication as to the Forest Service timetable on the computation and completion of these studies?

Mrs. MAY. No. I asked that question. They were not able to supply this information.

Mr. CLAUSEN. I think that it would be the obligation of the Congress to work, certainly, with them in evaluating their overall future plans, up to and including the possibility of releasing some of these lands if they are not needed for specific Forest Service objectives.

Mrs. MAY. That might possibly come, as I have already said.

Mr. CLAUSEN. Thank you.

Mrs. MAY. Thank you. That is all.

Mr. O'NEAL. Thank you very much.

(The following statement was also submitted from the Pinecrest Home Owners Association:)

STATEMENT IN SUPPORT OF H.R. 740 AND RELATED BILLS, PINECREST HOME OWNERS ASSOCIATION, J. K. WILLIS, PRESIDENT

Mr. Chairman, on behalf of the Pinecrest Home Owners Association I did want to join with others represented here in support of H.R. 740 and other bills which this committee is considering today.

We as members of the National Forest Recreation Association certainly endorse completely the statements which were made by the Association's representatives, President O. S. Peterson, and Executive Secretary Mayhew H. Davis. Our good friend and Congressman, Harold T. (Bizz) Johnson, representing the Pinecrest area and so much more of the Sierra-Nevada area in which most of California's cabins are located, has also made a very fine statement, and we would associate ourselves completely with his statement.

Mr. Chairman, we at Pinecrest are well aware of the problems and situations with which we are faced here today. The history of summer home use at Pinecrest dates back for more than 45 years. Ours was one of the first associations formed in the early days to develop the water utilities and other facilities which we needed as the area grew. The Pinecrest Association was founded in 1924 and dues and assessments collected by the Association and spent for maintenance and development of utilities exceed half a million dollars. We have at Pinecrest the following investments:

- (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 shop, real estate offices, and several other businesses such as group and organization camps normal to a resort community.

You can see that we have a huge investment in private funds in improvements located on national forest lands. This investment was under the encouragement and supervision of the U.S. Government working through the Forest Service, and we do not believe that this investment should be jeopardized through administrative Act such as already happened in Pincrest. Therefore we believe that it is only fair to request consideration such as is proposed in the legislation you have before you today.

Mr. O'NEAL. We finally get down to the first witness on the schedule for today. I apologize again. Dr. Smith has been here for 3 days.

We will now hear from you, Dr. Smith. Dr. Smith is secretary of the Citizens Committee on Natural Resources.

I might state, too, that I am willing to continue here for a reasonable time or until the quorum bell rings.

STATEMENT OF DR. SPENCER M. SMITH, JR., SECRETARY, CITIZENS COMMITTEE ON NATURAL RESOURCES

Mr. SMITH. Mr. Chairman and members of the committee, I am Dr. Spencer M. Smith, Jr., secretary of the Citizens Committee on Natural Resources, a national conservation organization with offices in Washington, D.C.

A number of measures pending before the committee, relating to special use permits on national forest lands, brings to public attention again a problem which has concerned our committee for a considerable period of time.

Most recently, we were concerned when Public Law 89-249 was enacted, wherein the National Park Service concession policies were established. Our concern at that time was the latitude allowed the concessionaires in the national park system. Our protests at that time were not so much germane to the specific provisions of that act, as they were to the precedent that we feared would be established by such a statute.

The motivating force of the National Park Concessionaires Act was the need for private enterprise to provide facilities for visitors to the national park system. Concessionaires were asked to make unusually large investments at a risk not commensurate with almost any other similar activity.

We faced a dilemma as did the National Park Service, since it was necessary to provide facilities for visitors to the national park system without compromising the administrative prerogatives of the National Park Service in administering the park system for the overall public benefit.

I will say that if we had this to do over again, we would not do it. I think that we ought to have had our heads examined for the great stupidity we displayed for ever agreeing to it in the first place. And, certainly, if we ever had to do it over again, we would not do it.

I think that the precedent that we established has far outweighed the benefits, that perhaps, we should have had at that time in grappling with an issue that we will have to grapple with in the future, in any event, to try and place some of these facilities, for most of these

facilities are run by private parties outside of the park, and if they are inside of the park, they should be handled by the Government.

Mr. O'NEAL. You are referring to the possessory interests granted to the concessionaires?

Mr. SMITH. Yes.

Mr. O'NEAL. To the business enterprises?

Mr. SMITH. Absolutely.

Mr. O'NEAL. Do you agree that that was done?

Mr. SMITH. I certainly do. And we were a party to it, unfortunately.

We were conscious at that time of the need to provide facilities for visitors, and though we received abundant assurances that this would not establish a precedent to other uses within the national park system, nor would a precedent be established on other Federal lands and/or areas, we now find our fears realized.

The language of the bills now being considered by this subcommittee is essentially patterned after section 6 of Public Law 89-249. Despite the extensive testimony that the special provisions relative to the national park concessionaires were unique in that it was necessary to achieve a goal benefiting the public at large and was in no way to be construed as a concession by the Government to an individual special use, this same procedure would be used for such special uses in the present proposals.

The existing measures now seek to grant essentially the same possessory interests to special and individual uses on national forest lands. If these are granted, it seems only a question of time before similar measures will seek to give special use permittees the same kind of concessions on all Federal lands, whether they are the Bureau of Land Management, the Bureau of Reclamation, the Corps of Engineers, or the Tennessee Valley Authority.

The present measures convey to special use permittees a possessory interest in any improvement they acquire or construct on national forest lands. It is true that legal title would be withheld and remain with the United States, except as specifically provided in the measures, but all other elements of ownership would be granted. In addition, the use of any improvement in which such a possessory interest has been granted would be subject to the conditions established in the special use permit and the general regulations relating to the national forests.

Two types of special-use permits are now issued by the Forest Service. One is terminated at any time at the discretion of the Service and for which no compensation is paid to the permittee. The other permit is issued for a specific time and if the time is completed no compensation is granted but compensation is provided if the Service terminates these permits before the time specified.

At the present time, special use permits on the national forests are a legal document entered into freely and which state specifically that no compensation will be paid for improvements by the Government. By the same token, we are aware that permits are not granted for time immemorial, inasmuch as the needs of the general public for which the national forests are administered may change in a fashion which would make it incumbent upon the Service to terminate the permits.

It would appear to us that if the proposals pending before the committee were enacted into law there would be a windfall profit to the permittees, which was not contemplated at the time of the execution of the contract, in addition to which the Government could not administer the area in a fashion that might require the removal of improvements without compensation.

It would appear to us that, despite the specific language and the intent of the proposed legislation, the permittee would be granted a vested right in the use of the land itself. What we are actually saying is that we cannot change a use on public lands without some compensation for improvements that aid and abet such use.

This is dangerously close to the axiom that one cannot be dispossessed of private property without due process of law. The basic consideration of issuing use permits is a privilege, not a right. If the privilege becomes a right for special uses, then the public interest is contravened.

It would appear to us that the Forest Service would have the least desired position of two possible worlds. They must either abandon their flexible position of trying to meet the public interest because of the necessity for compensation or they must incur a significant obligation in order to maintain this flexibility. That such a cost to the Government would be not only significant but formidable, appears obvious.

There are some 60,000 special-use permits issued by the Forest Service for approximately 80 different purposes. The Forest Service has valued these improvements on national forest lands to be in excess of \$1 billion.

Mr. Chairman, we are aware of the good and proper motives that prompted the introduction and consideration of a number of these measures but we are quite sure that many of the effects of their enactment, of which we feel so strongly, were not contemplated by their authors.

Therefore, because of the precedent it would establish on Federal lands, one which I might add the Congress has rejected on more than one occasion, and the serious limitation that would be placed on the Forest Service in carrying out the public interest, we hope the committee will not find favor with these proposals.

Mr. O'NEAL. Thank you very much, Dr. Smith. I want to say again how much we appreciate your patience and your consideration of our time problem.

Mr. SMITH. Thank you.

Mr. O'NEAL. Mr. Foley, do you have any questions?

Mr. FOLEY. Yes. I think that I understand the position you have taken in regard to these permits. If the committee should decide not to terminate by law these permits, the termination of these permits, except for public-use purposes, do you see any value in requiring that the permittee, if he wishes to transfer, that he has to transfer the permit, to have to submit it for compensation for his property or for the improvements by a designated applicant by the Forest Service?

Mr. SMITH. I heard you discuss this point. I think that this improves the bill a great deal. I would say, in all candor, that my position among my own people is a great deal more moderate, because they, as the result of their efforts—to grant grazing interests the same as

possessory interests which are claims in this bill, and which was denied by the Congress, at which time my people started to campaign urging the Forest Service and the Congress to do away with these kinds of special permits, and it was only last year that I would—well, when I suggested that kind of language, that I was chastised by my own people that we need not do so, but that we need to be more eager and anxious in alerting Congress to a consideration of this, in fact, to remove permittees, to start phasing them all out, and this has been a significant problem with my own people.

And while the Congressman's statement regarding the transfer would be far more satisfactory than the existing bill, I doubt whether this would change our position at all.

Mr. FOLEY. I was not seeking approval. I understand some of your constituent members are opposed to the continuation of any present permits, but I think that their position is to some degree that of some of those who want actually to negotiate the sale of public lands or the provision for possessory interests that it represents the opposite views on this particular problem.

Mr. SMITH. I think that is true in a sense, although I am not sure. I think that this is a very significant and serious matter. I am perfectly aware of the consideration. I do not think from what I have heard of the testimony here that the committee has all of the facts involved in this. We have been trying to get over a period of years some facts. There are a lot of questions that we do not have answers to.

One of the questions that we are trying to find out something about is, how many individuals own more than one permit in the national forests. We do not know that. We know that there are some. How many individuals represent properties? We know there are some. We know that is on the increase. We do not know how many.

We know where this 99-year lease business came from. It was started by three real estate operators. It is quite obvious. We are quite concerned that the real estate operators are interested in this.

There is this other thing, this drastic change that can be made in the bill. Whether a private individual would have the right to sue as a permittee. The answer is quite obviously, "No." I do not think that the Department or the Government—because individuals cannot or will not, or have been told that the fine print does not apply to them, stating to everybody that they do not read the fine print—I think that is absurd—and I am very concerned that principle is involved. I think that this is a clear effort to convey, whether it is significantly legal, a privilege into a right. And we should oppose it.

Mr. FOLEY. I would agree with you that this is a privilege and not a right. I do not think that you would want to hold the U.S. Government as unreasonable and inconsiderate in a position that could be taken in enforcing it to the letter in agreements that were negotiated.

Mr. SMITH. This is true. I think that the District or the Government does not deal that way, that it has been taken advantage of in many instances, or that there have been many efforts to take advantage of this position.

Mr. FOLEY. Mr. Smith, if I may interrupt, I am particularly influenced by the fact that there are no additional permits being issued, and probably under present circumstances there cannot be additional permits issued.

I think, however, that if we are going to keep these permits, we ought to make stringent efforts to see that they are fairly distributed among the general public.

Mr. SMITH. I would concur with the last qualification. If we continue to have them in existence. But this would be something else.

Mr. FOLEY. Thank you.

That is all, Mr. Chairman.

Mr. O'NEAL. Mr. Teague, do you have any questions?

Mr. TEAGUE of California. Not at this time.

Mr. O'NEAL. Is there anything else that you want to add at this point?

Mr. SMITH. There is one thing. There is only one thing.

There has been a great deal of discussion about the Forest Service insisting or urging people to come in. We have been trying to run it down and to ascertain this. I have nothing particular, only a collective observation.

Mr. O'NEAL. What kind of an observation?

Mr. SMITH. A collective observation.

Mr. TEAGUE of California. What kind?

Mr. SMITH. A collective observation.

Mr. O'NEAL. Do you want that spelled out—does the reporter want that spelled out—does the reporter want that spelled out?

Mr. SMITH. Opposed to being definitive, and sure about it.

Mr. FOLEY. I understand the word. I think that Mr. Teague of California does, too. I want the record to show that. [Laughter.]

Mr. SMITH. I said that out of the 19,000 permits, how many permits or permittees were urged to go on the land. That seems to me to be the issue. I think this is a serious question to find out. The discussion and the pattern of the discussion has been very significant that the number of 19,000 were urged to go on this land; and, therefore, they are more involved. I am not certain that this is quite the percentage that was urged to go on, as has been claimed.

Mr. O'NEAL. Dr. Smith, we thank you for your excellent statement.

JUNE 16, 1967

Mr. O'NEAL. The committee continues discussion of H.R. 4884, a bill by Mr. Mathias, of California, and related bills, concerning the use permits in the national forests.

The first witness this morning is Mr. Ralph Hodges. Mr. Hodges is vice president for Government relations, National Forest Products Association, Washington, D.C. He has been waiting 3 or 4 days to testify. We are delighted to get to this point so that he can.

STATEMENT OF RALPH HODGES, VICE PRESIDENT FOR GOVERNMENT RELATIONS, NATIONAL FOREST PRODUCTS ASSOCIATION, WASHINGTON, D.C.

Mr. HODGES. Thank you, Mr. Chairman.

I am Ralph D. Hodges, Jr., vice president, Government relations for 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.

In this series of hearings, Mr. Chairman, we are much interested in three subjects that you are taking up in separate legislation. The special use permit proposals, the timber survey authorizations, and the revenue sharing and payments in lieu of taxes.

Mr. O'NEAL. If I might interrupt you at this point, Mr. Hodges, I did not mean to restrict you to the one subject. You are perfectly welcome to discuss them all.

Mr. HODGES. Thank you, sir.

First of all I will speak on the special use permit issue.

Most of the discussion on these bills relating to a possessory interest in improvements has been related to dwellings. Forest Service Associate Chief Arthur W. Greeley indicated that there are a variety of permits issued for use and occupancy of national forest lands to which this legislation would be equally applicable. My statement is related to roads constructed under Forest Service permits.

As members of this committee are aware, road access to all forest lands is essential to the management of these lands for all their products and services. Our industry and the Forest Service have been working constructively for many years on problems of access to and across intermingled Federal and private lands.

The "compensable interest" problem results from the fact that under certain circumstances the Forest Service does not feel it has statutory authority to compensate a private landowner for roads built at the sole expense of the private landowner on national forest lands when the Forest Service elects to make substantial use of such roads.

The location and standards of construction of these roads is generally specified by the Forest Service. Often the required standards have been in excess of those needed by the private party or for protection of the land, indicating an intention of the Forest Service to make use of the roads at a future date.

When a commitment has been made to share costs in advance of construction, compensation can be made. This advance commitment may be made in the form of a cooperative road construction and use agreement or a special use permit containing an optional clause.

In the past, a substantial amount of private road construction has been undertaken without such a prior commitment. Until recent years neither the private party nor the Forest Service considered that this type of agreement would be required to recover compensation. Because of several administrative decisions it appears that legislation is now required in order to obtain compensation for such construction.

The problem is not as serious for the future if present Forest Service policy is continued. However, because protective language is available in special use permits only upon application of a knowledgeable applicant, the problem can still arise.

There have been three important administrative decisions which have increased the importance of the compensable interest issue:

1. Several decisions of the Comptroller General have resulted in private owners being charged for use of roads built by Federal timber purchasers.

2. The Attorney General's 1962 opinion denies assured access to owners of property inside a national forest unless they are actual settlers.

3. An opinion of the General Counsel of the Department of Agriculture has been interpreted to prohibit the reservation of free use in easement grants to the Forest Service by private landowners. The hardship caused by this policy has been eased somewhat by a recent Forest Service policy decision which would allow reservation of a right to share costs.

All three of these basic decisions were contrary to prior Forest Service practices, but we are not challenging them today. We merely point out that in conjunction with the inability to compensate some private owners for their road construction these decisions have created a gross inequity. Where compensation is not available the Forest Service has in effect reserved a right of free use.

At the same time this right of free use of Forest Service constructed roads is not available to a private landowner granting access to the Forest Service. This injustice has been informally recognized on numerous occasions by Forest Service field officials. The feeling seems to be that compensation would be gladly made if authority to do so were available.

This problem was considered in the development of Public Law 88-657 which effectively solved many of the legal obstacles to access to and across intermingled Federal and private lands. In considering the problem of compensable interest, the Senate committee stated:

It is vital to a sound democracy that the Government maintain just and equitable relations with its citizens in all spheres of activity. The committee therefore acknowledges the principle of compensable interest in roads constructed at private expense on Government lands when such roads are used for commercial purposes by the Government or other persons than the builder. The problem of assuring such compensable interest has not been solved by this legislation, and will therefore be kept under the continuing consideration of the committee. S. Rept. 1174, 88th Congress, p. 7.

Several examples of this problem have been presented to the Public Works Committees in the past and one example is appended to this statement.

Both the Forest Service and the forest products industry have been working to define situations in which a compensable interest would be recognized. New standard agreement forms and provisions of special use permits have been developed to reduce the incidence of this problem in the future.

However, there are many cases in which the Forest Service does not believe it has the authority to recognize the investment made by private persons in construction of roads across national forest lands, pursuant to permission, even though the Forest Service has elected to make complete use of the road. Appended to this statement also are copies of recent correspondence between NFPA's Access Roads Subcommittee and Forest Service officials illustrating the situation.

In reporting the Federal-Aid Highway Act of 1966, the Senate Public Works Committee stated:

"The committee continues to expect that the Department of Agriculture, in cooperation with affected landowners, will endeavor to work out administratively satisfactory solutions to the problems of compensable interest and prompt access. If the executive branch ultimately considers itself to be lacking in authority for implementing equitable solutions to these problems, then the committee should be so advised." (S. Rept. 1410, 89th Cong., p. 29.)

As can be seen from the attached letters, there has been considerable confusion in the exact form of permission granted to the private party to construct a road on national forest lands. Various terms of agreement, including special-use permits, memorandums of understanding, exchanges of easements for stipulations of ingress and egress, have been used over the years with similar intent.

We urge that H.R. 4484 specifically provide a compensable interest in roads constructed at private expense on Federal lands pursuant to permission granted by appropriate authority whenever the Federal Government elects to make substantial use of the road. We suggest the following language be included.

COMPENSABLE INTEREST

"Any person who, pursuant to permission granted by appropriate authority, constructed at his own expense a road or road structure on lands subject to the Secretary's jurisdiction for access to his own lands shall have a compensable interest in such road or road structure such that when it is determined in the public interest to permit substantial use thereof by the United States, or others, such person, his successor or assign shall be paid equitable consideration therefor, under such arrangements as may be prescribed by the appropriate Government officer."

That concludes my statement on this matter.

Mr. O'NEAL. I think it might be best if we include in the record your attachments at this point.

(The attached documents follow:)

APPENDIX I

An illustration of the problem of compensable interest can be found in an actual case that occurred in the Cedar River watershed in the State of Washington. A cooperative road agreement was entered into between the City of Seattle, Weyerhaeuser Co., Scott Paper Co., Mountain Tree Farm Co., and the Forest Service.

This agreement covered a road system totaling 98.4 miles of roads constructed at private expense across lands of the various parties to the agreement. Of this system, 79.2 miles were located on private and city of Seattle lands and the other 19.2 miles had been constructed on national forests lands at private expense.

The Forest Service and the other parties agreed that the value of the 79.2 miles of roads was \$1,200,000. The reasonable replacement value of the 19.2 miles on Forest Service lands was \$292,500.

The parties agreed to share road construction costs on the basis of the timber in the entire watershed and it was on this basis that the costs of the 79.2 miles on private and city of Seattle lands were shared. The Forest Service felt that it was not authorized to recognize the \$292,500 which represented the cost of construction of these private roads on Forest Service lands.

Because of this lack of statutory authority the Forest Service acquired perpetual rights on 19.2 miles of roads valued at nearly \$300,000 without any compensation to the parties that constructed the roads.

NATIONAL FOREST PRODUCTS ASSOCIATION,
Washington, D.C., April 27, 1967.

Mr. RUSSELL P. MCROREY,

Director, Division of Land Adjustments, U.S. Department of Agriculture, Forest Service, Washington, D.C.

DEAR RUSS: Again the question of whether a potential cost-share cooperator has any compensable interest in road segments built solely at its expense under special use permits or stipulations across lands administered by the Forest Service has become a crucial one to at least three pending cost-share negotia-

tions involving entire road systems. All have arisen in Region 5; the potential cooperators involved are Collins Pine Company at Chester in one case, Fruit Growers Supply Company at Hilt in another, and American Forest Products Corporation at Martell in the third.

All three companies are able to demonstrate and have in fact already demonstrated more or less fully to the national forests involved and to the Region 5 office that the roads constructed under their special use permits were built as segments of an entire road system contemplated both by the company and the Forest Service at the time of construction to be available to all the land ownerships tributary to the system. They thus come within the understanding developed by discussions in September, 1966 in Portland between Forest Service representatives of the Washington office and the National Forest Products Association Roads Committee.

That understanding was developed as a consequence of Industry's insistence, both to the Forest Service and before various committees of Congress, that it was inequitable and unjust for the United States to have the benefits of roads constructed at private expense without contributing a proportionate share of the cost of the road, particularly when the roads involved were to be open to public use. The Forest Service gave careful reconsideration to this problem during the summer of 1966, recognizing the serious impediments to its road development programs so long as this issue remained unresolved and responding to urging of both the Senate and House Committees on Public Works which had been expressed in several different contexts since 1964 that if possible an administrative solution should be developed. Thus, the Industry Committee was informed last September that in situations where roads built at private expense under special use permits could be shown by the course of past dealings between the builder and the Forest Service to have been built as segments of a road system which the parties intended, expressly or implicitly, to develop jointly for serving both private and national forest ownerships, then the private investment in such segments would be taken into account in formally entering cost-share agreements.

The forests and Region 5, however, have responded in each of the three cases above mentioned as though they were unaware both of this refinement in Forest Service policy and of all the background which preceded it. The forests and the Region take the flat position that the Forest Service has no authority to recognize such private investment under any circumstances in arriving at cost shares assignable to each party to a prospective agreement.

I bring this to your attention, Russ, in order that you can either take whatever steps are necessary to implement the Forest Service policy as we understand it, or to correct any misunderstandings on our part which may be apparent from this letter. If the Forest Service policy is not what we have thought it to be, then we must resume efforts to achieve solutions to a continuing serious problem.

Very truly yours,

JOHN B. CROWELL, Jr.,
Chairman, Roads Subcommittee.

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., May 29, 1967.

Mr. JOHN B. CROWELL, Jr.,
*Chairman, Subcommittee on Roads,
National Forest Products Association,
Washington, D.C.*

DEAR JOHN: On May 2, 1967, we acknowledged your letter of April 27, 1967, regarding a question of compensatory interest in certain roads in Region 5 that are being considered for inclusion in a share cost agreement. It may be some time before all the information needed to review the situation in the specific cases you mentioned is available and has been fully considered. Therefore, at this time it might be desirable to again review our position as to the circumstances and the documentation we feel is a requirement for recognition of a compensatory interest in roads constructed under a permit. This was discussed when we met in Portland in September 1966.

When a road has been constructed under the provisions of a permit or stipulations, which provides for use by the Government, there must be demonstrated by its terms or some other means an unmistakeable intent that the parties were

involved in a joint effort to construct, operate and maintain a road or road system at the time the permit was issued.

If the area, which included the road or road system, was covered by a Memorandum of Understanding providing for joint construction and use of roads, and the basis for cost sharing was stated, it would indicate there was an intent to share in the cost of the road even though the permit did not provide for cost recovery. Some Memorandums of Understanding provided for offsetting construction as the only means of sharing costs. In others there was a provision for cost recovery by the constructing party. In either case, the costs incurred in construction on National Forest land under a permit would be considered compensable. The means by which imbalances in cost sharing would be adjusted would depend on the language of the Memorandum of Understanding.

In other cases there may have only been provision for the construction of roads as needed by either party with a granting of easements by the private landowner and permits or stipulations of ingress and egress by the Government. There was neither a stated percentage of sharing nor a plan for adjusting costs which have been borne by the parties. In such cases it can only be assumed that each of the parties would construct roads as needed. Each would grant rights-of-way as agreed and the roads would be available, without cost, to the other party. In such instances there is no compensable interest. When roads that have been constructed under these circumstances are included in a share cost agreement it can be agreed that each has borne its proportionate share and no adjustment of costs would be in order. Permits or stipulations of ingress and egress may be replaced with an easement.

We also have the situation where there was a need for immediate access pending working out the necessary arrangements for cost sharing. There would be a compensable interest if a letter of intent had been prepared which provided that any roads constructed thereafter under the permit would be treated in the same manner as though the roads were constructed under the provisions of a share cost agreement if they were later incorporated into a cooperative agreement. The letter was usually, but not always, signed by both parties.

The present permit wording was developed to cover situations where it was intended that the permittee would have a compensable interest in the road covered by the permit if the road is later included in a cooperative agreement.

There can be no general rule applicable to other situations except there must be well documented evidence to indicate the intent to share. The record of past use must indicate there was unrestricted use of the road by both parties. The mere fact that some easements had been granted and that permissive use of the road had on occasion been given is not sufficient to establish the fact of cooperative development and recognition of a compensable interest in roads constructed on a permit.

I believe the position here stated is in accord with our previous discussions on this subject. As you know there are many situations that will not be clear cut nor well documented. We do not intend to close the door to consideration of these but the facts in each case will have to bear out an intent to share before we would consider that a compensatory interest might exist.

Sincerely yours,

RUSSELL P. MCRORY,
Director, Division of Land Adjustments.

Mr. O'NEAL. Are there questions?

Mr. TEAGUE of California. Perhaps we should let the Department of Agriculture people speak for themselves, but I gather that you have some reason to believe that these people recognize an inequity exists and that something ought to be done to cure it; is that correct?

Mr. HODGES. Yes, sir; that is correct, and I should add that most of these cases have been resolved administratively. We have set up committees that have extremely fine relationships and procedures established with the Forest Service for the resolution of road problems, but we feel there are some cases where administrative solutions may get out on the fringes of Forest Service authority. Therefore legislation of this nature would be a help.

Mr. O'NEAL. Did you want to go into any of the distinctions to be drawn between those cases that have been solved administratively and those that perhaps could not be?

Mr. HODGES. Perhaps part of the issue there is the extent to which there is some understanding, or record in a form which would amount to a prior commitment. That is an indication that the party making the improvement, building the road or the bridge on national forest lands, assumed that he would be compensated for the extent and to the extent that the Federal Government makes use of the roads or improvements. This is one of the main difficulties in the issue.

Mr. O'NEAL. You said that the Forest Service recognizes this problem and has solved a great many of them administratively.

Now, these that they have not solved administratively, is there a difference of opinion between your people and the Forest Service as to whether they could be or is it just a disagreement or difference of opinion as to what is proper?

Mr. HODGES. There may be some difference of opinion in this respect. I alluded to it in the statement. Some of the Forest Service people have worked with these issues intimately on the ground and recognize the merits of the case. When they make use of a very valuable improvement someone has put in—that is, when they let the Government make use of it—they recognize the merits of compensation. If they don't share the cost of this improvement or help pay for it, the Government is getting a windfall. They would like to find some way to be fair, but they may need more authority to do so.

Now, in granting that authority, I know that the Forest Service, the top level of the Department, has to look out for the precedent that is set. This was brought out by other witnesses yesterday. There are people in the Forest Service who would not want to set a precedent that would permit abuse of this or create a complicated and hopeless administrative problem.

We think our suggested language takes care of that.

Mr. O'NEAL. Do you think the Forest Service realizes the need for legislation, as long as they are able to solve some of them administratively?

Mr. HODGES. I don't know. They should speak for themselves.

Mr. O'NEAL. Thank you Mr. Hodges. This completes the schedule on H.R. 4884.

(The following letters and statements were also received by the subcommittee:)

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

Mr. Chairman, distinguished members of this subcommittee on Forestry. I am grateful for this opportunity to appear before you.

Some 19,000 families owning summer homes in national forests are presently being discriminated against.

There is a well established precedent in this country for the payment of fair compensation to owners of property taken for public purposes. Now, however, people who own homes in our national forests, are faced with problems of tenure, taxes, insurance and just compensation.

Although the Government does have technical rights of cancellation, these owners have been assured continual renewal of their leases or permits so long as they complied with conditions. Now permits and leases are being cancelled, no compensation is provided, and the obvious result is a serious loss of substantial investments to the home owner.

Such discriminatory treatment of home owners is a violation of basic standards of fairness to which this country is dedicated, and to which the Federal Government must adhere. Legislation must be passed to provide a method for compensating these permittees and lessees for their proprietary interests, if it is deemed necessary that their interests must be taken by the U.S. Government for other uses.

I question that the highest, fullest and most beneficial use of these properties will be realized by nationalizing these private interests in our national forests. It is my sincere belief that the public interest would best be served by a continuance of the private use. However, if condemnation is indeed the only answer, then the Federal Government must pay just compensation to these property owners.

Therefore I support and urge immediate action on H.R. 740 and H.R. 4884.

STATEMENT OF HON. JAMES B. UTT, A REPRESENTATIVE IN CONGRESS FROM THE
STATE OF CALIFORNIA

Mr. Chairman and members of the committee, many individuals over the years have been encouraged, through invitations of the Forest Service, to invest sizeable sums of money and much personal effort in construction of homes and improvements on lands leased from the Service. These lands had been virtually subdivided and offered for lease at a 5% of value annual rental, subject to many restrictions.

All have been issued in connection with "Special Use Permits," some of which were revokable at the will of the Forest Service, while others had a fixed expiration date. Possessory interest in the land will always remain in the Federal government, regardless of the term of the "Permit," and notwithstanding the fact that in 20 years the government receives the full value of the property in rental fees.

Supposedly, these people who obtained such leases invested their resources with full knowledge of the conditions, and the element of chance inherent therein. If this were completely true, I would say that none had any legitimate complaint. As I understand it, the leases call for the removal of all improvements at the expense of the lessee at any time that the government determines that the land is needed for public use.

However, there is much evidence to indicate that a great many people were misled, possibly inadvertently, but nevertheless misled into believing that they would have a 99-year period in which to enjoy their investment in capital and labor. In such instances, and no matter how relatively few they are, it is a matter of equity that relief be given them when they are forced to give up their use of the property. Such relief can be either in reimbursement for the cost of removal of improvements or of transfer to another site not needed for public use.

Passage of H.R. 740 would accomplish this purpose. It continues the condition under which legal title remains vested in the United States, and the restriction against use for business purposes shall not be altered. It simply provides for just compensation, at a fair market value, when the land is taken for public use.

Mr. Chairman, I believe consideration should be given to factors other than to the possibility of injustice as a result of acts of omission or commission by a Government employee in regard to such leases.

Under present law, a lessee who fully understands the provisions of his lease has no incentive to do anything other than required by it. In fact, I fail to understand why anyone would agree to a "Special Use Permit" if he fully comprehended the terms and knew that he could at any time lose his investment through no fault of his own.

But one who obtains a "Term Special Use Permit" with twenty years to run will invest just as much as he feels he can recoup in pleasure during that time, and will do nothing extra. With the incentive provided through H.R. 740, he will be motivated to join with his neighbors in establishing better fire fighting facilities, better water resources, better sanitation and sewerage operations, and will generally do more to enhance the overall aspects of the government property.

Therefore, Mr. Chairman, I believe that passage of H.R. 740 would be to the government's long range benefit, while at the same time removing a most inequitable feature of the lease program, and I urge favorable action by this committee.

Thank you for the opportunity of presenting this statement.

CONGRESS OF THE UNITED STATES,
House of Representatives,
Washington, D.C., June 15, 1967.

Hon. W. R. POAGE,
Chairman, Committee on Agriculture,
U.S. House of Representatives.

DEAR MR. CHAIRMAN: I am unable to be present at the hearings of the Forests Subcommittee concerning H.R. 3779, which would grant a possessory interest to anyone who acquires or constructs a structure, fixture, or improvement on any national forest lands pursuant to any permit issued by the Secretary of Agriculture. I wanted, however, to express my opposition to this bill.

I strongly feel that licensees and persons holding interests little better than trespassers should not be entitled to possessory interest in the National Forests.

With every good wish,

Sincerely,

JOHN D. DINGELL,
Member of Congress.

WILDLIFE MANAGEMENT INSTITUTE,
Washington, D.C. June 15, 1967.

Hon. W. R. POAGE,
Chairman, Committee on Agriculture,
House Office Building, Washington, D.C.

DEAR CONGRESSMAN POAGE: It is regretted that the institute was unable to present a statement during the committee's hearing on H.R. 3779, H.R. 4884 and related bills that would establish certain policies with respect to use permits on national forest lands.

The Institute joins with other national conservation organizations in expressing the hope that the bills will not be reported favorably. The proposal would establish policies that would seriously interfere with the continued management of national forests in the overall public interest.

It would, in practical effect, change a qualified privilege into a right on public lands and would give permittees possessory interest in lands which they have under permit. The effect would be to require the Federal Government to pay a permittee at replacement value for any structure, fixture, or improvement whenever national forest lands owned by all of the people are needed for a public purpose.

I would appreciate having this letter made a part of the hearing record.

Sincerely,

C. R. GUTERMUTH,
Vice-President.

THE IZAAK WALTON LEAGUE OF AMERICA, INC.,
Washington, D.C., June 12, 1967.

Re H.R. 4884, H.R. 740 and related bills.

Hon. JOHN L. McMILLAN,
Chairman, Subcommittee on Forests,
Committee on Agriculture,
U.S. House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: The Izaak Walton League of America for the past two decades has witnessed the growing problem resulting from the existing policy of the U.S. Forest Service with respect to permits for summer homes on National Forest lands. The basic Act of 1915, which authorized the issuance of such permits, was likely appropriate at that time. It is abundantly clear today however that the needs of the public generally for outdoor recreation opportunity transcend the understandable desires of the relatively few people who are privileged to lease summer home sites for their own exclusive use.

This matter was vigorously discussed at the League's 1963 Annual Convention and was the subject of resolution #1 adopted by the Convention. A copy of that resolution is attached. You will note that the League believes very strongly that the time has come when the summer home site program must be phased out in the broad general interest, and that no such new permits should be issued. We believe that the owners of improvements constructed on such sites should receive

equitable compensation when in the public interest, before its termination date a permit must be cancelled.

The language of H.R. 4884 and related Bills goes beyond summer home sites and appears to apply to any type of permit under which the permittee has constructed any type of improvement. In effect such a structure, fixture or improvement would become a lien against National Forest lands, even after expiration of the permit, and would convert a privilege into a vested right. We believe this to be philosophically and in actuality contrary to the purposes and objectives of the Federal public lands and would deny the broad interests of the public as a whole.

In view of the above, the Izaak Walton League of America opposes the legislation and urges the Committee to disapprove it. We request that this be made a part of the record.

Respectfully,

J. W. PENFOLD,
Conservation Director IWLA.

RECREATION RESIDENCES ON NATIONAL FOREST LANDS

Whereas special-use permits have been and are being issued for construction of privately-owned recreation residences on national forest lands; and,

Whereas the trend in the total number of such homes, currently located in more than 1,500 areas, is continuing upward and now exceeds 18,000; and,

Whereas many such areas are in waterfront or other choice locations that are now or may soon be needed for more intensive public recreation use; and

Whereas this type of exclusive use borders on preferential treatment for a privileged few; and,

Whereas difficulty is being experienced by the Forest Service in terminating these special use permits because of value of improvements or other factors, despite termination stipulations in these permits; and

Whereas certain summer home areas on national forests are so highly developed that they are in effect small communities of permanent residential nature; and,

Whereas abrupt termination of many recreational home permits would impose financial or other hardships on permittees: Now, therefore, be it

Resolved by The Izaak Walton League of America in convention assembled this 15th day of June, 1963, at Cincinnati, Ohio, That the Secretary of Agriculture be urged to adopt and implement the following policies:

a. No new areas will be planned for private-owned recreational residence developments or permits granted for such construction,

b. Public need for the enjoyment of such housing facilities will be achieved through purchase of existing structures or construction of new ones for rental purposes on present housing locations or on patented lands lying within the forest boundaries,

c. Existing permits will be cancelled promptly when the need for public use of the site is demonstrable and the Forest Service is ready to proceed with public development,

d. Special funds will be used by the Secretary at his discretion to facilitate cancellation of permits by providing equitable compensation for improvements where appropriate and necessary.

e. In cases where recreational residence colonies border towns or otherwise make future use of areas for national forest purposes impractical, such areas may be disposed of and townsites may be set up under existing statutes pertaining to Forest Service administration.

H.R. 774

JUNE 16, 1967

Mr. O'NEAL. The subcommittee now proceeds to the further consideration of H.R. 774, payments in lieu of taxes on national forest lands. We are delighted now to hear from Mr. M. M. Nelson, Deputy Chief of the Forest Service, U.S. Department of Agriculture.

H.R. 774 and a letter from Secretary Freeman will be included in the record at this point.

(The documents follow:)

[H.R. 774, 90th Cong., 1st sess.]

A BILL To provide for payments in lieu of taxes on lands in national forests

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to amounts payable on account of national forests under the sixth paragraph under the heading "FOREST SERVICE" in the Act of May 23, 1908, as amended (16 U.S.C. 500), the fourteenth paragraph under the heading "FOREST SERVICE" in the Act of March 4, 1913, as amended (16 U.S.C. 501), section 13 of the Act of March 1, 1911, as amended (16 U.S.C. 500), section 5 of the Act of June 22, 1948 (16 U.S.C. 577g), as amended (16 U.S.C. 577g-1), and sections 6 and 24 of the Act of June 20, 1910 (36 Stat. 561, 573), the Secretary of Agriculture shall pay annually to each county, in which any part of a national forest is located an amount in lieu of taxes equal to 10 cents for each acre of such forest located in such county.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 13, 1967.

HON. W. R. POAGE,
*Chairman, Committee on Agriculture,
House of Representatives.*

DEAR MR. CHAIRMAN: This is in reply to your request of January 20, 1967, for a report on H.R. 774, a bill "To provide for payments in lieu of taxes on lands in national forests."

We recommend that the bill not be enacted.

H.R. 774 would supplement the Act of May 23, 1908, as amended, and Section 13 of the Act of March 1, 1911, as amended (16 U.S.C. 500) and other acts with respect to National Forest lands. The 1908 and 1911 Acts, as amended, provide for payments amounting to 25 percent of all moneys received during any fiscal year from each National Forest to the State in which the Forest is located, to be expended for the benefit of public schools and public roads of the counties in which the National Forests are located.

The bill provides that the Secretary of Agriculture would pay annually to each county in which any part of a National Forest is located, in addition to amounts now provided, an amount in lieu of taxes equal to 10 cents for each acre of such Forest located in such county.

The total National Forest area is in excess of 182 million acres. The bill would thus require an additional payment of more than \$18 million annually. Payments to the States or counties from fiscal year 1966 receipts, under the Acts that would be amended by this bill, amounted to more than \$42 million. The effect of this proposal in that year would have been to increase such payments by about 43 percent. Payments based on a percentage of receipts from National Forest lands fluctuated from year to year, reflecting changing sales volume and timber prices and other factors. During the 6-year period, 1961-1966, aggregate payments have ranged from a low of \$25 million, to a high of \$42 million. An additional annual payment of \$18 million would thus have represented increases between 43 and 72 percent.

Payments provided by H.R. 774, moreover, would not be related in any way to amounts already being paid to counties. Average revenue sharing payments per acre vary widely from county to county. For the year 1962, over half the counties containing National Forest lands received 10 cents per acre or less from timber sale and other National Forest receipts. Four percent of the counties received \$1 or more per acre. A uniform additional payment of 10 cents per acre would represent a relatively small increase to some counties, but an increase of 100 percent or more to many other counties.

We also question the desirability of altering the present revenue sharing arrangements without more information on equitable levels of payment and the impacts of modifications of present arrangements. A recently concluded study of National Forest revenue sharing and tax relationships indicates that contributions generally exceed taxes estimated to be payable on similar lands in private ownership when contributions are defined to include both Federal revenue sharing payments and contributions in kind for fire control, roads and similar purposes that would otherwise necessitate expenditure of State or local funds. In addition, local communities within and near the National Forests receive substantial indirect benefits in the way of increased local business and other taxable operations that are supported by Federal expenditures for the development and utilization of National Forest resources.

We recognize the growing problems that face local governments in financing the rising costs of schools, roads, and other public services. However, we believe that the benefits and consequences resulting from the existing revenue sharing arrangements and other relevant features need to be explored fully before any decision is made for changes. In addition, any recommendation for legislation to change the current revenue sharing arrangements would need to be examined from the standpoint of its relationship to the programs of other agencies of the Federal Government.

With a view to determining possible improvements in the present revenue sharing arrangements on National Forest lands, we have from time to time reviewed the situation informally with representatives of the Advisory Commission on Intergovernmental Relations and the National Association of Counties. We anticipate that the Public Land Law Review Commission will, in its current study, consider the above question of contributions to local governments as they relate to public lands.

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.

Mr. O'NEAL. Mr. Nelson, we are particularly delighted to have you. The members of this subcommittee remember with pleasure the fine trip we had a month or so ago when we had extensive hearings in the field in the States of Washington, Idaho, and Montana. We were glad to have you with us on that trip, or most of it.

As you know, we heard a great many witnesses on this subject from both county and State governments in the affected areas, as well as the testimony of many interested citizens. We are delighted to hear from you at this time.

Mr. NELSON. The trip you refer to was a delight to the Forest Service. We are glad to have the subcommittee in the field to better understand our field problems and become acquainted with our forests.

Mr. Hodges, I believe, has a statement on this same subject. My statement is rather long. If the chairman wishes, I would be willing to yield to him.

Mr. O'NEAL. That is very considerate of you. When Mr. Hodges gives his testimony on this subject, it will complete the hearing as far as he is concerned.

STATEMENT OF RALPH D. HODGES, VICE PRESIDENT, GOVERNMENT RELATIONS, NATIONAL FOREST PRODUCTS ASSOCIATION

Mr. HODGES. Statements presented at the western field hearings recently conducted by this committee demonstrated some of the difficulties in attempting to develop solutions to problems created by inadequate or irregular revenue-sharing payments to counties. Attached to my statement is a background memorandum prepared by our staff on the national forest 25-percent fund payments.¹

These problems and various proposed solutions have been considered from time to time among our industry groups. There is general agreement that Federal revenue sharing or payments in lieu of taxes should provide an equitable and dependable payment to the counties for public purposes. However, there is a wide divergence of opinion on methods, formulas, and so forth, to reach this objective.

The two bills currently before this committee would resolve part of the problem, but might not relieve problems in all areas.

H.R. 774 would provide an annual payment to the counties of 10 cents per acre of national forest land located within the county. This would assure the counties of a specific and relatively stable annual payment on which more reliable county budgets could be predicted.

The figure may be inadequate considering: (1) costs of county services resulting from national forest ownership; (2) current revenue sharing payments; or (3) the annual revenue from comparable private lands.

H.R. 10642 would provide that national forest 25-percent fund payments would be calculated on gross receipts from Federal timber sales, including deposits made by purchasers for work to be performed by the Forest Service in connection with the sale. This would increase slightly the funds received by the counties, but would not dampen the fluctuations in payments in some areas.

Neither of these bills would deal with current problems, including (1) the use of revenue-sharing funds for necessary public services other than roads and schools, and (2) irregular local taxation of forest owners as a result of fluctuations with national forest receipts and county government obligations.

Basic to developing solutions to the current problems is an understanding of the impact of Federal land ownership on the local economy. Attached to my statement is an article by Dr. John Muench, Jr., of our staff on the "Impact of Public versus Private Ownership of Timber Land on a Rural Economy."

In this article Dr. Muench demonstrates that the ratio of taxes on private lands to the revenue-sharing payments from Federal lands is not a valid comparison of their total impact on the local economy. Management expenditures, other spending, and encouragement of industrial investment opportunities are far more significant to the total economic welfare of the locality. Except for lands of low productivity, the impact on the local economy is greater when land is held by local private owners rather than Federal agencies.

¹ The background memorandum referred to, entitled "Observations Regarding Forest Service Twenty-five Percent Funds," was submitted at the field hearings held in April 1967, and may be found on p. 9 of the printed transcript, a publication of this committee entitled "A Study of Management Policy and Other Problems of the National Forests," serial J, pt. 1.

The Public Land Law Review Commission has developed several studies to help assess the impact of Federal land ownership on our economy. Last month a contract was signed for a thorough study of the major Federal revenue sharing and in lieu of tax payment programs. In one analysis the Commission staff will examine the economic aspects of public land ownership locally and regionally, while another study will survey the noneconomic aspects and limitations. We believe the Commission's studies and recommendations to the Congress should provide the basis for a new public land policy.

In the interim, we suggest that the approach contained in H.R. 10642 would help relieve some aspects of the problem while not altering the basic program.

Mr. Chairman, that concludes my statement.

Mr. O'NEAL. We will insert the attachment to your statement into the record at this point.

(The attachment follows:)

December 1966

JOURNAL OF FORESTRY

Impact of Public vs. Private Ownership of Timber Land on a Rural Economy

John Muench, Jr.

Abstract. The impact which a forest property has on a local economy depends to a large extent on expenditures for management, taxes or payments in lieu of taxes. A local private owner spends most income locally, creating further economic activity. The federal owner returns only a portion of land income to the local economy by making revenue-sharing contributions to the local government. Other owners might return even less of their income to the local economy. From the standpoint of the health of the local economy all other forms of ownership are inferior to local private ownership. Land of low value yield has its greatest impact in public hands because government brings money into the economy for management in amounts often out of proportion to productivity. Land of high value yield has its greatest impact when in local private hands because the owner spends land income locally. Public land policy implications are also discussed.

AT A TIME when the federal and state governments are interested in acquiring forest land to increase timber production, improve rural welfare and provide nontimber land use benefits, local governments and citizens are interested in the effect which acquisition may have upon local tax bases and economies. These interests are frequently given second place behind those of the larger groups which the state and federal governments represent. However, to further justify acquisition the public agency usually presents data demonstrating the impact its acquisition will have upon the local economy. It will cite what it pays to the local government for in lieu of tax payments or revenue sharing contributions as opposed to what the private owner pays in property taxes.

THE AUTHOR is forest economist, National Forest Products Association, Washington, D. C.

It will also give examples of what it spends locally for forest management. But what it fails to account for is the disposition of that portion of income from the land which is not shared with the local government and the disposition of income which the private owner receives from the land.

Here is an examination of the impact which various owners may have on a local economy, considering all of their local expenditures and receipts, in order to draw out the policy implications which may be revealed. While emphasis will be placed on the value of land for timber production, the reader should not forget that the land may have other uses whose values might be difficult to measure or largely unknown.

The information necessary for such a study is not generally available because it requires the disaggregation of the local economy into

its component sectors and the determination of expenditure patterns and income sources for each sector. Such a study yields a Leontief-type input-output matrix from which certain technical coefficients are derived.¹ The work of Hays B. Gamble at The Pennsylvania State University makes possible the demonstration of the principle being described here. Gamble's work is unique since it is a microregional study of a rural area emphasizing land resources as opposed to macroregional and other studies which have emphasized the manufacturing and commercial sectors. It is also unusual since it is based on data gathered from

¹An input-output matrix shows the flow of commodities and services in terms of the money value of actual transactions among the various interdependent sectors of an economy. See S. I. Gass, *Linear programming methods and applications*, McGraw-Hill Book Co., Inc. New York, 1958. Pp. 164-170.

interviews of households and investigation of the company records. Other studies have usually relied on secondary data from published government and trade reports.

One of the sectors in a regional input-output matrix which is important to this discussion is the rest-of-the-world sector. It is from this external sector that a local economy purchases much of the goods and services it requires. This also means that many payments are made to that sector. Conversely, the rest-of-the-world sector purchases goods and services from the local economy. Associated with each internal sector is an external demand multiplier which shows the number of times a dollar received initially by the internal sector from the external sector circulates through the local economy before it ultimately finds its way back to the outside world. The external demand multiplier is appropriately brought forth here because the rest-of-the-world is by far the main market for timber products from a rural economy.

Nature of Multipliers

Each locality or region has its own economic structure and each sector of a local or regional economy has its own way of spending the income it receives from other sectors, including that received from the external world. For instance, Gamble (3) found that the external dollar received by the average household in Sullivan County, Pennsylvania, in 1962 was spent and respent until its value was multiplied to increase total economic activity² in the county 1.8 times before its effect was lost by leakage back to the outside world. The more opportunities there are in the county for the dollar to be spent, the higher the multiplier value will be. The composite county and local government multiplier for Sullivan County is 2.2. This higher figure shows that when a governmental unit in the county receives a dollar from the outside world that dollar stays longer in the county economy and increases total economic activity

by \$2.20 before being leaked away.³

Sullivan County is relatively undeveloped and in economically distressed Appalachia. It is about 78 percent forested, much of this in small private ownership. Thirty-two percent of the forested land is state owned, about evenly divided into state game lands and state forests. There is no federally-owned forest land in the county. The area has a declining agricultural industry and a diminishing population, features characteristic of economically distressed counties in the region. Since there are no shopping cities in the county there are not many opportunities for local spending and much of the income received by households and other sectors is immediately spent in nearby areas outside the county. Hence, the money leakage rate is high and the multiplier values are low.

For further understanding of multipliers, Sullivan County might be compared to Clinton County, Pennsylvania. In the second county Gamble and Raphael (4) found the household multiplier to be 2.4 and the composite multiplier of county governmental units to be 2.7. The higher multipliers in this case reflect the increased opportunities for spending or the greater self-dependency of the county. There are larger towns and more industries in Clinton County with more opportunities for the various sectors to satisfy their needs locally.

Impact Without Management Expenses

Consider the effect of property taxes and stumpage sales income received by various types of landowners upon the total economic activity of Sullivan County. For a first approach it will be assumed that all classes of owners, private and public, make no expenditures for management. This assumption will later be changed. Furthermore, in order to concentrate the discussion on the land resource, it

will be assumed that all timber sales income comes directly from the external world. In reality it probably makes little difference to the landowner if his income comes from the outside or is passed through the hands of a value-adding processor in the county. Of course, the county would be better off if all processing were conducted within its borders and only final products were sold to the outside world. But this point does not bear on a comparison of ownership impact differences.

When a local private forest landowner makes a stumpage sale, the income enters the household sector.⁴ From there it is spent to pay property and other taxes and to purchase goods and services required by the household. Each dollar so received increases total economic activity in Sullivan County 1.8 times, so that $Y = 1.8X$, where Y is the increase in total economic activity and X is the income received from stumpage sales. Where annual sales are made X could be forest value yield per acre per year. The impact of income received by a local private owner for various conditions of forest productivity can be seen in Figure 1.

In Pennsylvania an in-lieu-of-tax payment of 20 cents per acre per year is paid by the state to the county government for state owned forest land in the county. The impact of state ownership is independent of forest productivity, as shown in the equation, $Y = 2.2$ ($\$0.20$) = $\$0.44$. What income the state receives from its forest land is immediately taken out of Sullivan County and only state tax contributions enter the local economy. As shown in Figure 1, local private ownership has a greater impact on the total economic activity of the county than state ownership in all cases except where the forest can only produce a value less than 25 cents per acre per year.

There is no federal forest land

⁴To simplify the exposition, all locally-owned lands will be assumed to be held by households, such as is the normal pattern for small forest ownerships. Land held by local industrial or commercial firms would require the use of different multipliers, complicating the discussion without adding to the main point being demonstrated here.

²Total economic activity is the sum of all transactions.

³A local economy is not limited by a political boundary like a county line. However, a county is used as a unit for statistical purposes. In this paper a local economy and a county economy will be considered synonymous.

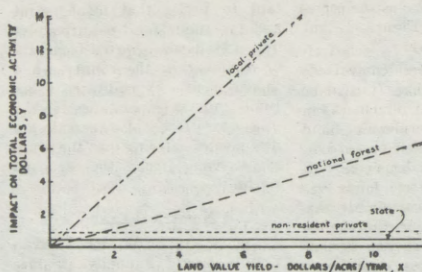


Fig. 1.—Impact of stumpage income on a county economy for various kinds of landowners assuming no management expenditures. Sullivan County, Pa.

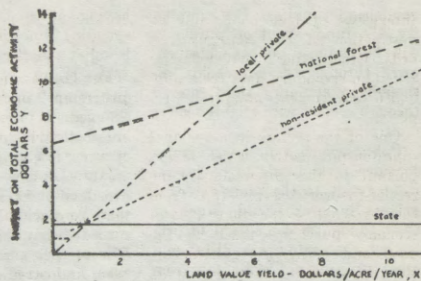


Fig. 2.—Impact of stumpage income on a county economy for various kinds of landowners with assumed levels of management expenditures. Sullivan County, Pa.

in Sullivan County. But postulating the existence of national forest land in the county, the federal government, according to current practices, would make payments to the county government equivalent to 25 percent of the income from timber sales.⁵ The impact a national forest would have on the county is, therefore, a function of forest productivity, as shown in the equation, $Y = 2.2 (0.25X)$. Figure 1 shows that such federal ownership under the present assumptions is in all cases inferior to local private ownership in its impact on county total economic activity for equivalent situations of forest productivity. Furthermore, state ownership is superior to federal ownership in those situations where the forest produces a value of less than one dollar per acre per year. Where value productivity exceeds this figure, federal ownership is superior to state ownership.

The fourth type of ownership to be considered is that of private owners not living in the county. In Sullivan County the average forest owner observed by Gamble (2) pays an annual tax of 41 cents per acre. This same figure will be assumed for nonresident private ownership. The impact of this

ownership class upon the local economy is, like state ownership, independent of forest productivity because none of the income from land is circulated through the local economy. The magnitude of this impact is given in the equation, $Y = 2.2 (\$0.41) = \0.90 . As shown in Figure 1, nonresident private ownership is superior to state ownership in all cases. It is superior to local private and federal ownership only in those cases where forest value yield is very low because outside money is being put into the economy for tax payments regardless of land productivity.

From the foregoing simplified analysis and from Figure 1 it can be seen that under the assumptions being made, local private ownership is superior to all other forms of ownership in terms of its impact on a local economy except on land of very low productivity. However, if the productivity of land differs because one owner manages more intensively than another, a new element is injected into the analysis. Say, for instance, that because of more intensive management by the public owner, federal land were more productive than private land. How much more productive must the land be to give a national forest acre the same impact as a local private acre? This can be answered by inspection of Figure 1. The productivity of land in federal ownership would have to be 3.3 times greater than private land in order for the economic impact of federal ownership to be

equivalent to local private ownership.⁶ An increase in the productivity of land in state ownership and management would not change the impact state ownership would have on the county since in-lieu-of-tax payments are independent of the value of sales under the existing system. Therefore, local privately-owned timberlands in poor condition might be making a greater contribution to a local economy than public land under excellent management.

Impact with Management Expenses

Let the assumption that "no owner spends funds in the county for forest management" now be removed. The assumption implied that taxes on land in all classes of productivity are the same, will also be modified in the single case where dropping this assumption makes a noticeable difference.

Gamble found that the Commonwealth of Pennsylvania spent an average of 74 cents per acre on forest and game land management in Sullivan County in 1962. While more may have been spent elsewhere, only that amount which was actually spent in the county is relevant to this discussion. Sixty-nine cents of the total was for wages and salaries, thus entering the county through the household multiplier. The remaining 5 cents was used for local purchases of

⁵If the national forest timber sale contract requires the buyer to make payment in kind by building a road or making other improvements, and further reduces cash income from a sale by requiring K-V or other operator deposits, the slope of the national forest line will be more shallow than shown in Figure 1 since only cash income is shared with local governments.

⁶Productivity would have to be even greater than this if less than the full value of stumpage income were shared with the local government. See footnote 5.

goods and supplies. For simplicity, the funds spent on purchases will be assumed to have also entered through the households, although in actuality they entered through sectors with slightly lower multipliers.

Public agencies do not generally consider their funds to be investment funds to the same extent a private investor would. Much of their funds are committed to protection, recreation, wildlife and other projects not evaluated from the investment point of view, or their expenditures are dictated by political considerations. It is likely, therefore, that funds spent on management of public forest land are relatively independent of land productivity and will be treated as such in this analysis. Consequently, the impact of state tax contributions and management expenditures for state ownership on the total economic activity of Sullivan County would be $Y = 2.2 (\$0.20) + 1.8 (\$0.74) = \$1.77$.

As a result, the curve for state ownership in Figure 2 is still shown as a horizontal line, as it was in Figure 1, but at a higher level.

For forest land in federal ownership the management expenditures are again treated as independent of productivity and with a value of \$3.60 per acre per year. This figure approximates the per acre expenditures spent locally in the vicinity of the Allegheny National Forest in Pennsylvania.⁷ Under the assumption that similar amounts would be spent were a part of Sullivan County in a national forest, the impact of federal ownership is therefore given as $Y = 2.2 (0.25X) + 1.8 (\$3.60)$. In Figure 2 this is shown by a line

having the same slope as the corresponding line in Figure 1, but being at a higher level

For land in nonresident private ownership the taxes will be changed to show differences in broad productivity classes. Land of very low productivity is commonly classified as brush or cut-over land and taxed at a lower rate than land with larger timber. Assume that land producing less than 50 cents per acre per year is classified and taxed at an annual rate of 20 cents, a figure which is not unrealistic for Pennsylvania. Land containing merchantable timber will continue to be taxed at 41 cents per acre. This change in tax rates has no effect other than to make state ownership of brush and cutover land superior to nonresident private ownership in its impact on county total economic activity. But suppose the nonresident owner, such as a forest industrial owner, spends funds for management of his timber land and that the expenditures are a function of land productivity. The impact on the county total economic activity might be shown as $Y = 2.2 (\$0.41) + 1.8 (0.50) X$. The constant 0.50 was selected arbitrarily to indicate that half of the income from land was being used for management expenditures. Ordinarily, on lands of lower productivity less money is spent for management and on lands of greater productivity more is spent. The impact of these tax payments and management expenditures on total county economic activity can be seen in Figure 2.

Virtually none of the forest land in local private ownership in Sullivan County is subjected to technical forest management. The household multiplier being used here implicitly includes what little is being spent on management and property taxes. Should the local owners shift a portion of their stumpage income to pay more for management rather than other things, there might be a slight change in the household multiplier but not enough to cause a significant change in the slope of the local-private line in Figure 1. This line is therefore shown to be the same in both figures. It is impor-

tant to notice that management and tax funds for local-privately-owned lands are diverted from other spending in the county while management expenditures, tax funds and shared revenues for the other three forms of ownership are new monies entering into the county economy from the external world.

A Numerical Example

Assume a forest in Sullivan County would annually produce sawlogs and pulpwood worth \$6 per acre. Using this rate of value yield, a numerical example can be worked to compare the impact of stumpage sales from forest land on total county economic activity for each of the four ownership classes being considered.

Referring to Figure 2, if a timber sale yielding \$6 is made from land in state ownership, the full amount of the income would leave the county. The economy of the county would be unaffected by the sale since what the state spends in the county is assumed to be independent of what it removes. Under the assumptions being made here concerning management expenditures, the 94 cents the state spends for management and tax contributions increases total county economic activity by \$1.77.

With land in the hands of a nonresident private owner, such as a wood-using industry, who spends \$3 per acre for management when the value yield is \$6 per acre and who pays 41 cents per acre in taxes, county total economic activity is increased by \$6.30. In this case the impact is a function of value yield only to the extent that management expenditures increase with value yield.

Having the same land in federal ownership would have a greater impact on total economic activity since 25 percent of timber sales receipts would be returned to the county. After the 25 percent contribution had been made to the county government and \$3.60 per acre had been spent in the county on management, total county economic activity would be increased by \$9.78.

The greatest impact on total county economic activity would come from land in local-private

⁷Derived from Forest Service, USDA, Report on national forest timber resource operations for fiscal year 1964. Copies reproduced by the National Forest Products Assn. This figure is high when compared to an average figure of approximately \$2.65 per acre for national forests in Region 7, which in turn is high for the approximate average of \$1.20 per acre for all national forests in the continental U. S. These figures also appear high when compared to Gamble's figure of 74 cents per acre spent on state ownership. However, it should be noted that the state forest district headquarters is not located in Sullivan County, a fact which tends to depress apparent per acre management expenditures on state ownerships.

ownership because most of the stumpage income would enter into the county economy before being leaked away. In this case a stumpage income of \$6 would increase total economic activity by \$10.80, ten percent more than the impact of federal ownership, 71 percent greater than that of non-resident private ownership, and more than six times greater than that of state ownership. Moreover, if the land were in federal ownership, it would have to produce a value of \$8 per acre to have an impact equivalent to that of \$6 per acre from land in local-private ownership, again assuming no deductions for buyer-financed improvements.

These results are obtained making certain assumptions which, if thought to be unrealistic, may easily be changed now that the methodology has been demonstrated. However, it is unlikely that different assumptions would work any great change in the picture illustrated in Figure 2, provided the new conditions were reasonable.

From this numerical example it can be seen that a forest tract of reasonable productivity in local-private ownership can generate direct and indirect income for a local area or region which is frequently greater than the income other forms of ownership are capable of generating. The primary reason why other forms of ownership are inferior to local-private ownership is that they drain timber sales income from the locality while injecting relatively minor amounts of money into the local economy. If the economic health of a locality is an issue, transferring ownership of income-producing forest property out of local-private ownership without sufficient provision for other income injections should be discouraged. Furthermore, the importance of a high revenue-sharing payments and high expenditures for management is evident in justifying any form of ownership other than local-private ownership.

Secondary Tax Effects

It can now be seen that the total impact of different ownership forms upon a local economy can go far beyond the question of taxa-

tion. On the other hand, what has been presented here leads to further thoughts on tax base changes.

It is obvious that a change of ownership from private to public hands will remove land from the local tax base and that this might cause higher taxation on that property which remains in private ownership. Furthermore, it will be acknowledged that contributions which the public owner makes to local governmental units may be greater than the local government would receive from property taxes on the same land in private ownership. On this latter point, however, it should by now be well understood that these contributions may not be sufficient to compensate the local economy for its losses of nontax income. These effects are direct tax effects resulting from a change of ownership and have been discussed by other writers (1).

What is of interest now is the secondary effects a change in property ownership may have upon the local tax scheme. It has been shown that a change of highly productive forest land from private to public hands could result in a decline in total county economic activity. If the change in ownership is extensive the income decline of the county could be considerable, income being related to economic activity. Such an income decline would mean a decreased ability of local property owners to pay their taxes. This is the first of the secondary effects. The second would come about in the decreased income commercial enterprises would earn because of less buying by the general population. If commercial properties are assessed on the basis of their values as income-producing assets, assessments presumably would be revised downward as business declines. Thus, this second effect is a further reduction in the tax base. The third effect is a further increase in property taxes on remaining properties both as a result of secondary reductions in the tax base and as a result of the local governmental units being expected to maintain some services and increase others as the local population is less able to take care of its own needs.

While the importance of secondary tax effects may be overstated here, the idea merits further study. A local economy normally has some kind of balance between taxes and the taxpayers' ability to pay. Any change which tends to reduce total county economic activity would tend to upset this balance. Thus, a change of forest land from a high impact to a low impact ownership may place a larger load upon local taxpayers than that caused by a simple reduction in the tax base.

Implications for Forest Land Ownership and Use Policies

The foregoing analysis has demonstrated that the ownership pattern of forest land can have a profound effect upon a local economy and that the effect is one which goes far beyond taxes, in lieu of tax payments, revenue-sharing contributions and management expenditures. The key to the principle being demonstrated lies in the disposition of income from the land, whether it is spent in the local economy or drained away from it. Had the multipliers for Clinton County been used instead of those for Sullivan County, the slopes of some of the lines in Figure 2 would have been steeper but the position of the lines relative to one another would not have been substantially altered. At the risk of generalizing too quickly from these two specific examples, several policy implications concerning forest land ownership and use become apparent. They are stated here to help in achieving the objective of improving the economic health of localities in areas which need economic stimulation and which are in a position of being affected by public policy.

Land Ownership Policies

1. Public acquisition of forests should be restricted to areas of relatively unproductive land. This idea merits attention in national forest acquisitions such as those planned for West Virginia and eastern Kentucky in conjunction with the Appalachia Program. But it should not necessarily be construed to mean that highly productive land in public ownership should be disposed of to local pri-

vate owners. Local industry presently dependent upon the public land might be affected in other ways by such a change.⁸ Furthermore, there would need to be consideration of alternative means for returning land to private ownership because there are probably few local residents in a distressed area who could afford to purchase public land outright and having the land in nonresident private ownership may be no more favorable than having it in public ownership.

In borderline cases where the impact of public ownership is almost as great as that of private ownership, the inclusion of greater multiple-use benefits may favor one ownership over the other.

As a corollary to local land ownership policies, local governments should realize that they have a stake in the ownership of forest lands. They should make sure that taxes are not so high as to encourage the change of property from high impact to low impact ownerships. More specifically and in the case where it usually applies, local property taxes should not encourage or force private owners to give up land of good productivity to public ownership.

2. Local communities should not encourage acquisition of land in local ownership by nonresidents unless the new owners create compensating benefits such as added employment and marketing opportunities by bringing new wood-using industries to the community.⁹ While stumpage income would still be leaving the county, these losses could be more than offset by management expenditures, property taxes, payrolls from processing plants and increased stumpage income from other lands in local ownership.

While the latter policy implication is logically developed from

the model which has been presented here, it is probably not very realistic. If it were strictly followed it would mean that a firm would have to build a mill in every county in which it wanted to own forest land. If every county in a state followed such a procedure, a new industry might not be able to acquire enough land to justify its location in the area. Obviously, the policy would give way when efforts are being made to attract industry into a state.

While the author knows of no input-output studies for entire states, it should be axiomatic that the external demand multipliers for states or multicounty regions would be greater than those for a single county because of the greater economic self-dependency of the larger areas. From this it follows that the attractiveness of timberland ownership by an in-state firm and of state ownership are both increased relative to that of federal ownership in their impact upon a regional or state economy. This gives rise to priority rankings for ownership of highly productive forest land which are different from those presented in Figure 2. The county should try to keep stumpage income in the county by discouraging public and nonlocal ownership. This failing residents or industries located or locating in nearby counties should next be favored. Ownership by individuals or firms located elsewhere in the state or by the state itself would be favored next. With these forms of ownership stumpage income is still being kept within the state. Federal ownership would drain stumpage income out of the state to the greatest extent and would be least favored.

While the priority rankings listed might be altered for specific cases or as better information becomes available, it would appear that, generally speaking, from the local regional and state points of view the preferred owner is one who keeps the income from his land in the locality being considered. Because the appropriate multipliers are not available and because specific levels of land productivity are not being considered in this generalized statement, it should be emphasized that each

case would have to be judged on its own merits. But the principles for judgment are clear.

Forest Management Policies

1. Public and nonresident owners should be encouraged to spend as much of their management dollar in the locality of their ownerships as possible. Such expenditures would increase the impact their ownership has on the local economy.

2. To the extent that local markets are strong enough to sustain production increases, landowners should be encouraged to harvest all of their allowable cut. The impact upon a local economy has been discussed here in terms of actual value yield received by the owner, not potential yield. Land on which the allowable cut is being harvested will contribute more to the local economy than similar land being held in some reserve condition. Conversely, land which is withdrawn from timber production, as with recreation and wilderness lands, without sufficient offsetting income contributions to the local economy or without the creation of sufficient new income opportunities, will certainly have a much lower impact on county total economic activity than the same kind of land used for timber production. This would be true, even if the latter land were poorly managed from a silvicultural standpoint.

To those who propose public acquisition of small private forests in order to rehabilitate them, the point must be presented that although rehabilitation would improve the stocking on these tracts, they would probably be taken out of production for a considerable period. This would result in a loss of income to the community. In private ownership these tracts often contribute pulpwood, fence posts, mine props and other minor products, the income from which is vital to the owners and the community. Here is an example of a possible conflict between a community's current economic needs and the nation's future timber needs as indicated by a requirements prediction.

3. Where primary wood-using industries have a choice of the

⁸The multipliers being used are from a matrix which represents a static model of the Sullivan County economy in 1962. They may be used to indicate the direction of desired changes but cannot be used once changes from the 1962 static model are made. That is, they can be used to indicate actions but not evaluate consequences. A change which is made in any sector requires reformulation of the model.

⁹Corporate industry cannot be considered totally nonresident if shareholding employees live in the county.

source of their raw materials, by favoring sales from land in local private ownership, their presence in their communities would have a greater impact because their raw material dollars would stay longer in the locality when spent for private stumpage than for public stumpage.

Public Tax Contribution Policies

1. Since the acquisition of private land by a public agency can be seen to have an adverse effect on a local economy if land is acquired from a higher impact owner, the question might arise concerning how such an effect can be lessened. One obvious answer is that public in lieu of tax payments and revenue-sharing contributions could be raised.

In the numerical example given earlier in this article on land producing timber worth \$6, the state would have to raise its tax contributions to the county from 20 cents per acre to \$4.30 per acre in order to leave the total county economic activity unaffected by an ownership change from local-private to state hands. The federal government would have to raise the share of income paid to the county government from 25 percent to 33 percent before the county economy would be unaffected by federal acquisition of private land. Again it should be pointed out that the local management expenditures used in the illustration of \$3.60 per acre are extremely high for federal ownerships and that it was assumed that the 25 percent revenue share was of the full stumpage value. If management expenditures are lower or if revenue shares are based on net cash income after deductions for improvements, the revenue-share percentage would have to be higher for federal ownership impact to equal that of local private ownership.

It is probably not politically reasonable to expect the state to raise its contribution to local governments above that which private landowners pay in property taxes. This being the case, the state should not aggravate a poor economic situation by purchasing locally-owned land except where such land has low value productivity. But it is more reasonable to expect the federal government to be able to raise its revenue-sharing contributions. A precedent exists in the 75 percent of sales income which is returned to counties in which the Bureau of Land Management controls the revested Oregon and California Railroad lands. Indeed, where public acquisition of private land is necessary to achieve certain governmental purposes, more thought should be given by the acquiring agency to contributions which will offset both direct and indirect income losses to the local community.

2. If increased contributions to the local government could be used to offset the adverse effects suffered by a local economy when a public agency acquires highly productive private land, it follows that an increase in contributions for land already in public ownership could be used to stimulate depressed local economies. Thus, in lieu-of-tax payments and revenue-sharing contributions might be increased to be used as a rural anti-poverty tool. If the share of timber sales income paid to local governments were made to vary inversely with some index of local economic well-being, communities in the environs of national forest land would stand to benefit more from public ownership. The prospect of receiving a greater share of timber sales income might be an incentive to communities to take more initiative in seeking new wood products industries. These new industries would themselves boost the econ-

omy of the locality and permit a reduction of the community share of timber sales income. Such an arrangement seems to have more merit than making relief payments in a depressed area because it provides encouragement for the development of private initiative. Furthermore, the increased payment made to the local government in the case of national forest lands would be used for roads and schools, just as a major portion of funds in current anti-poverty programs are used.

In a larger sense, the economy of the entire nation may be little affected by the pattern of forest land ownership. And certainly there are other valid reasons for some forest land being in public ownership. This discourse is not meant to minimize the value of forest land for recreation, wildlife, wilderness, and water. The monetary values of these land uses are obscure and this obscurity is the reason why the government is often expected to provide for these benefits. But the problem of local social and economic welfare is a subject receiving nationwide attention nowadays. From the analysis presented here it can be seen that public land policy can do much to aggravate or alleviate the economic situations which exist in many forest-dependent communities.

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Mr. O'NEAL. Thank you, Mr. Hodges.
Mr. Nelson, would you come around?

STATEMENT OF M. M. NELSON, DEPUTY CHIEF OF THE FOREST SERVICE, DEPARTMENT OF AGRICULTURE; ACCOMPANIED BY REYNOLDS FLORANCE, DIRECTOR, DIVISION OF LEGISLATIVE REPORTING AND LIAISON, FOREST SERVICE

Mr. NELSON. I would like to have Mr. Florance join me at the witness table.

I am here today to discuss the Department of Agriculture's views on H.R. 774 and the related matter concerning sharing of national forest revenues with the States and counties.

H.R. 774 would supplement the act of May 23, 1908, as amended, and section 13 of the act of March 1, 1911, as amended, and other acts with respect to national forest lands. Those acts all concern payments to the States of a portion or all of the receipts from the lands concerned. The 1908 and 1911 acts, as amended, provide for paying the States in which the national forests are located 25 percent of the money received during any fiscal year from the respective national forests. The money received from the 25 percent payments is to be used for public schools and public roads in the counties in which the national forests are located.

The third act which H.R. 774 would supplement is the act of June 22, 1948, as amended. The 1948 act provides for paying to the State of Minnesota at the close of each fiscal year three-fourths of 1 percent of the fair appraised value of certain national forest lands in three counties. These payments are made from any national forest receipts not otherwise appropriated and are in lieu of the 25 percent payments authorized by the 1908 and 1911 acts.

H.R. 774 also would amend sections 6 and 24 of the act of June 20, 1910. These sections of the Arizona and New Mexico Statehood Act provided for paying to the States of Arizona and New Mexico respectively for public school purposes a portion of the gross proceeds from the national forests in each State. These payments are in the proportion that certain sections granted to the new States within the national forest have to the total national forest area in the State. Under the provisions of the 1910 act these sections of land are administered as part of the national forests.

In addition to the payments now being made to the States and counties under the acts just referred to, H.R. 774 would require the Secretary of Agriculture to pay annually to each county in which national forest lands are located an amount equal to 10 cents per acre of national forest land located in that county. This payment is to be in lieu of taxes. There would be no restrictions on how the counties would use such fund. H.R. 774 would not apply to the national grasslands which are managed as part of the National Forest System.

The Department of Agriculture opposes H.R. 774 and other related bills which would not treat the whole of the problems arising in connection with the sharing of revenues from the national forests and other public lands and resources, or which could have an adverse effect on existing national forest programs and the management of national forest resources.

We recognize and appreciate the financial problems that confront many of the county governments in which the national forest and other public lands are located. These are problems, however, that plague other counties as well. Also, the degree of the problems and the most effective method of solving the respective problems are not the same for each county or even most of them.

Over the years dissatisfaction with arrangements for sharing revenues from national forest lands has stemmed from a number of sources. These include restrictions on use of funds, the method of apportioning payments among the counties within which a given national forest is situated, fluctuation in the amount of normal payments, treatment of sale area betterment costs and certain timber purchaser deposits, and the general level of payments, particularly with respect to newly acquired lands.

This committee is aware of a number of proposals from various sources for meeting the objections to the present national forest revenue sharing arrangements. Most of these proposals fall into four categories:

1. Establishing a different formula than the prevailing one of 25 percent of receipts.
2. The use to which the counties may put the funds received.
3. Calculating the 25-percent payments against a different total base.
4. Transition payments on newly acquired lands.

Bills have been introduced in the Congress from time to time which would take one or more of these approaches.

H.R. 774 would increase the amounts the counties receive by adding an across-the-board payment of 10 cents for each acre of national forest land in each county. The area of national forest land exceeds 182 million acres. Therefore this bill would require an additional annual payment to counties of over \$18 million. As we pointed out in our report on this bill, during the period of 1961 to 1966 the aggregate payments ranged from a low of \$25 million to a high of \$42 million. An additional annual payment of \$18 million would thus represent an increase of 72 percent on the low year and 43 percent on the high year. But, as it would affect individual counties, a uniform additional payment of a certain amount per acre could represent a relatively small increase to those counties already receiving \$1 or more per acre. To the counties which receive only a few cents per acre it could mean an increase of 100 percent or more.

H.R. 774 states that 10 cents per acre shall be paid in lieu of taxes. Tax on land is usually related to the productivity of the land being taxed. Much of our national forest land, and often the private land near it, is of low productivity. This is illustrated in our 1962 study which found that in at least five broad areas the comparable private land was being taxed at less than 10 cents per acre. As a further illustration of productivity, we know numerous large national forests which in 1966, did not produce an income of 10 cents per acre. Thus, receipts from forest areas of high productivity would be used to make these payments to counties in other forest areas or States of low productivity. In some cases the payment would be above the local going tax rate collected on similar private lands.

A problem of many counties is being able to know just what their annual payment will be because the 25-percent fund is related directly to receipts which vary from year to year. A fixed additional payment would assure them of at least a certain amount each year. It would not necessarily fit the specific financial condition of each county. The financial condition of the individual county may already be good or extremely poor regardless of the amount of national forest land within it. Some counties are already receiving payments at a per-acre rate approximating, or greater than, the taxes on comparable privately owned lands. Such counties could conceivably receive a bonanza at the public expense. Other counties with a much greater need may realize a significantly lesser benefit. I am sure this committee understands that there may, or may not be, certain county services that are related to the public lands within the county. We have, for example, vast areas in Alaska and Western States, where no one lives, transportation routes are negligible, and use is very light. Such areas have very little relation to services provided by county government. On the other hand, there are other areas of national forest which are highly developed, and highly used, where many of the services provided by county government are related to the forest lands. This is a complicated problem. But briefly, the financial problems of the individual counties may or may not be closely associated with the area of national forest or other public lands in them and the revenue payments received from them.

Proposals have been suggested for minimum annual payments or a specific floor under revenue payments. We do not believe this would be satisfactory either. If a 10-cent-per-acre floor were established, nearly 300 counties would have received no additional benefits in 1962. While the floor could eventually be placed at any figure regarded as reasonable in the light of the overall structure of payments, it seems doubtful that counties either above or below whatever level was finally selected would be satisfied with it. Payments to the counties from national forest receipts could become the center of greater controversy than anything experienced to date. As mentioned a moment ago, use of an essentially arbitrary figure without relation to any clearly understood standard of need or of services performed could mean a windfall for some counties not needing financial aid, and token payments or no increase at all to still other counties which do need assistance.

On the other hand, standards of county need are difficult to formulate and would presumably involve detailed analysis of the local situation in each of 672 national forest counties. The situation once analyzed would require periodic review as conditions changed. In 1950 Congress repealed a ceiling that had restricted 25-percent-fund payments from Weeks law lands to 40 percent of county revenue from other sources. This would indicate that Congress, at that time at least, did not wish county finances to determine national forest contributions to local governments.

A number of bills have been introduced to authorize use of 25 percent fund payments to the States for purposes other than schools and roads. Those bills were aimed at giving the counties more flexibility in the use of these funds in their whole financial program. Inability because of statutory restrictions to use the 25-percent moneys for purposes other than schools and roads presents a handicap to the counties

where the need for some other purpose is not or cannot be financed adequately from other available revenue sources. In general, we have favored these proposals, but they almost invariably run into difficulty with educators who fear that the net result may be a reduction of funds for the county school systems.

Many county governments and local school districts desire an increase in sharing of national forest receipts over what they now receive under existing law. This committee is well aware of this from the many and varied bills that have been introduced, and more specifically from testimony at the field hearings recently held by this committee in three Western States.

Without a whole new approach to revenue sharing, the greatest opportunities to ease the problems are:

1. Increase the funds deposited in the forest reserve account, the fund which is shared with the counties.
2. Change the law so that some funds deposited in other accounts might also be shared with the counties.

As to No. 1, increases in the forest reserve fund could be accomplished in several ways.

First, in the overall long run, the best solution is to manage our national forests so as to produce the maximum products and services they are capable of producing under scientific management consistent with regard for values not classed as commodity items. This, of course, requires that they be accessible by a fully developed transportation system. Full productivity is an objective we heartily endorse.

The second way is to secure full payment for these commodities or services which are sold. This we constantly endeavor to do. Our timber is sold by competitive bid. We are presently involved in comprehensive studies of grazing fees and special use fees. We have instituted use fees at recreation areas, and we have entered into share-cost agreements for roads.

Third, we would forego certain work being performed on national forests, especially in connection with timber sales, which is either done by the timber operator or from funds deposited by him. This method of increasing the forest reserve fund is opposed by the Department and the Forest Service. It would be contrary to placing our forests under scientific management and keeping them fully productive. It would not be in the best longtime interests of the public.

Opportunity No. 2 would allow the work to go forward as it now is but could, by a change in the law, authorize an additional distribution to counties which might be an amount equal to 25 percent of the funds deposited in another account. This is what many people referred to in the field hearings as "25 percent of the gross receipts" rather than a percentage of "net receipts." The account referred to most in the field hearings was that authorized by the Knutson-Vandenberg Act.

Since more than 95 percent of all receipts credited to the forest reserve fund are derived from the sale of national forest timber, it is important to understand the major involvement of our timber sale business in order to understand its relationship to payments made to counties.

Sales are made of national forest timber, on the stump, to private timber sale operators, usually by a competitive bidding method. The timber operator cuts and removes the timber as a private business enter-

prise under a timber sale contract. The Forest Service determines what timber is to be sold, appraises it to determine the minimum price that will be accepted, determines the contract conditions under which it could be removed, and supervises the sale for compliance of the contract. Very simply the appraisal determines the value the operator might be expected to receive from the timber he is authorized to remove and subtracts the cost of removing the timber under conditions imposed by the contract. The difference is what remains for profit and risk to the operator, and stumpage payment to the Government. Thus, the costs allowed in the appraisal directly affect the payment to the Government and later the payment to the State for use by the counties. Costs include such items as cutting the trees, hauling the logs, constructing and maintaining skid trails and roads, protection of the area from fire while in operation, removing the hazard of slash and debris caused by the operation, repair of disturbed areas to prevent erosion, and sale area betterment or the costs of making sure the productive capacity of the area is improved and kept at a high level. The costs are those which the timber sale purchaser must pay. They might be divided into two classes: (a) Those that are necessary for removal of the timber including handling of disturbance to the forest caused by the logging and (b) those that are for betterment of the future forest on the sale area.

Costs of logging are paid by the purchaser by direct expenditure; by required deposits into a special fund with the Forest Service with which we then do the necessary work; or by an optional deposit in a special fund used by the Forest Service to perform work which the purchaser is required to do. Brush disposal is a common required deposit. Often the operator does a certain part of this while the deposit will be used to actually burn the slash, frequently after the sale is complete and the operator moved, or to give the area added protection in lieu of actual disposal. Examples of optional deposits are those for road maintenance or treatment of areas to prevent soil erosion. Road maintenance deposits are most often used in situations where several use the same road and the deposits are made as the operators share of the total maintenance job. Work for soil-erosion prevention is a specialized type of work often not related to the logging business and which may be done after the normal logging is finished. Operators often elect to "contract" this work to the Forest Service.

All of these costs to the sale purchase are necessary for proper management of the public land. We could not allow sales in most areas without requirements to properly repair changes in the forest land resulting from logging. The alternative would have to be—don't make the sale.

One of the biggest logging costs in many sales is the cost of constructing roads. Such roads can be placed into two groups. First are the roads on the sale area which are strictly for the removal of timber on the particular sale. This will always be a logging cost to the purchaser. Second are the roads going to the sale, or within the sale area, that are needed for use in future sales, or other management and use of the national forest. They become a part of the national forest road system. They could be built with appropriated funds—and many of them are. Even though the Congress has given us increased authority to proceed faster with construction of the full system of national

forest roads, the funds presently available do not allow us to build all roads as fast as they are needed to service sales which need to be made. An alternative would be to stop making sales until appropriated funds are available to construct needed system roads. This would greatly reduce receipts and very seriously reduce payments to counties. We see only one answer and that is to try to build as many roads from appropriated funds as possible but continue to have sale purchasers build those system roads which cannot be timely built with appropriated funds. Fortunately most sale operator roadbuilding is done in areas where timber values are great and the counties are relatively better off.

The cost to the sale operator for sale area betterment is authorized by the Knutson-Vandenberg Act of June 9, 1930. Where this work is needed to insure fully productive land on a scientific forestry basis the Forest Service determines how much will be required to do the work and requires the operator to make deposits into the K-V fund. The work is of a forestry nature usually performed after the sale is completed. It is usually planting trees, seeding, thinning or other care of remaining stands, or similar improvement work. It is very necessary in assuring a proper future forest stand.

The Department and the Forest Service are greatly concerned about any proposal that would eliminate any of the work performed by deposits to particular funds, even though it is recognized that to do so would increase funds available to the counties. These deposits should not be considered as payments for timber. Instead they are more in the nature of business expenses associated with harvesting national forest stumpage. Under the law the 25-percent fund must be calculated only against the price for timber, not against the payment for timber plus associated deposits for work made necessary by the timber harvesting operation.

The Forest Service view generally is that the present system is proper and equitable. Counties in effect are sharing in and benefiting from the investments in the land necessary to assure continuous and future timber crops. This means employment, payrolls, and future income when the next crop is harvested. It would seem equitable that the counties participate in this investment.

Another factor requiring careful study in proposals such as this is probable effect on the returns to the counties. Again, the benefits of such proposals would not accrue equally to all counties. In 1964, we made an analysis of the relation of K-V collections to county receipts from the 25-percent fund. This analysis showed that if, during the 10-year period 1954-63, K-V had been included in national forest receipts increases in 25-percent returns to the counties would have ranged, on a national basis, from 0.8 cent to 2.6 cents per acre. Between Forest Service regions the revenues would have varied from 0.2 cent to 9.3 cents per acre. Timber sale volumes, lumber prices, sale area betterment needs, and location and terrain are all determining factors in the amounts received from the sale of national forest timber. These factors vary considerably from area to area. While the inclusion of K-V and the other special deposits in the total national forest receipts may increase the total receipts, it could not assure significant increases in payments to the counties or prevent fluctuations from year to year in the amounts of payments.

Direct payments in lieu of taxes on national forest and other public lands are another approach which has been proposed. Proponents of this approach usually argue that were the lands in private ownership, taxes thereon would produce revenues in excess of those received in 25-percent-fund payments. In some cases, this may be true, in others, 25-percent-fund payments exceed property taxes on comparable private lands. However, in making such comparisons other financial benefits to State or local governments must be considered.

The Forest Service recently completed an analysis of the revenue-sharing payments in 1962 from national forest lands in relation to the estimated amounts that would be received by State and local governments from such lands if payments were equivalent to taxes levied on similar property in private ownership. That study included estimates of the extent to which expenditures now incurred by the Federal Government would have to be incurred by State and local governments in the absence of the national forest system. These contributions in kind are of three main types: fire control expenditures, forest highway expenditures, and construction and maintenance costs for roads, trails, and structures.

For all regions, in 1962, the sums of 25-percent-fund payments and contributions in kind exceeded estimated taxes. However, it should be kept in mind that national or regional averages may mask substantial variations among individual counties.

Where most acquisitions are involved, particularly those of sizable acreages, proposals have been made in several instances for some form of transition payment. The purpose of such payments would be to soften or eliminate the impact the removal of such lands from the tax base may have on the financial condition of the county and local governments. These payments, as proposed, would be made for the period from date of acquisition until the economic benefits and a resultant increase in revenue sources derived from development and use of the lands for public purposes offset or surpass the initial tax losses. In general, the administration has opposed such proposals.

The President's Commission on Intergovernmental Relations—the so-called Kestenbaum Commission—in 1955 made a comprehensive study of the question of Federal revenue-sharing arrangements with States and counties. The Commission concluded:

"By and large, the present revenue-sharing arrangements on national forests are operating to general satisfaction. Neither practical nor theoretical considerations require replacement of this revenue-sharing arrangement with some other Federal payment procedure. The 25-percent share of receipts payable by the Federal Government appears generally fair and reasonable and should not be disturbed." The Department of Agriculture has consistently agreed with this position.

We do not purport to say that there is no need to review revenue-sharing arrangements in the light of current conditions. Neither do we maintain that no changes are needed to improve existing arrangements. We do believe that, before any changes are made which would treat only certain features, a comprehensive study should be made of the whole subject of revenue-sharing and payments in lieu of taxes on Federal lands. Such a study should produce recommendations for action that would solve this problem in the best interest of all concerned. I might point out that this is one of the main studies being undertaken

by the Public Land Law Review Commission. The Commission just recently signed a contract with EBS Management Consultants, Inc., for such a study.

Mr. Chairman, that concludes my statement. I realize it is rather long and involved. We covered, or tried to cover, many of the other features of cost-sharing, other than the features of H.R. 774 which are being considered, because we think that they all tie together and it is a complicated and difficult subject.

Mr. O'NEAL. Thank you, Mr. Nelson.

I think it needs to be said at this point that we would have been disappointed if your statement had been brief. We recognize that this is a very complex subject and very disturbing, and you recognized that, too, at several points in your testimony. So we appreciate the fact that you have given us a very complete discussion, making many valid points about many of the suggestions which have been made.

Before we go any further, Mr. McMillan has to go back to his District Committee. He will be recognized at this point for insertion of some material in the record.

Mr. McMILLAN. Thank you, Mr. Chairman.

First, I want to congratulate Mr. Nelson on his very informative statement. We are always glad to have him before this committee. Please feel free to come up at any time.

Mr. NELSON. Thank you very much.

Mr. O'NEAL. Now, Mr. Nelson, I feel sure that some of the subcommittee, especially those from the areas most directly affected, have some questions they would like to ask you. So I recognize Mr. Hansen at this point.

Mr. HANSEN. Mr. Chairman, I would like to tell you, Mr. Nelson, I think you had a very well developed statement. You certainly went into enough detail to build your case, and I think you should be commended on this.

Mr. NELSON. Thank you.

Mr. HANSEN. This, of course, keeps us from establishing things on a false premise or foundation.

When you were developing the point that you have a lot of forest roads and other things to take care of that normally the counties would have to support if they were getting payment in lieu of taxes, you were trying to say that they are getting a tremendous amount of benefits because of the very things that you are doing on some of the forestlands that they would likely have to do otherwise. Is this correct?

Mr. NELSON. Yes. The 1962 study I referred to did go into some detail. We would be glad to make that available to the committee. It has, I believe, already been made available to the staff. I do have about a 5-page summary of how that study was arrived at and the conclusions, that I could make available to the committee if they would like it, or to the subcommittee staff for study. There are a number of items that the county or State governments would have to take care of if the land were private land rather than National Forest land. For example, there is a direct payment to States for Forest Highways within the Forests—100 percent financed with Federal funds; whereas, if it was not National Forest land the State highways would have to be built with the other Federal-aid matching fund which is usually

on a 50-50 matching fund for the types of highways that we are talking about. That is one of the examples.

Mr. HANSEN. Mr. Chairman, would it be helpful to the committee to have this particular information Mr. Nelson cited included in the file?

Mr. O'NEAL. Yes. I have not seen it, but I heard the suggestion from Mr. Nelson that it might be for the benefit of the staff. I do not know whether you are asking that it be inserted into the record.

Mr. HANSEN. No, not in the record; just for the file.

Mr. O'NEAL. We appreciate the fact that Mr. Nelson has offered it to the staff.

Mr. NELSON. We will make it available.

Mr. HANSEN. As I understand from your statements, the services that you are able to perform by not sharing the so-called 25 percent of the gross receipts would more than offset the value to the counties if they were to get the full 25 percent of the gross and have to do many of the things that you are doing for them at this time; is that what you were stating?

Mr. NELSON. Yes, that is right. I think maybe we want to make sure we are clear here. I was referring in our 1962 study to certain items that, if the land were private land rather than National Forest land, the county or States would have certain expenditures that the Federal Government is taking care of at the present time. Referred to also were certain items that have an effect on the gross receipts. Those are some of the deposits that are made. My example is the KV deposit, one that was talked of most in the field as an item which reduced the receipts from what they referred to as gross receipts, but those are items of work that we definitely feel need to be done. I pointed out that one way of increasing the revenues to the States would require a law so that some of the funds that are placed into such a deposit could be shared with the counties such as the 25 percent.

The work accomplished from those deposited funds we definitely feel needs to be done in order to properly manage the national forest.

Mr. HANSEN. Then, what you are actually alluding to is the fact that if you are handicapped by having to share this extra money that is the difference between 25 percent of the gross and 25 percent of the net, as we have been terming it, you would be having to cut down enough on road services and other things that could possibly keep you from selling certain tracts of timber and thus cut sales in certain areas from which the counties do profit. So there is a possibility of trying to take certain money that is needed to help to make sales that could cut them down on the other hand; is this correct?

Mr. NELSON. That is correct. I think the road example, which is the one that is not put into a special deposit, is the item overall that would have the greatest effect on the amount of money the counties finally get. As I explained, when we make a sale where we do not have the main road system in, the part of the road that would be on the national forest road system, or where we cannot build it prior to the sale, we require, in many cases, the timber operators to build that road and to build it to a certain standard because it is going to be a part of the overall main system. Actually, there are some \$50 million worth of roads being constructed each year under timber sale contracts. Sometimes it has been higher than that. That has a direct effect

on the amount of money that is deposited for receipt on the timber. One of the biggest places that would benefit the counties, would be if we could build from appropriated funds all of the national forest road system that is required for the management of the national forest.

Mr. HANSEN. What you are saying, then, is that if it was decided to take 25 percent of the gross rather than the net for county funds, that you would then have to set that much more aside, have an individual pay that much more for access to a tract of timber, which amounts to a raise in price to him because you just have to pass the added expense on. And if this happens, they will be a problem of whether he can meet the competition on the market. Now, does it go that far?

Mr. NELSON. If we build the road that we are now requiring the operator to build, we would obviously get more for the timber, it would be worth more because he does not have the road cost. The county would share in that additional amount that he would pay for the timber. So some of these items such as roads, if we were able to build them, it would definitely increase the amounts that the counties would receive.

When you refer to gross receipts as against net receipts, it is hard to distinguish just what gross receipts are, because some people, as you heard in the testimony, were saying that the gross receipts should include the amount the sale operator is paying for the roads. Others seem to indicate that anything that was put into a special deposit has taken it away from gross receipts; whereas, some of the deposits, as I mentioned, are strictly for items that are part of the logging costs. So there are various definitions of what gross means and what net means, although I am sure they are talking about the net being the amount which is actually deposited in the forest reserve fund, which is that fund which is divided with the counties.

Mr. HANSEN. I don't think there is any problem about the net funds; it is the gross funds.

Mr. NELSON. That is very true.

Mr. HANSEN. I think, then, your whole case boils down to the fact that it is so complicated when you start making a shift of funds that if they are going to have more money, then it is cutting you on your money available to do some of the things that are necessary. In other words, there is only so much money and someone is going to get it to do something with. It is such a comprehensive and complex thing that it should be carefully studied before we make any big moves. As I understand your statement, you did not say that changes could not be made but you wanted to be pretty sure that they would not aggravate something and create real problems where they do not now exist.

Mr. NELSON. That is true. We think it is a comprehensive study that is needed and a thorough understanding of the whole problem. We do feel that a study that the Land Law Review Commission has contracted for is now aimed at getting at this in a comprehensive manner. Therefore, we would suggest that we see how that study comes out before we embark on something that might affect other parts of the whole problem.

Mr. HANSEN. You do suggest, then, waiting for the land law review decision?

Mr. NELSON. Yes. For instance, let me give you one example where H.R. 774, on the 10 cents per acre, would seem to be inequitable. You

remember I referred to large areas in the West and Alaska where the county government relationships; that is, the relationship of the services of the county government are not in direct relation to this type of land. In Alaska at the present time we have 20 million acres. Under the 10 cents per acre, this would give Alaska over \$2 million. They would be the big recipient of this bill, H.R. 774. That is eight times as much as the counties, or really they are called boroughs, get at the present time there. Last year under the 25 percent they received \$283,000. It would take 11.5 percent of the total of the new payments that would be available under H.R. 774 just for the Alaska situation.

At the same time, we do not say that the Alaska boroughs do not need additional funds. They probably do. The boroughs do not provide the types of services that many of the counties normally do in other States. For instance, they provide no police service. The main functions of the boroughs there are running the assessment and taxation of private land, schools, a few roads that are outside of the municipalities. That is one example of how this particular bill might not be equitable, in our opinion.

Mr. HANSEN. So you say even the counties have such varying circumstances that it is a problem?

Mr. NELSON. That is very true.

Mr. HANSEN. Do you really feel—your testimony seems to indicate this—but do you feel that the payments being made to the counties now are, by and large, pretty much fair and just?

Mr. NELSON. I think any study will show that the situations in different counties vary so much that I cannot make an overall statement. We felt that the system is an overall fair system. We do not contend that there should not be studies or that there might not be the necessity, or desirability, of making some changes. But from an overall standpoint we think the system is relatively fair at the present time. We look with great favor on the study that is being made by the Land Law Review Commission and certainly we would want to look at that when it is complete. I would rather imagine that there will be things come out of it—in fact, one item that we have always favored that has never been passed was a recommendation of the Kestnbaum committee. They had a few recommendations, one of which was that the 25-percent fund should be based upon a running average, a 3-year or 5-year average. They said a 5-year average, which would even out the payments to the counties. I think there was some comment in the field hearings that one of their troubles was that 1 year was high and the next year was low. It just happened that in the last couple of years our receipts have been on the increase, so they generally have increased. But the first year that they are down—and they may be next year—then is when the complaints come about because they had planned on what they had before and it goes down. That type of recommendation is something that will probably help the situation to some extent. It wouldn't give them additional funds in the long run but it would even them out.

Mr. HANSEN. A sort of leveling device, then.

Mr. NELSON. Yes.

Mr. HANSEN. This is your suggestion, something of this nature, not this particular one but something of this nature to alleviate those inequities that do happen?

Mr. NELSON. Yes; that is one type of thing. Another thing proposed by the Kestnbaum Commission, has to do with transitory payments, when land is taken off the tax rolls. Most of our land in the national forest system was never on tax rolls but we have purchased about 20 million acres and we are purchasing land at the present time under the Land and Water Conservation Act. The Kestnbaum Commission even back in 1955 recognized the desirability of a transitory payment. We have done considerable studying of this matter. We think it is worthy of additional study. I am sure this new study going on will get into that type of thing. It has some real equities.

Mr. HANSEN. You have given some thought, then, to correcting these imbalances in certain areas but you have not gotten off the ground really since you have been more or less waiting, I presume, for the Land Review decision?

Mr. NELSON. I think you could size it up that way, although this 1962 study that I mentioned is one of a number. Periodically we have made that type of study in order to keep abreast of the situation.

Mr. HANSEN. You have not advocated a course of action as yet?

Mr. NELSON. No.

Mr. HANSEN. Just the studies?

Mr. NELSON. That is correct.

Mr. O'NEAL. I did not quite understand what you thought you could do in the absence of a change in the law.

Mr. NELSON. I do not think there is anything we can do. There is one thing, however, that would have a major effect on revenues to the counties, and that would be to have enough road funds to build a road system with appropriated funds. That would not require a change in law. The Congress recognized that. At least, to some extent it recognized it in the Highway Act when they increased our authorization last year, doubled it. We do not yet have the funds to use the full authorization. Each \$1 million that we spend on a road that serves timber sales has a direct effect on the county receipts. That would not require additional law.

Mr. O'NEAL. If I recall, one of the recurring complaints in the hearings was that some of these county officials sought to have more voice in deciding whether the roads were to be built or how good a road would be built, they really were seeking the privilege of making these decisions.

Mr. HANSEN. Before you undertake that answer, may I excuse myself and say I appreciate your indulgence, Mr. Nelson.

Mr. NELSON. Thank you.

There was some indication by some of the people who testified that our road standards were too high, the roads we were requiring the timber sale operators to build. Our roads are designed, located, surveyed, and one of the principles of designing a road, recognizing this is part of our road system for the entire Forest Service that will last many years, our principles are to get a road of least cost. Now, in the cost we consider not only the cost of constructing the road but the cost of maintaining it after it is constructed and the cost of hauling the timber over the road. Obviously, it costs less to haul timber over a road of one standard than it does over a lower standard road. Consequently, that would then reflect in the cost and have a bearing on the receipts that would be received from the timber and eventually on the county receipts, too.

Mr. O'NEAL. Since you make the point today, I can see that the general public might not understand your long-range plans as they are related to future sales which, in turn, affect these people and they do not know it.

Mr. NELSON. That is right.

Mr. O'NEAL. Mrs. May?

Mrs. MAY. Thank you, Mr. Chairman.

Mr. Nelson, you certainly have put into good perspective for us the inadvisability of trying to apply legislative proposals to the solution of this problem at this time. I just wanted to ask, as far as the future, you have already indicated that the Kestnbaum Commission have made some recommendations which have not yet been put into law, that is, it does take legislative action as far as the 3- to 5-year averaging out of transitory payments, for example; is that right?

Mr. NELSON. Yes.

Mrs. MAY. At least, road payments need authorization and appropriation, too, although those are things that could help some facets of this situation, you think?

Mr. NELSON. That is correct.

Mrs. MAY. Then your remedy, by and large, is in your statement your recommendation indicates that you are not saying that there has not been a need to review the revenue-sharing arrangements in light of current conditions, things that have changed since the Kestnbaum report, changes that were testified to in our western hearings.

Mr. NELSON. Yes. We heartily favor studies of that type.

Mrs. MAY. And you would be willing to agree that there may be some changes that are needed?

Mr. NELSON. Yes.

Mrs. MAY. Now, that brings us, then, to your recommendation, with which I cannot quarrel, considering this is such an involved situation, in trying to find the right proposals; the results of the Public Land Law Review Commission which has just recently signed a contract, you said, would perhaps make it possible for us to work out some legislation that would be equitable. So my final question on that would be this:

You said they just signed the contract with EBS Management Consultants. How long do you anticipate this review is going to take?

Mr. NELSON. I do not know the terms of the contract. It was just signed in the last 3 or 4 weeks.

Mr. FLORANCE. The present law under which the Public Land Law Review Commission is operating requires them to complete their entire studies—I am trying to find the exact date here.

Mrs. MAY. While he is looking for that statement, Mr. Nelson, would it be possible for you to supply some details of the contract for the record? Wouldn't that have a time limitation on it?

Mr. NELSON. Yes; it does. We have a man on our staff who works with the Land Law Review Commission. He can get that information.

Mrs. MAY. Yes, because I think the committee would be interested in following the work of that study and knowing when the report is to be finalized.

Mr. FLORANCE. The present law requires the Commission to file its final report by not later than December 31, 1968.

The contract calls for the particular study to be completed before this date. However, I might add that there is some question, I believe,

as to whether the entire study of the Commission will be completed by that time and whether they may have to ask for additional time.

Mrs. MAY. If you would supply that for the record, so we would have some idea when we might anticipate its completion.

Mr. FLORANCE. We would be glad to do so.

(The information follows:)

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., June 22, 1967.

Hon. W. R. POAGE,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR MR. CHAIRMAN: During the recent hearings before the Subcommittee on Forests on H.R. 774 we were asked to supply information regarding a contract by the Public Land Law Review Commission for a study on revenue sharing and payments in lieu of taxes. We are pleased to supply this information to you.

On May 17, 1967, the Public Land Law Review Commission signed a contract with EBS Management Consultants, Inc., of New York and Washington, D.C. for performance of the revenue sharing study.

The purpose of this nationwide study is to provide the data necessary to ascertain whether, and to what extent, the fact of major Federal public land holdings requires, as a matter of equity with the States and their political subdivisions, financial contributions of some kind by the Federal Government to support necessary State and local governmental functions.

The contractor's study report is to be submitted to the Public Land Law Review Commission by April 15, 1968.

Sincerely yours,

M. M. NELSON,
Deputy Chief.

Mrs. MAY. That is all, Mr. Chairman.

Mr. O'NEAL. I want to say again that I have been looking forward to this and I am sure the statement of Mr. Nelson will be studied very carefully and in depth by all of the members of the committee because we have wanted to know the position of the Forest Service. During the time that we spent in the Northwest we confined our testimony to those of the officials and citizens of the area who were complaining about the status quo.

I say again that you have made many valid points that will be very closely examined and we thank you for what you have done. Thank

Mr. NELSON. It has been a pleasure to be here.

Mr. O'NEAL. Now we will hear from Mr. Pomeroy. I believe he is scheduled on this same subject.

STATEMENT OF KENNETH B. POMEROY, CHIEF FORESTER, AMERICAN FORESTRY ASSOCIATION

Mr. POMEROY. Mr. Chairman and members of the committee, the American Forestry Association believes that the Congress acted wisely when it provided under the act of May 23, 1908, for payment to counties of 25 percent of the receipts from national forest land. As a result many counties annually receive more money from the 25 percent fund than they do in taxes from similar land in private ownership.

There are, however, various difficulties. The sums received vary from year to year according to the volume of national forest business. Some counties receive large sums while others have relatively little income from this source. In addition, the funds so received can only be expended by the counties for schools and roads.

This situation is in need of some adjustment. But it is not at all clear what should be done. A formula type of sharing might work out well for one county but be entirely unsuited to the situation in some other county.

This complex subject now is being studied by the Public Land Law Review Commission. Therefore, the American Forestry Association recommends that congressional action be deferred until the findings of the Review Commission become available.

Thank you.

Mr. O'NEAL. Thank you, Mr. Pomeroy.

(The following letter was also submitted to the subcommittee:)

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., June 28, 1967.

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

DEAR SIR: On behalf of the National Association of Counties I should like to submit the following position of NACO with respect to H.R. 774 and request that it be made a part of the official record.

We would initially like to highlight the inequities that continue for counties within which National Forests exist. Over the past years the presence of a National Forest in a county has continued to cause additional heavy burdens and financial problems for the counties. National Forest revenue sharing is proving less and less satisfactory and equitable under existing Federal regulations.

The development of the National Forests Act thru the late 1920's had resulted in what, in our view, was an equitable distribution of the revenue obtained from the sale of timber from these lands, i.e. 25% of the gross revenue receipts. The enactment of the Knutson-Vandenberg Act in 1930 resulted in a reduction of the counties' share of revenue while, on the other hand, our local governments' costs related to the forest lands have progressively increased.

The presence of a National Forest in a county causes additional heavy loads on county government. The use of National Forests for logging and many varied recreational activities bring an extra influx of non-resident people, and this results in added workloads for the local governments. The Sheriff's department must provide for law and order to an expanded population and must hunt for lost hunters and tourists. The services of the courthouse are increased due to heavy use by the Forest Service of the records, maps and auditors departments. Access roads must be constructed, and these benefit not only the logger but the higher influx of national tourists and recreationists. Federal laws, with their increased emphasis on safety, make it mandatory to construct new roads and rebuild old roads to much higher standards than were necessary in the past, with a corresponding increase in cost. Debris disposal often becomes a problem as well as mischief that requires increased maintenance.

As mentioned, the Knutson-Vandenberg Act resulted in a reduction of the counties' share of revenue, because it authorizes the Forest Service to take from timber sale receipts funds for reforestation. We are in complete agreement with the concept of keeping these lands productive and maintained as a part of our national heritage. But this is a national responsibility as well as that of local government, and yet this burden has fallen for the most part upon the shoulders of the counties thru a reduction of timber sale receipts originally intended to be returned to the counties for use on county roads and schools.

In some areas where public forests have been depleted and reforestation has not been effectively achieved, we find counties in even a more hazardous financial situation because of the reduction in resource revenue sales. For these counties an increase in the gross receipts would not appreciably lighten the burden of the counties involved. For these counties the 10 cents per acre which has been suggested over the gross would be the better solution. This only points to the need for some fluidity in attempting to achieve equitability.

For all counties, the present situation of uncertainty and fluctuation in revenues adds to the counties' dilemma in planning a budget.

History has indicated that the National forestry receipts have, for the most part, averaged approximately half the receipts that could be appreciated to counties from private forest land usage.

We are cognizant of the present Public Land Law Review Commission's study of many of these similar problems concerning payment in lieu of taxes and revenue sharing and feel this type of comprehensive analysis may provide better solutions for a progressive partnership in maintaining this national heritage. We feel the counties have borne their responsibilities well.

The National Association of Counties favors a program providing the counties with 25% of the gross revenue receipts. On the other hand, in a limited number of counties where there is currently low timber yield the H.R. 774 would, in fact, provide a larger return to the county than would be the case in the county receiving 25% gross. It is our position that the law should provide the county with the option of receiving 25% of the gross or the amount which would be provided by H.R. 774, whichever is greater.

Therefore, the National Association of Counties *tentatively opposes* this bill in its present form as a substantive measure in achieving an equitable solution to the problem.

Sincerely,

ED MUNRO,
NACO President.

H.R. 8538

JUNE 16, 1967.

Mr. O'NEAL. Next will be H.R. 8538, a bill introduced by Mr. McMillan and dealing with an increase in forest survey authorization. We also have a similar bill referred to this committee from the Senate, S. 1136.

(H.R. 8538 by Mr. McMillan, S. 1136, and the report of the Department on S. 1136 follow:)

[H.R. 8538, 90th Cong., 1st sess.]

A BILL To amend section 9 of the Act of May 22, 1928 (45 Stat. 702), as amended and supplemented (16 U.S.C. 581h), relating to surveys of timber and other forest resources of the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Act of May 22, 1928 (45 Stat. 702), as amended and supplemented (16 U.S.C. 581h), is further amended by deleting the last sentence thereof and inserting the sentence, "There is additionally authorized to be appropriated annually such funds as may be needed to keep the survey current."

[S. 1136, 90th Cong., 1st sess.]

AN ACT To amend section 9 of the Act of May 22, 1928 (45 Stat. 702), as amended and supplemented (16 U.S.C. 581h), relating to surveys of timber and other forest resources of the United States, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the last sentence of section 9 of the Act of May 22, 1928, as amended (45 Stat. 699, 702; 16 U.S.C. 581h), is hereby amended by striking out "\$2,500,000" and inserting in lieu thereof "\$5,000,000".

Passed the Senate May 9, 1967.

Attest:

FRANCIS R. VALEO,
Secretary.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., February 20, 1967.

HON. HUBERT H. HUMPHREY,
President of the Senate.

DEAR MR. PRESIDENT: Transmitted herewith for the consideration of the Congress is a draft bill, "To amend section 9 of the act of May 22, 1928 (45 Stat. 702), as amended and supplemented (16 U.S.C. 581h), relating to surveys of timber and other forest resources of the United States, and for other purposes."

This Department recommends enactment of the draft bill.

The draft bill would amend section 9 of the McSweeney-McNary Forest Research Act of May 22, 1928, as amended and supplemented (16 U.S.C. 581h). That section authorizes and directs the Secretary of Agriculture to make and keep current a comprehensive survey of the present and prospective requirements for timber and other forest products in the United States and its territories and possessions, and of timber supplies including a determination of the present and potential productivity of forest land thereon, and of such other facts as may be necessary in the determination of ways and means to balance the timber budget of the United States. The act authorized an initial forest survey and a total appropriation of \$11 million to carry it out. As amended, the act authorized annual appropriations of \$2,500,000 to keep the survey current. This proposed amendment of the act would remove the limitation on the annual appropriations for the resurveys necessary to keeping the initial survey current.

The initial survey of the Nation's 758 million acres of forest land has been completed. Most of our present effort is toward keeping the timber and forest products survey current. The rest of our effort is spent on techniques research aimed at developing improved survey methods that will keep the total survey cost at a minimum.

Since 1962 the costs of conducting survey work have risen more than 6 percent annually. In addition, there is an increasing need in most States for frequent and more intensive forest inventories. Even with substantial assistance from cooperating State agencies, forest industries, and other groups, the rising costs of survey work have made it impossible to provide adequate timber inventories within the \$2,500,000 annual authorization established in 1962 when price levels were materially lower.

The forest survey provides the only comprehensive source of basic information on one of the Nation's most important natural resources. It provides facts on the area, condition, and productivity of forest lands; the volume, kind, quality, and location of standing timber; the present and prospective growth of timber of various species; losses to fire, insects, diseases, and other destructive agents; the present and prospective volumes of timber cut for various forest products; and interpretations of information on timber supplies and timber use to provide factual guides to the conservation and use of the Nation's forests land and timber resources. Since forest resources are constantly changing as a result of timber growth, cutting for industrial products, and losses to fire and other destructive agents, resurveys at regular intervals are necessary to provide up-to-date information.

Federal and State agencies, private forestry groups, landowners, and timber operators all need adequate and up-to-date facts about timber resources and needs as sound bases for policy and program decisions. The production, manufacture, and use of timber products currently generate an estimated \$35 billion of gross national product annually. Trends in forest conditions and the availability of timber supplies for prospective markets thus are of direct concern to many groups throughout the Nation's economy.

To public agencies, survey facts provide an essential basis for policy decisions on various programs involving the production and use of timber. To forest industries, survey facts on timber supplies are of broad practical value for guiding business decisions relating to location of wood-using plants, plant acquisition, and wood-procurement programs.

Increasing emphasis on the use of forest land for purposes other than for growing timber has produced a need for basic natural resources inventory data. This additional information is required for meaningful analysis of the total timber resource situation. Before these data can be obtained, research on kinds of information needed for making decisions on management of nontimber resources is required. Additional research is also needed to develop efficient procedures, techniques, and methods for surveying the forest land nontimber resource.

The recent long-range study of research in agriculture projects an increase in the forest survey program of 28 percent by 1972 and 96 percent by 1977. This projection considers only program needs required to meet goals established in 1962, when the present limitation of \$2,500,000 was enacted. If the recent trend of increasing costs is added to this projection, the total annual cost of the forest survey program by 1977 (a 10-year projection) may amount to over \$5 million. The extent to which nontimber resources are included in the survey will also add to the total costs. Thus if the forest survey is to meet essential needs for resource data and is to achieve the program projected by the Department's long-range study the present limitation on the annual appropriations must be removed.

The removal of the limitation on appropriations for resurveys, as requested, would place the financing of this important research activity on the same basis as other fields of research authorized by the other sections of the McSweeney-McNary Forest Research Act. Adequate control over the amounts appropriated annually, as in the case of the other forestry research activities of the Department, can be maintained through the usual budgetary processes.

A similar letter is being sent to the Speaker of the House of Representatives. The Bureau of the Budget advises that enactment of this proposed legislation would be consistent with the administration's objectives.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

Mr. O'NEAL. The first witness scheduled is Mr. H. R. Josephson, Director, Division of Forest Economics and Marketing Research, Forest Service.

STATEMENT OF H. R. JOSEPHSON, DIRECTOR, DIVISION OF FOREST
ECONOMICS AND MARKETING RESEARCH, FOREST SERVICE,
U.S. DEPARTMENT OF AGRICULTURE

Mr. JOSEPHSON. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to make this statement on behalf of the Department of Agriculture in support of H.R. 8538, a bill to amend the McSweeney-McNary Forest Research Act by removing the limitation of \$21½ million now authorized to be appropriated annually for continuing resurveys of the Nation's forest land and timber resources.

S. 1136, recently passed by the Senate, has the same basic purpose, but instead of removing the limitation on the amount authorized to be appropriated annually, would increase the authorization from the present limitation of \$21½ million annually to \$5 million annually. S. 1136 as introduced would have removed the limitation but the bill was amended in the Senate committee. We concur in the amendment made by the Senate committee and adopted by the Senate in the passage of S. 1136.

The need for this legislation is outlined in the Department's letter of February 20, 1967, which transmitted the draft bill. This report points out that costs of conducting the forest survey have risen substantially since the present authorization was established in 1962. An increase in the authorization is therefore needed to permit adequate financing of this important field of research. This proposed increase in the authorization also is consistent with "A National Program of Research in Agriculture," recently submitted to the Congress by the Department of Agriculture and the Association of State Universities and Land-Grant Colleges.

Briefly, the forest survey provides a basic inventory of one of our most important natural resources. Through periodic inventories in each State, it furnishes comprehensive facts on the area and condition of forest lands; the volume, quality, and location of standing timber; present and prospective growth of timber stands; losses from fire, insects, and other destructive agents; and the harvest of timber for industrial uses. Also of particular importance are continuing appraisals of recent trends in timber supplies, the outlook for future timber supplies, and the adequacy of timber resources to meet prospective demands from the growing forest industries of this Nation.

The availability of forest resources is constantly changing as a result of timber growth and mortality, cutting for industrial products, and changes in land use. Hence resurveys at regular intervals are needed to provide up-to-date information and guides for conservation policies and programs.

The forest survey is an important part of the Department's comprehensive program of forestry research. It provides basic resource information that is essential to every forestry group in appraising the effectiveness of forestry activities and needs for changes in policies or programs. The survey is likewise of major importance to forest industries and industrial development groups in guiding wood procurement programs, for example, and the location and development of wood-using industries.

We strongly recommend enactment of this legislation to insure adequate and continuing inventories of one of our Nation's most important natural resources.

Mr. O'NEAL. As I understand, the Senate bill and the House bill both, as originally introduced, simply removed the limit on the authorization, but the Senate added a new limit of \$5 million and you prefer not to have a limit at all?

Mr. JOSEPHSON. We are willing to accept the Senate bill as passed, which would set a ceiling of \$5 million on the survey. We feel that would be adequate for quite a few years ahead.

Mr. McMILLAN. I would suggest when we consider this matter that we substitute S. 1136 for my bill.

Mr. O'NEAL. Mr. McMillan agrees to substitute the Senate bill with the \$5 million amendment.

The next witness is Mr. Kenneth B. Pomeroy, Chief Forester, American Forestry Association.

STATEMENT OF KENNETH B. POMEROY, CHIEF FORESTER OF THE AMERICAN FORESTRY ASSOCIATION

Mr. POMEROY. For many years the forest survey has been a basic tool used by public agencies and private industries to prepare long-range plans for management and use of forest lands. Its value is most apparent in Southern States where an unprecedented expansion of both the paper and plywood industries is underway. Financiers, as well as plant managers and foresters need to know the extent and location of timber supplies.

Resource managers face additional problems posed by increasing demands of the general public for places in which to recreate.

All of these public and private planning officials need to determine what kinds of long-range programs are necessary to maintain a strong and stable economy.

It has been customary for forest users and State conservation areas in many areas to cooperate with and supplement the forest survey in order to obtain additional information pertinent to their own needs, something in addition to what the Forest Service would normally acquire in the survey. This has worked out very well in all the areas with which I am familiar.

Therefore, the American Forestry Association recommends the enactment of H.R. 8538.

Mr. O'NEAL. Thank you, Mr. Pomeroy. Your statement is brief and to the point. We appreciate it very much.

Mr. HANSEN. This is one of the briefest statements I have seen and I certainly commend the gentleman for it. He has come right to the point and does state exactly his position. It is very helpful.

Mr. POMEROY. We are in agreement with the change made by the Senate and we think it is a wise thing for the Congress to project something ahead for perhaps 10 years and take another look at it.

Mr. O'NEAL. You heard the comment made a few minutes ago and it appears very evident that is the way it will come out.

Now, Mr. Hodges, you may come back to the stand.

STATEMENT OF RALPH HODGES, VICE PRESIDENT FOR GOVERNMENTAL RELATIONS, NATIONAL FOREST PRODUCTS ASSOCIATION, WASHINGTON, D.C.

Mr. HODGES. On timber survey authorization, I want to say we are in agreement with the statement of Mr. Josephson.

An essential element in intelligent forest land management and industrial planning is current and accurate data on the extent, location and composition of our timber supply. About one out of every three trees in the United States is in Federal ownership. The Forest Service has been assigned the responsibility for a comprehensive forest inventory in cooperation with State and private organizations. Without an increase in the authorization, the Forest Service cannot maintain the basic timber resource data needed for modern forest management.

The forest products industry strongly endorses the increased authorization ceiling for forest surveys contained in S. 1136. The suggested \$5 million annual ceiling should be adequate to meet the Federal share of resource inventory studies through the mid-1970's.

While we urge enactment of S. 1136 as passed by the Senate there are several problems concerned with the forest survey that should be brought to the attention of this committee.

Prompt publication of survey data is essential. Often there is a lag of a year or more from the time a State or regional survey has been completed until the data is generally available. While adjustments can be made in the published figures based on estimates on growth, harvest, mortality, insect and fire losses, the data would be far more helpful to Federal, State and private parties if it were more speedily processed. It is expected that some of this delay may be eliminated as increasing use is made of computers in the data assembly. However, it seems that much of the delay occurs between the time of data assembly and publication. This should be eliminated.

The survey should also be maintained on a continuous basis. While resurveys are scheduled at regular intervals, it is not unusual for some areas to be omitted from resurveys in preference for areas which have recently been surveyed. Some of this is necessary, especially when there have been dramatic changes in one area which have not occurred in others. However, when the component parts of the inventory are 10 years or more apart or are based on different utilization standards, the entire inventory is less useful.

In each succeeding survey we have found that our Nation's timber resource has increased despite our continuing increase in timber harvest for our needs. Managers of timber growing lands are continually upping the rate of production. This increase is a combination of: (1) reduced mortality due to effective protection from fire, insects, and disease; (2) accelerated growth resulting from a great variety of intensified management practices; and (3) increased utilization of the timber harvested. These increases are expected to continue.

This committee should be concerned with this subject because Federal forest lands in general are not supplying their proportionate

share of the increase in timber yield when compared with well-managed industrial forest lands. Federal land managers should be urged to adopt the most intensive management techniques that have been proven to be economic on private industrial forest lands. Of course, this will require that the agencies receive the necessary manpower and appropriations for this activity.

Increasing amounts of Federal forest lands are being withdrawn from timber production for recreation. Industrial landowners believe that recreation and timber growing are compatible on the same lands. This committee initiated the Multiple-Use Act to provide maximum production of all goods and services from the national forests. It would be helpful if timber inventory data for Federal lands managed for multiple use showed the extent to which timber production is being restricted for scenic and recreational objectives.

Another specific situation where inventory data is lacking is on the export of logs to Japan from the Pacific Northwest. The Japanese have increased their purchase of logs in the Washington, Oregon, and California area from several hundred million board feet in 1961 to about six times that amount last year and it will continue to increase. The biggest single source of these logs is the national forests but we do not have good data on this activity. This dramatic increase in log drain has occurred in areas where there already is substantial competition for the resources available from Federal lands and it causes hardship to domestic industry, labor, and communities.

Here is another example of needed increases in survey data. Last fall, in eastern Oregon, the Northwest Forest Pest Action Council found that there were no records of overstocking which is perhaps more of a problem than understocking in this area. Neither forest surveys nor national forest management plans identify this condition. There are serious problems with mountain pine beetle which are the direct result of overstocking. Some companies are willing to put in small log mills for salvage but there are no data to point up how much material of this type is available and how much timber can be put up for sale annually to amortize the investment.

In trying to cope with these problems, it is essential to know the extent and description of the resource. The forest surveys are not sufficiently detailed to provide regional timber estimates of the precision needed. Some parts of the over-all regional surveys are based on substantially different utilization standards of the timber measured. Finally, Federal forest management practices could be intensified to increase timber production.

In summary: the forest products industry endorses the proposed increase in the authorization ceiling for forest surveys from \$2.5 million to \$5 million annually. We also urge that the Forest Service be encouraged to: (1) promptly publish survey data; (2) keep it current on a regular basis; and (3) intensify the data where it will help assure our Nation of its timber needs.

Mr. O'NEAL. Thank you very much, Mr. Hodges. Are there any questions?

The bill seems to be noncontroversial, at least at this point.

(The following statement and letter were also submitted to the subcommittee:)

STATEMENT OF HON. AL ULLMAN, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF OREGON

Mr. Chairman, I welcome this opportunity to present this statement on behalf of H. R. 8358, a bill to amend the McSweeney-McNary Forest Research Act by removing the limitation of \$2½ million now authorized to be appropriated annually for continuing resurveys of the Nation's forest land and timber resources.

S. 1136, which is also before this Committee, has the same basic purpose as the bill introduced by the Committee's distinguished Chairman, and I also endorse that legislation. As the Subcommittee is aware, the only difference between the two bills is the maximum limit of \$5 million passed in the Senate version, as contrasted with the unlimited authorization proposed in the House bill.

In this period of budgetary stress, the Congress must examine carefully proposals to expand expenditures. The Forest Survey—I am pleased to say—is a program which has returned “many times its weight in gold” through the encouragement of sound timber resource development.

The Department of Agriculture—which wholeheartedly endorses this legislation—informs me that the Forest Survey program is bumping the present \$2½ million maximum. At the present time, the Department estimates that the program will require at least a \$2,203,000 expenditure in fiscal year 1968. The Department points out that this amount is woefully inadequate. The magnitude of the task requires a much larger expenditure.

The costs of conducting the Forest Survey have risen substantially since the present authorization was established in 1962. An increase in the authorization is necessary to permit adequate financing in this important field of research.

The type of information generated by the Forest Survey is invaluable to Government and industry. I might add that—as a Representative from the Nation's number one lumber-producing State—I have utilized Survey information on numerous occasions.

The surveys periodically inventory the area and condition of forest lands; the volume, quality, and location of standing timber; present and prospective growth of timber stands; losses from fire, insects, and other destructive agents; and the harvest of timber for industrial uses. In addition, the surveys provide current estimates of timber supplies and the outlook for future timber demands.

Unlike some of our other natural resources, timber supplies are continually changing. Resurveys at frequent intervals are necessary if the industry and Government are to plan wisely for the conservation and utilization of these resources.

Because of dollar limitations, the Department has been forced in the past to rotate the survey on a region by region basis. Many studies vital to the continued growth of our Nation's forest resources and development have been postponed for lack of funds. For example, the Forest Service has, for some time, sought to extend their survey of insect destruction of Douglas fir in the regions west of the Cascade Mountains to the Ponderosa pine regions in Eastern Oregon and Washington. This study, crucial to lumbermen in the Pacific Northwest, has not been conducted because of insufficient funds.

Mr. Chairman, extending the authorization for the Forest Survey will insure adequate and continuing inventories of our forest resources and provide the information necessary for timber conservation and management. I strongly recommend Committee approval of H.R. 8538, or, in the alternative, S. 1136.

AMERICAN PULPWOOD ASSOCIATION,

June 9, 1967.

U.S. Representative JOHN L. McMILLAN,
Chairman, House Subcommittee on Forests,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN McMILLAN: We urge favorable consideration by the House Subcommittee on Forests of HR 8538 which would increase the authorization for the forest survey by amending Sec. 9 of the McSweeney-McNary Act of May 22, 1928 (45 Stat. 702) as amended.

The forest survey provides important basic information on volume, quality, size and location of timber throughout our nation. In recent years this information has become increasingly important to forest industries and particularly the pulp and paper industry as they have sought locations for new plants. The information must be updated frequently if it is to remain useful.

Changes in the use of land, including changes from agriculture to forests, from forests to agriculture, from forests to roads and recreation present an ever-changing base from which commercial timber can be cut. Indeed, it is in the interest of our national security that information on this vital natural resource be kept up to date.

Present Forest Service appropriations for the forest survey are nearly to the limit of the authorization. Increasing costs and the need for more frequent surveys in some parts of the country will require larger appropriations. Therefore we urge that the authorization be increased from the present \$2.5 million to \$5 million.

It is requested that this letter be included in the record of the hearings which will be conducted by your committee June 13-16.

Sincerely,

W. S. BROMLEY,
Executive Vice President.

H.R. 6151

JUNE 14, 1967.

Mr. McMILLAN (presiding). The subcommittee will come to order. Mr. Burton was listed as the first witness. I understand the Congressman has not arrived, so we will request Mr. Nelson to appear at this time. We will be glad to hear from you now. We are glad you have taken time to be with us again this morning. We again want to thank you for all of the assistance that you gave us on our trip.

We will make as a part of the record at this point H.R. 6151, together with the report from the Department of the Interior dated June 12, 1967, and the report from the Department of Agriculture dated June 13, 1967. They will be made a part of the record at this point.

(H.R. 6151 by Mr. Lloyd, together with the Department of Agriculture and Department of the Interior reports follow. H.R. 6238, by Mr. Burton of Utah, is similar to H.R. 6151.)

[H.R. 6151, 90th Cong., 1st sess.]

A BILL To authorize and direct the Secretary of Agriculture jointly with the Secretary of Commerce to make a preliminary survey of the proposed Skyline Drive Recreation Way in the Manti-LaSal and Fishlake National Forests in the State of Utah

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture and the Secretary of Commerce are authorized and directed to make a preliminary survey of a possible route for a scenic recreation way to be known as the Skyline Drive Recreation Way extending from Thistle, Utah, through the Manti-LaSal National Forest generally along the route of what is now known as the Skyline Drive and connecting with and following generally the course of Forest Highway Numbered 31 in the Fishlake National Forest. Such survey shall include consideration of the manner in which public access will promote travel within and enjoyment of the scenic and recreational features of the area and the stimulating effect thereof upon the economic development of the region through increased tourism and recreational activities. An estimate of the cost of construction of an appropriate scenic recreation way over the indicated route, together with such spur roads as may be needed to serve appropriate recreation developments, together with all other pertinent data shall be obtained through such preliminary survey for the purpose of determining the feasibility and desirability of constructing the proposed scenic recreation way. A final report of such survey accompanied by full information and data, with recommendations, shall at the earliest possible date be made and submitted to Congress for its consideration. For the purpose of carrying out such survey there is hereby authorized to be appropriated not to exceed \$50,000.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 13, 1967.

HON. W. R. POAGE,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your request for a report on H.R. 6151, a bill "To authorize and direct the Secretary of Agriculture jointly with the Secretary of Commerce to make a preliminary survey of the proposed Skyline Drive Recreation Way in the Manti-La Sal and Fishlake National Forests in the State of Utah. This report also covers an identical bill, H.R. 6238.

H.R. 6151 and H.R. 6238 would authorize and direct the Secretary of Agriculture and the Secretary of Commerce to make a preliminary survey of a possible route for a scenic recreation way known as the Skyline Drive Recreation Way. The Recreation Way would extend from Thistle, Utah, through the Manti-

La Sal National Forest generally along the route of what is now known as the Skyline Drive and would connect with and follow the course of Forest Highway 31 in the Fishlake National Forest.

The purpose of the preliminary survey would be to determine the feasibility and desirability of constructing the proposed recreation way. The survey would include consideration of (1) how public access would promote travel within and enjoyment of the scenic and recreational features of the area; (2) the effect of public access on the economic development of the region through increased tourism and recreational activities; (3) an estimate of the cost of construction of the recreation way and such spur roads as would be necessary to serve appropriate recreation developments; and (4) all other pertinent data. A final report of the survey would be submitted to Congress at the earliest possible date. The bills would authorize to be appropriated not to exceed \$50,000 to carry out the preliminary survey.

The Recreation Advisory Council, which was established by Executive Order #11017, of April 27, 1962, initiated a comprehensive study of the need for a national program of scenic roads and parkways, including full development of the scenic and recreation potential of existing national and State road programs. This study was conducted by an interagency committee under the direction of the Department of Commerce. The committee invited the views of all the States.

The study report of the Recreation Advisory Council (now the President's Council on Recreation and Natural Beauty) has just been released and is being reviewed by interested agencies and individuals. We, therefore, recommend that action on H.R. 6151 and H.R. 6238 be deferred until this review is complete and it can be determined how the Skyline Drive Recreation Way would fit into any proposed national program.

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.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 12, 1967.

Hon. W. R. POAGE,
*Chairman, Committee on Agriculture,
House of Representatives,
Washington, D.C.*

DEAR MR. POAGE: There is pending before your Committee H.R. 6151, a bill "To authorize and direct the Secretary of Agriculture jointly with the Secretary of Commerce to make a preliminary survey of the proposed Skyline Drive Recreation Way in the Manti-LaSal and Fishlake National Forests in the State of Utah."

The bill directs the Secretary of Agriculture and the Secretary of Commerce to make a preliminary survey to determine the feasibility and desirability of constructing a Skyline Drive Recreation Way in Utah, extending from Thistle, Utah, through the Manti-LaSal National Forest generally along the route now known as Skyline Drive and the course of Forest Highway Numbered 31 in the Fishlake National Forest. The bill requires a final report of the survey, together with full information, data, and recommendations to be submitted to the Congress at the earliest practicable date.

A study of a national system of scenic roads and parkways by an interagency committee under the direction of the Department of Commerce has recently been completed. The report of such study prepared for the President's Council on Recreation and Natural Beauty is now being reviewed by all interested agencies. This review will provide recommendations to the President's Council concerning responsibilities for administration and development, funding, and other guidelines pertaining to the several categories of scenic roads which may be included in any national program of scenic roads and parkways. If the proposed Skyline Drive Recreation Way is to be developed as part of any national program, we believe recommendations for its development should be coordinated with the policies and guidelines established by the President's Council on Recreation and Natural Beauty.

We recommend, therefore, that action on H.R. 6151 be deferred until such policies and guidelines have been established.

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

Sincerely yours,

HARRY R. ANDERSON,
Assistant Secretary of the Interior.

**STATEMENT OF M. M. NELSON, DEPUTY CHIEF, FOREST SERVICE,
DEPARTMENT OF AGRICULTURE**

Mr. NELSON. Mr. Chairman, that trip was a real pleasure. We were certainly pleased to have this subcommittee out to look at some of our national forests and to become better acquainted with our work.

Our statement is rather short, but, if Congressman Burton comes in, we will be glad to relinquish to him.

Mr. McMILLAN. That is all right. You may proceed.

Mr. NELSON. Mr. Chairman and members of the subcommittee, I appreciate this opportunity to make a statement on H.R. 6151 and H.R. 6238.

The bills would authorize and direct the Secretary of Agriculture and the Secretary of Commerce to make a preliminary survey of the proposed Skyline Drive Recreation Way in the Manti-LaSal and Fishlake National Forests in the State of Utah.

The purpose of the preliminary survey would be to determine the feasibility and desirability of constructing the proposed recreation way. The survey would include consideration of (1) how public access would promote travel within and enjoyment of the scenic and recreational features of the area; (2) the effect of public access on the economic development of the region through increased tourism and recreational activities; (3) an estimate of the cost of construction of the recreation way and such spur roads as would be necessary to serve appropriate recreation developments; and (4) all other pertinent data. A final report of the survey would be submitted to Congress at the earliest possible date. The bill would authorize to be appropriated not to exceed \$50,000 to carry out the preliminary survey.

The route of the proposed recreation way would be from the town of Thistle, Utah, on route U.S. 50, southerly over part of the Wasatch Plateau to Interstate 70 in Salina Creek Canyon about 20 miles south-east of Salina, Utah. This 130-mile stretch is through some of the most beautiful scenery in the State of Utah. The immediate foreground views vary from grass-timber types to the rugged beauty of the high Alpine area of Utah. From the elevated portions of the route, magnificent panoramas of the surrounding mountain areas are visible.

The Forest Service several years ago recognized the recreational potential of this area. In connection with our transportation planning we conducted aerial reconnaissance surveys to establish a possible routing for a scenic road along the general route of the proposed Skyline Drive. We have a feasible route selected which generally follows the location of existing roads.

I might refer to the map at this point, if I may.

From this map you see the location of the city of Salt Lake. And as you recall, in Utah the population center is along a relatively narrow area at the foot of the mountains.

Highway No. 50 leads east from the Salt Lake area and it goes up to the town of Thistle. Thistle would be the beginning of this Skyline

Drive. Up through this sector into the high country, where you climb up, it then follows the plateau country down to Interstate Highway No. 70, which is a State highway being constructed at the present time; the Skyline Highway will tie into the interstate highway east of Salina. Highway 70 ties with another interstate highway which goes directly into Los Angeles.

Mr. TEAGUE of California. May I interrupt you there?

Mr. NELSON. Yes.

Mr. TEAGUE of California. I am not too familiar with this part of the country at all, unfortunately. Is all of that in the national forest or is a part of in the national forest, or what?

Mr. NELSON. Skyline Drive that is proposed here is most all within the national forest. It is about 91 percent on land in national forest ownership at present. There is some land along the road that is private.

Roads shown crossing the Skyline are forest highways that are under construction, or some have been constructed. The highway east from Fairview is finished to the top of the mountains. It is programed for construction down the mountain toward Huntington. The other cross-mountain forest highway from Ephraim to Orangeville is in poor condition and of low standard. The Forest Service, State, and the Bureau of Public Roads feel that it will be programed for reconstruction. It is in poor shape at the present.

Those are examples of highways that would tie in and help serve this proposed Skyline recreation way.

While I am up here I should point out that our studies have been on the basis that the Skyline Highway would stop at Interstate Highway No. 70. Actually, the way the two bills are worded it would go farther south and tie into Forest Highway No. 31 which is at the resort area of Fishlake. It would then follow that highway on out to tie in with another State highway. But, our planning so far indicates that we believe that the first part of it will concentrate from Thistle down to Interstate No. 70. Perhaps at some later date there might be a tie-in down to Fishlake itself, but we do not propose that at this time.

Mr. McMILLAN. Is that on the highway that we traveled on by bus during the hearings in the West?

Mr. NELSON. No; this is down in Utah. The area that we were in was up in Idaho.

Mr. McMILLAN. Thank you.

Mr. NELSON. This country, Mr. Chairman, has some real spectacular high country, similar to some of the Forest Service land that you saw in Idaho. There is more aspen in this area, and in the fall it is probably more colorful from that standpoint. It is real, fine, spectacular country.

For the past 2 years, under the direction of the President's Council on Recreation and Natural Beauty, the Department of Agriculture has been working closely with the Department of Commerce and other Departments in developing a proposed nationwide program of scenic roads and parkways. The report on this effort was published on March 1, 1967, under the title of a proposed program for scenic roads and parkways. It is now being reviewed by interested agencies and individuals. This report emphasizes the need for planning scenic roads as part of a total transportation system. Traffic and land use needs of an area must be considered along with the interrelationships of all system

elements. The proposed Skyline Drive is an excellent example of the needed coordination in planning for total system development.

While we recognize that the proposed Skyline Drive has good potential for providing outdoor recreation opportunities, we must consider its relationship to national needs and programs. The review of the proposed scenic highway program should guide the development of a system of scenic highways in the Nation. We therefore recommend action on H.R. 6151 and H.R. 6238 be deferred until this review is complete and it can be determined how the Skyline Drive Recreation Way would fit into the proposed national program.

That concludes my statement, Mr. Chairman. This is the report that I referred to, which I believe was sent to all the Congressmen and we can make further copies available if it is necessary.

Mr. McMILLAN. I believe that every member has a copy of it.

We thank you for being with us this morning.

Are there any questions? Mr. Teague?

Mr. TEAGUE of California. No questions.

Mr. McMILLAN. Mrs. May.

Mrs. MAY. No.

Mr. McMILLAN. Mr. Murray has some questions.

Mr. MURRAY. There is one point that should be made for the record. That is that the bill as first introduced stated that it would be handled by the Secretary of Commerce. That function in the Department of Commerce has now been transferred to the Department of Transportation. Is that not correct?

Mr. NELSON. I am sure that is correct.

Mr. MURRAY. You have no objection to an amendment to the bill which incorporates that change, do you?

Mr. NELSON. Not at all. The Bureau of Public Roads is now in the Department of Transportation and that is the Bureau we work with on matters of this type.

Mr. MURRAY. Thank you.

Mr. McMILLAN. Thank you very much, Mr. Nelson. We hope that you will be with us again.

Mr. NELSON. I may before the day is over, Mr. Chairman.

Mr. McMILLAN. Is Mr. Burton in the audience as yet?

(Not present.)

Mrs. MAY. He is on the way over, Mr. Chairman, I understand.

Mr. McMILLAN. We will at this time hear from our colleague, Mr. Burton of Utah on H.R. 6238, a bill identical to H.R. 6151.

If you will come to the witness chair, Mr. Burton, we will be glad to hear any statement that you may care to make.

STATEMENT OF HON. LAURENCE J. BURTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. BURTON. Thank you, Mr. Chairman. I am sorry that I was not here when you called for me.

I also want to express appreciation to you and to the subcommittee for agreeing to hold hearings on my bill and the companion bill introduced by Congressman Lloyd, also from Utah.

I wish to express my appreciation to the distinguished chairman of this subcommittee for his consideration in arranging for this

hearing this morning. I have had occasion to appear before this subcommittee on several occasions, both during the time that I served as a member of the Committee on Agriculture and otherwise, and in each instance I have been treated with great cordiality and marked fairness by the gentleman from South Carolina, as well as by all other members who serve on this body.

I am pleased to be able to appear here in support of my bill, H.R. 6238, and an identical one sponsored by my colleague from Utah, Representative Sherman P. Lloyd. A bill similar to the ones introduced by Mr. Lloyd and me has also been introduced by Senator Wallace F. Bennett of Utah and is pending in the Senate.

These bills authorize the Secretary of Agriculture jointly with the Secretary of Commerce to make a preliminary survey of the proposed Skyline Drive Recreation Way in the Manti-LaSal and Fishlake National Forests in Utah. These two forests are located in the central part of the State. The proposed recreation way would extend some 175 miles in a southerly direction from Thistle in Utah County to Fishlake, a sizable mountain lake at the southern end of the Fishlake National Forest in Sevier County and one of the most popular recreation spots in the area.

I see that you have before you a map and I presume it has been reviewed for you by the Forest Service as to the proposed routing of the proposed Skyline Drive.

The route would follow generally along the high Wasatch Plateau and would be in excess of 10,000 feet in elevation in a number of places. This would place it some 4,000 to 5,000 feet above the surrounding valleys. The panoramic vista seen from the recreation way would rank with the most beautiful in the entire Nation.

This is an area with which I am personally familiar, Mr. Chairman, as I have traveled over it by automobile a number of times, have inspected it from the air and have, rifle in hand, tramped through its canyons and climbed its peaks in search of deer. I believe it fair to say that it compares very favorably to the area in which the Blue Ridge National Scenic Parkway, not far from the Nation's Capital and which is familiar to members of this subcommittee, is located.

If I may interject, I would like to say having been two or three times on Skyline Drive in the Shenandoah Valley here, that this area that we are talking about in Utah I think surpasses that area, and as evidence of it I will present to the committee members a postcard of it. This is taken in one area on the Skyline Drive. I have been there many years, have tramped through its canyons, have climbed its peaks in search of deer. That is my favorite deer hunting country.

The Utah Recreation Way would be in high mountain country, as you can see from the picture, where there are a number of peaks that reach above 11,000 feet.

This high country is heavily forested, with large stands of pine and aspen trees interspersed with grassy meadows. There are considerable numbers and varieties of wild life in the area, including the deer which I have already mentioned.

According to the Forest Service, there are over 40 possible recreation sites along the Skyline Drive route. There are 17 different high mountain lakes that could be reached from the recreation way itself, or by adjoining spur roads. The potential for fishing, hunting, hiking,

camping, boating, water-skiing and, perhaps most important of all, just plain sightseeing are practically unlimited in this area.

At the present time, much of the route is now served by rough, unsurfaced roads and trails. And when I say rough unsurfaced, Mr. Chairman, I mean that it is accessible, really, only by means of jeeps or pickup trucks in some areas.

Utahans have been traveling over them for years, just as I have, but the area will never be accessible for the enjoyment of the general public until hard-surfaced properly engineered roads are built there.

Most mountain recreation ways, such as the one contemplated by these bills, are located in the eastern part of the Nation. It seems to me that attention should now be given to development of similar parkways in the West, not only because the population of the country is gradually moving that way, but because easterners are now traveling to the West for recreational purposes in ever-increasing numbers as our modern means of transportation make it quite easy for them to do so.

I checked this several years ago on another bill, and I presume it is still true. I found that there are no national parkways west of the Mississippi River. And certainly the western part of the country deserves that sort of attention as much as the eastern part of the country.

And there are still relatively primitive areas in our western country, of which the Manti-LaSal-Fishlake region is an outstanding example, that are ideally suited for this type of development.

The merits of the Skyline Drive area have, of course, not gone unnoticed by the Federal agencies concerned with development of outdoor recreation areas. The Forest Service has long been interested in opening up the area for more extensive use and enjoyment by the general public. It is, as a matter of fact, No. 1 on the list of Forest Service priority projects for the State of Utah. Within the past 3 years, the Bureau of Reclamation has made a comprehensive study of the area, and among its recommendations is one that its recreation potential be fully developed.

It goes without saying that the establishment of a recreation way in this area would be a great economic boon to the central Utah region in which it would be located. The mountain valleys in this area support a rather limited population that is largely based on agriculture. As in most States, these rural areas have over the past several decades faced a gradual reduction in population, with an accompanying decline in economic well-being. The attraction of new visitors from other areas and States would, of course, be a stimulus to the local economy. New jobs in the tourist industry would be generated by the increase in visitors, and the exodus from the country to the city by local inhabitants could be arrested. While this particular point is by no means the only or overriding consideration for establishment of the proposed recreation way, it is, I submit, a worthwhile and important one.

The preliminary survey which these bills call for would, of course, only be a first, but necessary step in the development of the recreation way. The bill calls for authorization of an appropriation in an amount not to exceed \$50,000. I believe that the time is now for us to move ahead with this development, and I, therefore, earnestly urge that this subcommittee look upon it with favor.

Thank you very much.

In conclusion, Mr. Chairman, I would like to underscore some of my remarks, if I may.

I am aware of the recommendations that have been made by the Department of the Interior and the Department of Agriculture which essentially say, "We prefer that these bills be deferred." I can understand their recommendation in that regard, but I would like to point out and to remind you, as I am sure that the Department of Agriculture did, that the Forest Service has made aerial surveys. I am certain that the \$50,000 that is authorized for the preliminary study would not need to be expended; that is, all of it. I think that it is a matter of piecing it together. And when the time comes, and when we do not have such a big deficit and when the situation in Asia has calmed down a little bit, I would then like to come back and to ask for an authorization to build this. I will not be in here next year for it, or this year, simply because I am one of those who thinks that some of these things ought to be deferred; that is, the construction of them. But I cannot see anything wrong with this subcommittee approving the bill which merely authorizes the plans to be made so that when the propitious time arrives we are ready to move it.

I earnestly urge favorable consideration of this, Mr. Chairman. There would have to be an amendment made. The bill when it was introduced authorized the Department of Commerce and the Department of Agriculture; that is, the Secretaries of those two Departments, to make the surveys. Of course the roadbuilding supervision that was formerly in the Department of Commerce is now in the new Department of Transportation.

Mr. McMILLAN. Yes; we have that information.

Mr. BURTON. This bill has the support of other Utahans, Congressman Lloyd, who has a statement that he has prepared which I would like to ask your consent to be inserted into the record as if read in full.

Mr. McMILLAN. Without objection it will be inserted in the record. (The statement of Hon. Sherman P. Lloyd follows:)

STATEMENT OF HON. SHERMAN P. LLOYD, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. Chairman and members of the Forests Subcommittee, I would like to submit for the record a statement in support of my bill, H.R. 6151, and H.R. 6238, introduced by my colleague, Rep. Laurence J. Burton, which provided for a preliminary survey of the proposed Skyline Drive Recreation Way in the Manti-LaSal and Fishlake National Forests of Utah.

The bills authorize up to \$50,000 for the survey, which would be conducted jointly by the Secretary of Agriculture and the Secretary of Commerce.

The proposed recreation way would extend south from Thistle, Utah, through the Manti-LaSal National Forest, located in Central Utah's scenic Wasatch Mountain range. The route would follow generally the course of what is now known as Skyline Drive, and would connect with Forest Highway No. 31 in the Fishlake National Forest. The entire route would extend approximately 175 miles.

The present roads through the area are low-standard, dirt roads which in many places are dangerously steep and impassable during inclement weather. In order to open up the scenic beauty to all tourists and fully develop the recreation potential locked high in the majestic terrain, the roads would have to be resurveyed and relocated.

This proposed Skyline route would traverse some of Utah's most beautiful alpine mountain country.

Elevations along the route range from approximately 7,000 feet to approximately 11,000 feet, thus offering a wide range of scenery. The area is laden with many varieties of mountain timber and high mountain grass.

From the highest points along this Wasatch Plateau, it is possible to view much of Central Utah—including the Uintah Mountains on the Northeast, the LaSal and Abajo Mountains on the Southeast, the Henry Mountains on the South, and the Sawtooth Mountains on the eastern border of Nevada to the West. The visitor has a close, commanding view of the beautiful Sanpete and Sevier Valleys on the West and the vast desert region of East Central Utah on the East.

In addition to its aesthetic beauty, the area is also rich in recreation potential, with an abundance of mountain streams, lakes and reservoirs, which, have heretofore been virtually untapped by sportsmen, boaters and campers.

Gentlemen, I believe this scenic recreation way would be an essential complement to the beauty of the two National Forests. We spend a great deal of money to create new beauty and to protect and preserve the old, but I feel we should concentrate our efforts more toward opening up scenic lands of this type which need no further development, and where the rights-of-way and federal ownership already exist.

Money spent on scenic roads is oftentimes more valuable than money spent on developing new recreation lands. These two bills would only open up an area so that it can be enjoyed by more people, more often.

The beneficiaries would be the people of the United States to whom a great new big sky country would be opened in America's rugged Rocky Mountain West.

The survey would determine the economic feasibility of the route. It would provide an accurate estimate of construction costs, while lending further evidence of the benefits to be derived by opening up this beautiful area to full public use and enjoyment.

Mr. BURTON. And also the senior Senator from Utah, Senator Bennett, is in support of the bill. And he has a short statement that I would like to ask unanimous consent to have inserted into the record.

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

(The statement of Hon. Wallace F. Bennett follows:)

STATEMENT OF HON. WALLACE F. BENNETT, A U.S. SENATOR FROM THE STATE OF UTAH

Mr. Chairman, it is a pleasure to appear today in support of H.R. 6151 and H.R. 6238, to authorize and direct the Secretary of Agriculture jointly with the Secretary of Commerce to make a preliminary survey of the proposed Skyline Drive Recreation Way in the Manti-LaSal and Fishlake National Forests in the State of Utah, which were introduced by my colleagues, Representatives Burton and Lloyd. My companion bill is pending before the Senate Interior Committee.

The proposed Skyline Drive Recreation Way would extend from Thistle south through central Utah's Manti-LaSal National Forest generally along the route of what is now known as the Skyline Drive. It would connect with and follow generally the course of Forest Highway 31 in Fishlake National Forest.

There are low standard roads already traversing the lengths of adjoining Manti-LaSal and Fishlake National Forest. However, most are little more than poor trails. The recreation way would link two national forests and would extend about 175 miles along some of Utah's most beautiful and primitive high country.

Five counties, Carbon, Sanpete, Utah, Emery and Sevier, would share directly in the economic impact of this development. Needless to say, all Utah would benefit through the opening up and making accessible this tremendous recreational area. The creation of Gooseberry Reservoir will provide a full range of water sports, fishing, camping and picnic facilities.

With the development of the Skyline Recreation Way an area of unusual scenic and recreation attractions would be added to the State. Much of the area is high alpine mountain region with elevations rising to 11,000 feet, affording a panorama of five mountain ranges in three States. Along with the opening of this proposed site will come accessibility to at least 17 other high mountain lakes plus numerous streams offering side trips for excellent fishing and adventure. The area's splendid ski slopes would be unusually attractive for development creating year-round recreation centers.

On January 19, 1965, I was advised by Regional Forester Floyd Iverson that Skyline Drive Road was listed as its highest priority for Utah in a project list prepared for the President's Recreation Advisory Council.

The proposed Skyline Drive Recreation Way would be a stimulus to the economy of Central Utah for it would attract to the area increasing numbers of tourists who would be interested in viewing the natural scenic beauties and in participating in the recreational pursuits to be enjoyed there.

Thank you, Mr. Chairman.

Mr. BURTON. I will now try to answer any questions that you may have, Mr. Chairman.

Mr. McMILLAN. I do not have any questions. We appreciate your statement. You can rest assured that we will give your proposed bill careful consideration.

Mr. BURTON. Thank you.

Mr. McMILLAN. We may be calling you back when we get into executive session to go over some of these bills.

Mr. BURTON. I would be pleased to come back.

Mr. McMILLAN. Any questions, Mr. Teague?

Mr. TEAGUE of California. It seems to me that every time the Forest Service wants to build a new road or to improve an existing one, that we run into opposition from some of the conservation groups, such as the Sierra Club and others. Do you have that problem here?

Mr. BURTON. We have not had it, so far as I know, Mr. Teague, on Skyline Drive. We have had it, as you know, in many other things that we have tried to do in the West and in my State. We have locked horns with them, but to the best of my knowledge there is no objection on the part of the conservationists to this drive.

Mr. TEAGUE of California. I hope that omission continues to prevail, because otherwise they are very active.

Mr. BURTON. Yes, they are. Maybe they have not heard about this yet.

I would like to say, too, Mr. Chairman, that we appreciate the work of the Forest Service in Utah. Some of my best friends are in the Forest Service. However, we feel that sometimes we are a little bit neglected. There are nearly 10 million acres in the State of Utah that are administered by the Forest Service. I think that the Federal Government has some obligation to provide access to some of these scenic areas. And considering the contribution that the State of Utah has made to the national well-being in having 10 million acres of its surface in the Forest Service, I think that there is justification for consideration of this bill.

Mr. TEAGUE of California. I might say that I agree with that philosophy. It seems to me that there are portions of our national forest which should be set aside. There are people, however, who are not physically able to hike or to ride horseback into these remote areas who pay taxes, too, and I think that we ought to come up with a balance on this so that they can enjoy the country as well as those who can hike and ride horseback.

Mr. BURTON. I certainly agree with that. As somebody who loves the outdoors and enjoys it as I do, as I have all of my life, I agree that we have some remote and primitive areas which should be reserved. The Forest Service has several primitive areas out there where I certainly hope that there will not be any violation of them. Let me give you an example of the extreme measures that maybe some of the conservation groups could go to. What if Yellowstone Park had been set aside as a primitive wilderness area? How many Americans would be able to enjoy that or others like it?

Mr. TEAGUE of California. Or Yosemite.

Mr. BURTON. I was at Yosemite several months ago. This is a park that is absolutely filled to capacity. I think that is wonderful. There are somewhere on the order of 7 million or 8 million people each year who enjoy Yellowstone Park. It has roads, it has visitor facilities; it has campgrounds; it has stores and gas stations, so that the average person can go in there with his family and see most of the sites, but even then there are areas which you can only get to by hiking. And to lock up some of these areas to the advantage of a very few, maybe a few hundred as compared to 7 million or 8 million people I think is ridiculous.

Mr. TEAGUE of California. Thank you. That is all, Mr. Chairman.

Mr. McMILLAN. Mrs. May.

Mrs. MAY. You have already touched on this point, Mr. Burton, but I would like to ask you some more questions about it. You are aware that earlier this morning Mr. Nelson, the Deputy Chief of the Forest Service, did testify on these bills and in his statement he said that the Forest Service has recognized the recreational potential of this area. That they have made a survey and that they have a feasible route selected, which generally follows the roads.

Mr. BURTON. Yes.

Mrs. MAY. And he points out several instances where the Government would develop a proposed nationwide program for scenic roads and parkways. And that this area would be included in that survey.

Let me go back. He said that the report on this development was published March 1 of this year and is now being reviewed by interested agencies. So that he asks for a deferral of the proposed bill until the review is completed and it has been determined whether the Skyline Drive recreation fits into the proposed national program.

Could you comment on this, but, first, could I ask this question of Mr. Nelson?

Mr. McMILLAN. Yes.

Mrs. MAY. Do you have an idea at this time when the review will be completed?

Mr. NELSON. Well, I am afraid that I cannot say. The report was sent to these individuals and agencies by the Department of Commerce and now that has been transferred to the Department of Transportation. I do not believe that they have any specific time within which anybody or any agency should give comments on this particular report. It was sent out more as a general information report, hoping that the people would give their views on it, which I am sure they will, but I am not sure as to any time having been set.

Mrs. MAY. So that when the Department asks for delay you have no idea whether that will be 6 months or 1 year or more, is that it?

Mr. NELSON. No, I do not. It may depend upon other conditions in the country at the time—the overall fiscal situation—the same as many projects in many other programs of a large capital expenditure nature.

Mrs. MAY. Thank you. This is what I would like to have you comment on, Mr. Burton, as to the preliminary survey which is mentioned in your bill, whether it should go ahead when this review is not completed.

Mr. BURTON. It is to be used, in my judgment, for the completion of the engineering studies so that when the time arrives that it is

appropriate, it could be constructed. This skyline proposal, Mrs. May, has been before the Congress for a number of years. It has been under consideration by the Forest Service for I do not know how many years. Certainly I understand Mr. Nelson's position. He has to support his Department in that problem. But this proposal entails a little bit of money and it may move us ahead years. There is not any doubt in my mind and I am sure that if you asked Mr. Nelson if there was any doubt in at all in his mind whether or not this was going to be included in the national scheme of things. Certainly it is. This is evidenced by the priority they have already put on it.

Mrs. MAY. Mr. Burton, would there be any further engineering surveys required later by the Forest Service when they feel that they have a feasible route selected?

Mr. BURTON. I do not think that there is any doubt, really, Mrs. May, about the routing. I speak from personal experience in having been there. The scenic area is quite similar to that of the Skyline Drive here. If you are going to go on the skyline, you will find this big ridge of mountains, and the route can only go up on the top of that ridge of mountains. There may be slight changes made in the spurs, something like that, but I do not think that there could be any major or substantive change made in the main route on the skyline.

Mrs. MAY. Thank you.

That is all, Mr. Chairman.

Mr. McMILLAN. Mr. Teague.

Mr. TEAGUE of California. One more question, Mr. Chairman. I understood Mr. Nelson to say, and I hope that he will correct me if I am wrong, that if we were to pass this bill that the highway would be slightly longer than the Department recommendation as to the highway.

Is that correct, Mr. Nelson?

Mr. NELSON. Yes. The bill, strictly read, carries the highway farther south than Interstate No. 70 on down to Fishlake. Our study so far of the main Skyline Drive ends where Highway No. 70 would go through that part of Utah. And at this time, at least, we have not studied it farther south. The area near Fishlake, of course, is beautiful country, as the Congressman is well aware of.

Mr. TEAGUE of California. Just one more question, please.

I wanted to know whether Mr. Burton wishes to comment on that difference.

Mr. BURTON. This is a question of judgment, Mr. Teague. I directed my bill to take it down to Fishlake. Fishlake is a beautiful place. They catch some of the biggest trout anywhere in the country there. There is a paved road up to Fishlake from Richfield.

Mr. NELSON. That is right here [indicating].

Mr. BURTON. It is not a great deal further than what the Forest Service recommends. However, I would not hang it up on this. I mean if in their judgment it is too costly to go on, I would be perfectly willing to accept Interstate No. 70 as the stopping point. But I surely would like to sell the committee on going to Fishlake, because this seems to me to be a logical terminus. It is a beautiful place. They have some visitor facilities there. This is one of the best areas in the whole State of Utah that the Forest Service can point to (the Fishlake area) where they have done a magnificent job in multiple use. They have some of the best deer hunting at Fishlake, some of the best

fishing is there, and they have cattle and they have sheep and timbering operations there.

If I were Mr. Nelson I would recommend the highway to go down there, so that the taxpayers can see what a great job they are doing.

Mr. TEAGUE of California. Thank you.

That is all, Mr. Chairman.

Mr. NELSON. Could I refer to this other matter?

Mr. McMILLAN. Yes.

Mr. NELSON. I do not think it is possible to see the detail of this map. We have referred several times to surveys which have been made. This map is one part of the area showing the proposed location of the Skyline Drive as determined by aerial survey. The Skyline Drive as shown is the most desirable and the most feasible. We do not know about some side roads. We have not had time or funds to survey those.

In fact, the aerial reconnaissance has been done in relation to the present road which does need improvement as the Congressman has mentioned. While we were doing that we picked out those areas that we deemed desirable for recreational use. There are some 73 possible recreational developments along Skyline Drive, and the drive would serve some 14 lakes. There are only one or two shown on this map, I believe. Here is one right there [indicating]—a lake that could and would be developed. So the drive does have some potential for use besides driving for pleasure.

Mr. BURTON. May I ask Mr. Nelson a question?

Mr. McMILLAN. Yes, you may.

Mr. BURTON. Just to underscore this, there is not much to the route except the Skyline Drive itself?

Mr. NELSON. That is correct. Our studies show it to be very feasible from Thistle down to Interstate No. 70. We have not studied this matter, or the possibility to extend to Fishlake. Nor have we carefully studied the spur roads that would be in the lakes and developable recreational areas. We did make the studies from the overall transportation system standpoint.

Mr. BURTON. The reason that I am pointing that out is again in response to a question that Mrs. May asked, that is, that Skyline Drive itself is pretty much located. I would expect, Mr. Chairman, that these 43 spur roads or recreational developments would not all have to come at once. I mean that could be something that could be developed and studied over a period of several more years. But as to the drive itself, we can get the engineering studies completed and authorized by this bill, then it is ready to go when appropriate.

So far as where it ends, if it turns out that it should end at Interstate No. 70, that is fine. Maybe a few years from now we will be going into Fishlake. In my judgment it should go into Fishlake. But I would not want to hang the bill up in quibbling over an extra 10 or 15 miles of road.

Mr. NELSON. We would certainly not object to studying the route on down to Fishlake. That is, as the bill calls for.

Mr. McMILLAN. Thank you very much, Mr. Nelson and Mr. Burton.

Mr. BURTON. Thank you, Mr. Chairman and members of the subcommittee. It is good to be back.

Mr. McMILLAN. You will be hearing from us later. We will now hear from Mr. Kenneth B. Pomeroy, chief forester, the American Forestry Association.

**STATEMENT OF KENNETH B. POMEROY, CHIEF FORESTER, THE
AMERICAN FORESTRY ASSOCIATION**

Mr. POMEROY. Mr. Chairman and members of the subcommittee, I would like to assure Mr. Teague that the members of the American Forestry Association would be in favor of the Skyline Drive so long as it does not penetrate any area already established as wilderness. Otherwise we think it would be fine.

Mr. TEAGUE of California. Thank you, sir.

H.R. 7908

JUNE 15, 1967

Mr. O'NEAL. The committee will now proceed to further consideration of H.R. 7908, a bill introduced by Congressman Steiger of Arizona, a private bill for the relief of Leonard H. Rogers, and others.

(H.R. 7908 and the Department report follow:)

[H.R. 7908, 90th Cong., first sess.]

A BILL For the relief of Leonard N. Rogers, John P. Corcoran, Mrs. Charles W. (Ethel J.) Pensinger, Marion M. Lee, and Arthur N. Lee

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 in certain real property in Apache National Forest, Arizona, held and claimed by the following-named persons under a chain of title dating from December 4, 1903, the Secretary of Agriculture is authorized and directed to convey by quitclaim deed to such persons all right, title, and interest of the United States in and to certain real property situated in section 5, township 6 north, range 30 east, Gila and Salt River base and meridian, as follows:

(1) To Leonard N. Rogers all right, title, and interest of the United States in and to the real property more particularly described as the west half northwest quarter southwest quarter.

(2) To John P. Corcoran all right, title, and interest of the United States in and to the real property more particularly described as the east half northwest quarter southwest quarter.

(3) To Mrs. Charles W. (Ethel J.) Pensinger all right, title, and interest of the United States in and to the real property more particularly described as the southwest quarter southwest quarter.

(4) To Marion M. Lee and Arthur N. Lee all right, title, and interest of the United States in and to the real property more particularly described as the southwest quarter of the northwest quarter.

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

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 12, 1967.

Hon. W. R. POAGE,

Chairman, Committee on Agriculture, House of Representatives.

DEAR MR. CHAIRMAN: As you asked, here is our report on H.R. 7908, "For the relief of Leonard N. Rogers, John P. Corcoran, Mrs. Charles W. (Ethel J.) Pensinger, Marion M. Lee, and Arthur N. Lee."

This Department recommends that H.R. 7908 not be enacted.

The purpose of H.R. 7908 would be to quiet title to certain described tracts of land located in section 5, township 6 north, range 30 east, Gila and Salt River Meridian. The tracts are situated within the boundaries of the Apache National Forest, which is administered by the Forest Service of this Department. They consist of four separate tracts held and claimed by Leonard Rogers, John Corcoran, Ethel Pensinger, and Marion and Arthur Lee, respectively, under a chain of title dating from December 4, 1903.

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

The tracts to which the claimants seek title were originally held by the United States as a part of the public domain. On December 4, 1903, a single tract encompassing the four tracts involved here was patented to a Mrs. Sarah P. Hamblin pursuant to a homestead entry. This patent to Mrs. Hamblin is the origin of the chain of title under which the claimants hold and claim. In September, 1904, Mrs. Hamblin conveyed the tract to a Mr. W. H. Clark.

In August 1898, the section in which the tract lies was withdrawn from entry under the public land laws for the purpose of creating the Black Mesa Forest Reserve. On February 18, 1905, Mr. Clark executed and recorded in Apache County, Arizona, a deed to convey the tract back to the United States. Also in 1905, he 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. Clark filed his application for forest lieu land on March 6, 1905. However, on March 3, 1905, the lieu selection provisions of the Act of June 4, 1897, were repealed (33 Stat. 1264). Consequently, the General Land Office rejected Mr. Clark's application and returned the relinquishment deeds to him.

The tract was conveyed to a Mr. Greenwood in 1921. A number of transfers intervened before the tract was subdivided and conveyed to the present claimants by 1953.

The status of the 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. Rep. No. 1639 and H. Rep. No. 1431, 86th Cong; 2nd Session), 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 persons were 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 the 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 one 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 tract here involved had been conveyed to the United States in 1905 under the lieu selection provisions of the Act of June 4, 1897. Although Mr. Clark's application for lieu lands was rejected, no reconveyance by the United States to Mr. Clark or his successors in interest had been made. Under the Act of July 6, 1960, the tract has become part of the Apache National Forest and title to it is in the United States.

The present claimants did not exercise their right to payment under the Act of July 6, 1960. This right to payment has expired. Other opportunities for relief were afforded to their predecessors in interest in 1922 and in 1930. The Act of September 22, 1922 (42 Stat. 1017), authorized the Secretary of the Interior, upon application, to complete in-lieu transactions which had been terminated by repeal of the 1897 in-lieu provisions, or in certain instances to reconvey title to lands which had been relinquished to the United States for purposes of lieu selection. Section 6 of the Act of April 28, 1930 (46 Stat. 257), authorized the Commissioner of the General Land Office to reconvey title to land which had been relinquished to the United States in connection with rejected applications for other lands. Although the records of the Bureau of Land Management (formerly the General Land Office) include an inquiry about the tract here involved in 1931, there is no record of an application for a reconveyance under the 1922 or 1930 Acts.

We believe the claimants and their predecessors in interest have had adequate opportunities to obtain the relief they are now seeking through H.R. 7908 or to obtain compensation for the lands they claim. Congress has, in three separate instances, recognized the problems relating to relinquishment deeds for lieu selection purposes and provided solutions to these problems. Enactment of H.R. 7908 would weaken the effect of the Act of July 6, 1960. It would be an undesirable precedent that could lead to similar claims for valuable public lands in the National Forests, National Parks and other Federal reservations.

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. O'NEAL. Now, I would like to explain that we have the usual traffic jam of witnesses this morning and it is compounded and made worse by the fact that the House will go into session at 11 o'clock instead of 12 o'clock. And it is further compounded by a misunderstanding. Congressman McFall and Congressman Clausen are here, and they were promised they might appear on Thursday, and they will, but in the meantime, Congressman Steiger of Arizona is here with a constituent who has come all the way from Arizona and who cannot remain over.

So I promised that I would take Congressman Steiger next, along with his witness. And he promises to confine himself to 5 minutes.

You may proceed, Mr. Steiger.

**STATEMENT OF HON. SAM STEIGER, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ARIZONA**

Mr. STEIGER. Mr. Chairman and members of the subcommittee, my name is Sam Steiger. I am testifying on H.R. 7908. It is a bill to quiet title to certain real property in Apache National Forest, in Arizona. I will not read my statement.

I have with me Mr. G. Chapman Petersen, who is counsel for the four present owners of the land in question.

Mr. Chairman, these lands comprise some 120 acres in the Apache National Forest.

There are some significant exhibits which I would like, with your permission to, introduce into this record, if there is no objection.

Mr. O'NEAL. Without objection, it is so ordered.

Mr. STEIGER. The Department has filed an unfavorable report on this. They failed to mention, however, the disclaimer dated January 16, 1922. The then owners of the property received a disclaimer from the Department of the Interior, General Land Office, signed by George D. Tuhham, Assistant Commissioner at that time.

There is, also, a status report on the land from the Department of Agriculture dated February 16, 1956, signed by Kenneth R. Powell, land title examiner, which indicates that the status of the land remains in private hands and private ownership.

There is, also, a chain of title reports which dates back to 1903. This is a true copy from the Apache Title Co.

Mr. O'NEAL. Without objection, as stated, all of these may be inserted into the record at this point.

(The documents above referred to follow:)

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, January 16, 1922.

DISCLAIMER

JOHN H. PAGE & Co.
Home Builders Building,
Phoenix, Ariz.

MY DEAR SIR: This office is in receipt of your letter of January 4, 1922, requesting a disclaimer to the—

SW $\frac{1}{4}$ SW $\frac{1}{4}$ Sec. 29
NW $\frac{1}{4}$ NW $\frac{1}{4}$ Sec. 32 Twp 7 N R 30 E
SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ Sec. 5 T 6 N R 30 E
G. & S.R.M. Arizona.

The records of this office show that title to all the lands in question has passed out of the United States and that an attempt was made to reconvey the lands in Section 5 to the United States in forest lieu selection 13414, under the act of June 4, 1897 (30 Stat 36). Said selection, however, was canceled June 29, 1906. There is no record, however, of any attempt to reconvey the tracts in Secs. 29 and 32. If any attempt has been made to reconvey to the Government the above described tracts, under act of June 4, 1897, supra, the United States does not now claim any right, title or interest in or to said described tracts by virtue of such an attempted reconveyance.

Recorded January 8, 1923, at 1:30 p.m. in book No. 3, notices affecting real estate, page 266.

Very respectfully,

GEO. D. TUHAM,
Assistant Commissioner.

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Albuquerque, N. Mex., February 16, 1956.

CHIEF, FOREST SERVICE,
Washington, D.C.:

Please furnish this office with the status of the following lands. The special points involved are: present ownership.

Very truly,

FRED H. KENNEDY,
Regional Forester.
By E. A. SCHILLING.

Arizona State, Apache Forest, township 6 north, Phoenix L.D., G. & S.R. meridian, range 30 east.

Section 5; subdivision SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$; Grantee: Sarah P. Hamblin, 120 A.; kind of entry: H.E.; No. 759; date: May 20, 1903; patent date: December 4, 1903; R.C. 13414; L.S. cancelled June 27, 1906.

Bureau of Land Management records shows that the status has not changed from what you have given above, and that basic title remains intact as patented on December 4, 1903. Since the lieu selection was cancelled records show no subsequent entries.

KENNETH R. POWELL,
Land Title Examiner.

MAY 24, 1956.

CHAIN OF TITLE REPORT, BY APACHE TITLE CO., ST. JOHNS, ARIZ., DATED JULY 5, 1966

Re The West Half of the Southwest Quarter and the Southwest Quarter of the Northwest Quarter of Section 5, Township 6 North, Range 30 East of the Gila and Salt River Base and Meridian, Apache County, Arizona.

ORIGINAL PATENT—W $\frac{1}{2}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$

1. Patent from United States of America to Sarah P. Hamblin.
Dated December 4, 1903.
Recorded August 30, 1904 in Book 1 Patents, page 312.

2. Warranty Deed from Sarah P. Hamblin, a single woman, to W. H. Clark.
Dated August 31, 1904.
Recorded September 31, 1904 in Book 10 Deeds, page 360.
3. Relinquishment from W. H. Clark and A. M. Clark, his wife, to United States of America.
Dated September 3, 1904.
Recorded September 13, 1904 in Book 12 Deeds, page 84.
4. Relinquishment Deed from W. H. Clark and Augusta M. Clark, his wife, to United States of America.
Dated February 18, 1905.
Recorded February 23, 1905 in Book 12 Deeds, page 106.
5. Quit Claim Deed from W. H. Clark, a single man to A. Hartley Greenwood.
Dated October 12, 1921.
Recorded October 15, 1921 in Book 19 Deeds, page 4.
6. Disclaimer from Commissioner General Land Office to John H. Page and Co.
Dated January 16, 1922.
Recorded January 8, 1923 in Book 3 N.A.R.E., page 266.

PENSINGER PROPERTY—SW $\frac{1}{4}$ SW $\frac{1}{4}$

7. Warranty Deed from A. Hartley Greenwood and Ethel G. Greenwood, his wife, to Hiram Thompson.
Dated December 30, 1922.
Recorded February 11, 1941 in Book 26 Deeds, page 220.
8. Joint Tenancy Deed from Hiram Thompson and Maryette Thompson, his wife, to C. W. Pensinger and Ethel Jean Pensinger, his wife.
Dated October 10, 1945.
Recorded January 31, 1946 in Book 28 Deeds, page 286.
9. Mortgage from C. W. Pensinger and Ethel Jean Pensinger, his wife, to Hiram Thompson.
Dated January 17, 1946.
Recorded January 31, 1946 in Book 12 Mortgages, page 390—Release recorded in 5 R of M 35.
10. Mortgage from C. W. Pensinger and Ethel Jean Pensinger, his wife, to A. A. Loy and Willis E. Loy, his wife.
Dated February 8, 1949.
Recorded February 28, 1949 in Book 13 Mortgages, page 546.
11. Special Execution—Willis E. Loy and Willis E. Loy as Executrix of the Estate of Ainsworth A. Loy, deceased, vs. C. W. Pensinger and Ethel Jean Pensinger, his wife.
Dated October 15, 1953.
Recorded October 21, 1953 in Book 4 Official Records, page 447.
12. Redemption Certificate from County Treasurer to C. W. Pensinger.
Dated December 7, 1953.
Recorded December 7, 1953 in Book 1 R.C., page 163, No. 548.
13. Mortgage from Chas. W. Pensinger and Ethel J. Pensinger, his wife, to Stephen B. Rayburn.
Dated March 3, 1954.
Recorded March 6, 1954 in Book 6 Official Records, page 49—Released 31 O.R. 24.
14. Waiver of Tax from State Tax Commission to Charles Walter Pensinger Estate.
Dated September 8, 1965.
Recorded September 15, 1965 in 76 Dkt., page 156.
15. Death Certificate—Utah State Department of Health—Charles Walter Pensinger.
Dated October 23, 1964.
Recorded September 15, 1965 in 76 Dkt., page 157.

CORCORAN PROPERTY—E $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$

16. Treasurer's Deed from Joyce U. Colter, Treasurer, to Marion Lee.
Dated July 14, 1950.
Recorded July 14, 1950 in Book 31 Deeds, page 127.
17. Warranty Deed from Marion Lee and Glyda Lee, husband and wife, to Mrs. Helena S. Corcoran, as her sole and separate property.
Dated May 5, 1953.
Recorded May 21, 1953 in Book 3 Official Records, page 98.

18. Decree of Distribution—Helena S. Corcoran Estate to John P. Corcoran, surviving husband of said deceased.
Dated June 3, 1964.
Recorded June 10, 1964 in 67 Dkt., pages 363-7.

ROGERS PROPERTY—W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$

19. Quit Claim Deed from A. Hartley Greenwood and Ethel G. Greenwood, his wife, to Rhoda Lee.
Dated January 16, 1935.
Recorded January 22, 1935 in Book 23 Deeds, page 137.
20. Mortgage from Rhoda Lee, a widow, to Adolph Goesling.
Dated January 31, 1936.
Recorded February 3, 1938 in Book 10 Mortgages, page 153—Marginal release.
21. Order—Rhoda Francis Lee Estate—Floyd Rogers.
Dated October 14, 1940.
Recorded October 14, 1940 in Book 4 N.A.R.E., page 480.
22. Warranty Deed from Elmo Lee, Administrator of the Estate of Rhoda Francis Lee, deceased, to Floyd Rogers.
Dated October 14, 1940.
Recorded October 14, 1940 in Book 26 Deeds, page 144.
23. Warranty Deed from Floyd Rogers and Arizola Rogers, his wife, to Leo C. Rogers.
Dated February 19, 1941.
Recorded February 19, 1941 in Book 26 Deeds, page 225.
24. Warranty Deed from Leo C. Rogers and Marie Rogers, his wife, to Leonard N. Rogers.
Dated February 4, 1946.
Recorded February 6, 1946 in Book 28 Deeds, page 302.
25. Mortgage from Leonard N. Rogers and Lela Jean Rogers, his wife, to Harvey Davison.
Dated April 17, 1958.
Recorded April 17, 1958 in Book 26 Official Records, page 485—Released 53 Dkt., page 232.

LEE PROPERTY—SW $\frac{1}{4}$ NW $\frac{1}{4}$

26. Warranty Deed from Hartley A. Greenwood to Marion Lee.
Dated December 28, 1922.
Recorded November 1, 1941 in Book 26 Deeds, page 411.
27. Warranty Deed from Marion Lee, et ux, to Guy W. Lund.
Dated November 1, 1941.
Recorded November 1, 1941 in Book 26 Deeds, page 412.
28. Declaration of Homestead by Marion Lee.
Dated October 1, 1941.
Recorded November 1, 1941 in Book 4 N.A.R.E., page 129.
29. Realty Mortgage by Marion Lee, et ux, to Becker Mercantile Co.
Dated January 9, 1932.
Recorded January 13, 1932 in Book 8 Mortgages, page 306.
30. Release of Mortgage by Becker Mercantile Co. to Marion Lee.
Dated May 11, 1938.
Recorded May 18, 1938 in Book 4 Releases of Mortgages, page 103.
31. Warranty Deed from Wm. Guy Lund to Maxie Lee.
Dated May 12, 1944.
Recorded May 15, 1944 in Book 27 Deeds, page 374.
32. Warranty Deed from Maxie Lee to Marion Lee.
Dated January 15, 1946.
Recorded January 15, 1946 in Book 28 Deeds, page 251.
33. Warranty Deed from Marion Lee and Ella M. Lee, his wife, to Arthur N. Lee and Maxie Lee.
Dated January 2, 1952.
Recorded January 4, 1952 in Book 31 of Deeds, page 621.
34. Redemption Certificate from Apache County Treasurer to Arthur N. Lee and Maxie Lee.
Dated ———.
Recorded in Book I Redemption Certificates, page 185—R.C. No. 595.

35. Mortgage from Arthur N. Lee and Kathleen W. Lee, his wife, to the United States of America, acting through the Administrator of the Farmers Home Administration.
Dated June 10, 1958.
Recorded June 10, 1958 in Book 27 Official Records, pages 211-214.
36. Mortgage from Marion M. Lee (same person as Maxie Lee) and Glyda M. Lee, his wife, and Arthur N. Lee and Kathleen W. Lee, his wife, to the United States of America, acting through the Administrator of the Farmers Home Administration.
Dated June 10, 1958.
Recorded June 10, 1958 in Book 27 Official Records, pages 215-218.

Mr. O'NEAL. Also, your prepared statement will be made a part of the record at this point.

(The prepared statement of Hon. Sam Steiger, follows:)

STATEMENT OF HON. SAM STEIGER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. Chairman and Colleagues. This Bill would quiet title in certain real property in Apache National Forest, Arizona, held and claimed by Leonard N. Rogers, John P. Corcoran, Mrs. Charles W. (Ethel J.) Pensinger, Marion M. Lee, and Arthur N. Lee, under a chain of title dating from December 4, 1903.

The tracts to which the above-named claimants seek title are parts of a single tract acquired by patent in 1903 to a Mrs. Sarah P. Hamblin.

In 1904, Mrs. Hamblin conveyed the tract to a Mr. W. H. Clark.

Mr. Clark, subsequently made application to exchange the land for a different parcel of land under the Lieu Selection Act of 1897. This Act required the applicant to convey to the United States title to the land offered for exchange at the time of application, which he did. Mr. Clark filed his application for lieu selection land on March 6, 1905. However, three days earlier, on March 3, 1905, the lieu selection provisions were repealed. Mr. Clark's application was rejected.

Thus, Mr. Clark had attempted to meet the requirements of the law by deeding his property to the United States government, but got nothing in return.

During the ensuing years, the property was then subsequently split up by a series of transfers which finally resulted in the present ownership. These people have exercised, as well as their predecessors, all the rights of private ownership over the property. Each of the parcels has been openly used agriculturally and improved from time to time without objection on the part of the United States government.

In fact, at one time the Assistant Commissioner of the General Land Office on January 16, 1922, executed a disclaimer of interest in the property. This disclaimer has been relied upon by the present owners.

The property has been carried on the local tax roles, taxes have been paid, and the succession of title is clear. The existence of the disclaimer has certainly acted in a way to leave the present owners to believe that there was no conflicting claim to their property.

Congress and the United States government have by the passage of a series of laws created a situation which is very unfair to the present owners.

Private ownership of the land here involved would not jeopardize or interfere with the purposes of administration and management of the forest lands. The location and nature of this tract are such that it is in no way interfering with national parks or other areas where a private holding would be incompatible with the purposes and programs of the forest reservation.

I believe that the Congress should interpret its successive legislative acts so that the equitable relief provided by this bill would conform the legal status of the tract with its actual treatment, which has been that of private ownership.

The circumstances of this case are exceptional and would not set a precedent that would weaken the administration or effect any of the provisions of the past legislation.

The United States has made no improvement on the premises. In fact, until recently it was considered by national, regional and local forestry officials as being private property.

Title insurance policies have been written on parts of the land. A federal government loan is presently outstanding on a part of the subject land.

All of the surrounding facts and circumstances seem to indicate that the present owners should have clear title to the land. This Bill will cure what otherwise is an obvious injustice.

Mr. STEIGER. Very briefly, Mr. Chairman, what this amounts to is, the only remedy that these people, apparently, have is by special legislation. This is a unique situation in which the Department's position is that there have been three pieces of legislation introduced—one in September 1922, and the last one, I believe, in February of 1960, which provided remedies for this very problem.

It is my position and Mr. Petersen's position that the very fact that they did not avail themselves of the opportunity to seek remedy under this legislation indicates that they had no doubts that they owned the land. That is something I think, that I would hope, the committee would consider very carefully.

At least one of these landowners generates a major portion of his income from the land in question. Of course, needless to say, the failure of this legislation to pass would represent a very significant hardship on all of the owners involved.

I would like to yield now to Mr. Petersen. He could fill you in on some of the more specific details and then, perhaps, we could both answer questions.

Mr. O'NEAL. We will be glad to hear from you now, Mr. Petersen.

STATEMENT OF G. CHAPMAN PETERSEN, ALPINE, ARIZ.

Mr. PETERSEN. Thank you, Mr. Chairman. If you have any specific questions, I will try to answer them.

Mr. O'NEAL. Mr. Teague.

Mr. TEAGUE of California. What is the approximate value of the land involved?

Mr. PETERSEN. I would estimate about \$500 an acre.

Mr. TEAGUE of California. And how many acres are there?

Mr. PETERSEN. 120 acres.

Mr. TEAGUE of California. Thank you. That is all, Mr. Chairman.

Mr. O'NEAL. Are there any questions by Mr. Foley?

Mr. FOLEY. For what purpose is the land put to now?

Mr. PETERSEN. Agricultural.

Mr. FOLEY. What crop do they raise?

Mr. PETERSEN. Cattle grazing and farming. I could not tell you specifically what crops are farmed there. I think grain crops.

Mr. SIGLER. It would be grain crops.

Mr. FOLEY. Grain?

Mr. PETERSEN. Yes.

Mr. FOLEY. And there are 160 acres?

Mr. PETERSEN. 120 acres.

Mr. FOLEY. And about \$60,000 would be the value of the property?

Mr. PETERSEN. I am just estimating it, sir. I have found no land transactions that would give any such information.

Mr. FOLEY. Were there any claims made by the Government to this property prior to this?

Mr. PETERSEN. No, sir, not until last spring. The land has never been administered by the Federal Government, to my knowledge. A local ranger told me this specifically. It has always been occupied by private parties. In fact, the taxes have been paid by private parties. There has

never been an attempt by the Federal Government to claim title. There have been a multitude of land transactions involved in it without objection by the United States.

Mr. FOLEY. Is there any record of any assertion of title by the United States?

Mr. PETERSEN. No. The only claim that the United States would have would be the fact that it was instituted under the act of 1897, and this act required the person making application to convey title to the Federal Government. It was never consummated. No quitclaim deed was ever recorded which would cure that.

Mr. FOLEY. I am sorry. I cannot hear you.

Mr. PETERSEN. The Government has never actually claimed the title, as such. The only claim that would be outstanding would be by virtue of the original relinquishment under the original application for an interchange which was never consummated. The tender of deed and application was returned and rejected.

Mr. FOLEY. Would you not take it that that would constitute a cloud on the title?

Mr. PETERSEN. Yes, sir, I would think so.

Mr. FOLEY. There have been several land transactions during that period of time?

Mr. PETERSEN. A great number.

Mr. FOLEY. And no—

Mr. PETERSEN. I have a letter of counsel giving a clear recommendation on that. There is a mortgage outstanding issued by the Federal Home Administration on one of the parcels. There is title insurance.

Mr. FOLEY. Any reservations?

Mr. PETERSEN. No reservations whatsoever.

Mr. FOLEY. In the title?

Mr. PETERSEN. And the disclaimers are recorded. They were issued about 9 months before the first legislation authorizing reconveyance by quitclaim was passed.

Mr. FOLEY. I wonder if you could provide the subcommittee with some documentation, for example, a copy of the title insurance contract, and anything of that sort?

Mr. PETERSEN. Yes, I have a chain of title—I have a copy of the disclaimer, of the title insurance report.

Mr. FOLEY. That could be supplied to the subcommittee for the record?

Mr. PETERSEN. Yes, sir.

Mr. STEIGER. If you will yield, I might indicate that the copy of disclaimer, the chain of title, and the status report has been filed in the record. These are the three documents I have filed.

Mr. FOLEY. Thank you. There are no further questions, Mr. Chairman.

Mr. O'NEAL. Any questions, Mrs. May?

Mrs. MAY. No.

Mr. O'NEAL. Thank you very much, Mr. Steiger and Mr. Peterson. We regret that we cannot give this matter more time at this point.

There is considerable record here that will be considered. Thank you very much.

Mr. TEAGUE of California. Let me say that this committss does not always follow the recommendations of the Department of Agriculture, but, unfortunately, others do.

Mr. STEIGER. I get the message, Mr. Teague. Thank you for your courtesy, Mr. Chairman.

(Mr. Peterson later submitted the following statement:)

STATEMENT OF G. CHAPMAN PETERSEN IN BEHALF OF H.R. 7908 WHICH WOULD PROVIDE RELIEF FOR LEONARD N. ROGERS, JOHN P. CORCORAN, MRS. CHARLES W. (ETHEL J.) PENSINGER, MARION M. LEE, AND ARTHUR N. LEE

Mr. Chairman, my name is G. Chapman Petersen, Post Office Box 431, Alpine, Arizona. I am attorney for Leonard N. Rogers, John P. Corcoran, Mrs. Charles W. Pensinger, Marion M. Lee and Arthur N. Lee.

A land title controversy between my clients, Leonard N. Rogers, John P. Corcoran, Mrs. Charles W. Pensinger, Marion M. Lee and Arthur N. Lee, and the United States Forest Service began during May of 1966. At this time the Alpine, Arizona, District Forest Ranger advised my clients that certain properties near Nutrioso, Arizona, which my clients had purchased at various times, and to which each believed he had good title, in fact was National Forest land. The legal description of this land is the West Half of the Southwest Quarter and the Southwest Quarter of the Northwest Quarter of Section 5, Township 6 North, Range 30 East, G&SRB&M, Apache County, Arizona.

My clients requested that I investigate the matter. I examined the title records, reviewed the pertinent legislation, and conferred with various Department of Agriculture and Department of Interior officials in Alpine, Arizona, Albuquerque, New Mexico, and Washington, D.C. I found that the following sequence of events led to the present controversy:

The subject land was acquired by patent in 1903; In 1904 a grantee of the original patentee made application to exchange the subject premises for a different parcel of land under the lieu selection Act of 1897. This Act required the applicant to convey to the United States title to the land offered for exchange at the time of application;

The exchange was never consummated. According to the Report of the Secretary of Agriculture on this case, dated June 12, 1967, the applicant, Mr. Clark, "filed his application for forest lieu land on March 6, 1905. However, on March 3, 1905, the lieu selection provisions of the Act of June 4, 1897, were repealed (33 Stat. 1264). Consequently, the General Land Office rejected Mr. Clark's application and returned the relinquishment deeds to him." Thereafter, as far as I can determine, Mr. Clark continued to treat the subject premises as his own. However, he apparently did not request a quit claim deed from the government in order to clear up any cloud on the title to the subject premises which may have resulted from the abortive lieu selection attempt. At any rate, no such deed has been recorded.

Subsequently legislation was passed which gave the Secretary of the Interior authority to quit claim legal title back to the applicants, or their successors, in unconsummated lieu selection cases. The first Act (42 Stat. 1017) was passed on September 22, 1922. The second (46 Stat. 257) was passed on April 28, 1930;

Such quit claim deeds could be secured only upon request, and because they were completely unaware of the fact that a title defect existed and that there was a statutory procedure for curing that defect, my clients' predecessors did not avail themselves of this right;

The right to request quit claim deeds in unconsummated lieu selection transactions was terminated by a Congressional Act of July 6, 1960 (74 Stat. 334);

The Forest Service became aware of the title defect during the spring of 1966 and instructed my clients to vacate the properties which they occupied under threat of trespass action;

At my request the Forest Service has agreed to postpone taking further action while remedial legislation is being sought.

A recorded quit claim deed from the government is necessary to clear the chain of title to the subject premises. The Act of 1960 has removed the authority of any United States official to remedy my clients' title defect by the issuance of a quit claim deed. The purpose of the bill now being presented for your consideration, H.R. 7908, is to invest the Secretary of Agriculture with the authority to quit claim the subject premises to my clients.

The public interest is well served by the application of the Act of 1960 to unconsummated lieu selection lands that—

Have not been on local or state tax rolls;

Have been continuously administered by the Federal Government;

Have traditionally appeared on the local county records as clearly being owned by the United States; and

Have ceased to be subjected to the usual rights and duties of ownership by the grantors under unconsummated lieu selections.

In my clients' case, however:

(A) The subject premises are and have been on the county tax rolls and my clients and their predecessors, beginning with the lieu selection grantor, W. H. Clark, have, through the years, continued to pay taxes on these premises.

(B) The National, regional and local forestry officials have until recently considered the subject premises to be private property. A United States Department of Agriculture status report dated February 16, 1956 confirms this. These officials have not attempted to administer the premises as public lands. The United States has made no improvements on the subject premises. In addition, as far as I can determine, private ownership of the subject premises would not interfere with the administration and management of the Apache National Forest, nor does this land have special value which makes it essential that the Federal Government retain title to it.

(C) The subject premises have been transferred through the years as private property without objection by the United States; these transfers have been recorded and appear on the county records. The succession of title is clear. Title insurance policies have been written on parts thereof; a Federal Government loan is presently outstanding on the portion of the subject premises possessed by the Lee brothers. These facts indicate that the legal interest of the United States in the subject premises, if any, has been quite nebulous.

(D) My clients and their predecessors have at all times exercised the rights of private ownership over the property. Each of the parcels has been openly used agriculturally and improved from time to time without objection on the part of the Forest Service. Some of my clients derive a significant portion of their livelihood from these parcels of land.

(E) Finally, a written Disclaimer of interest in the subject premises executed by the Assistant Commissioner of the General Land Office on January 16, 1922 was issued approximately nine months before the 1922 Act was passed. (This Act was the first to authorize the issuance of quit claim deeds by the United States in unconsummated lieu selection cases.) This Disclaimer has been relied upon by my clients and their predecessors in title since its date of issuance. The existence of this Disclaimer has undoubtedly led my clients and those dealing with them to believe that the title of my clients to the subject premises was good and thereby prevented them from recognizing the need to take action under the provisions of the 1922 and 1930 legislation.

In light of these facts it does not seem just to apply the terms of the 1960 Act to my clients case. Since the United States has given no consideration for the subject premises nor incurred any other expense in connection with them it would not, in my opinion, be detrimental to the public interest to exempt them from the operation of the 1960 Act. Furthermore, since the facts of my clients' case are unique, to except them from the provisions of the Act of July 6, 1960 would not weaken that Act by setting a precedent for similar claims.

SCHEDULE A

Policy No.: S-279686-M.

Amount: \$12,000.00.

Policy date: June 10, 1958 at 3:30 o'clock p.m.

Insured: United States of America, Acting Through the Administrator of the Farmers Home Administration.

1. The title to said land is, at the date hereof, vested in Arthur N. Lee and Kathleen Lee, husband and wife.

2. Description of land in the County of Apache, State of Arizona, title to which is insured by this policy:

Parcel No. 1

Those portions of Lots Three (3) and Four (4) of Block Fifteen (15) of NUTRIOSO TOWNSITE, as shown on the plat thereof appearing in Book 1 of Maps, page 3, records of Apache County, Arizona, described as follows:

Beginning at the Northeast corner of said Lot 4; thence South along the East line of said Lot a distance of 170 feet; thence Westerly parallel to the North line of said Lots 4 and 3 a distance of 206 feet; thence North parallel to the East line of said Lot 4 a distance of 170 feet to the North line of said Lot 3; thence Easterly along the North line of said Lots 3 and 4 a distance of 206 feet to the point of beginning.

Parcel No. 2

An undivided one-half interest in the East half of the Northeast quarter of the Southeast quarter ($E\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}$) of Section Six (6), Township 6 North, Range 30 East of the Gila and Salt River Base and Meridian, Apache County, Arizona.

Parcel No. 3

An undivided one-half interest in the Southwest quarter of the Northwest quarter ($SW\frac{1}{4}NW\frac{1}{4}$) of Section Five (5), Township 6 North, Range 30 East of the Gila and Salt River Base and Meridian, Apache County, Arizona.

SCHEDULE B

This policy does not insure against loss by reason of the matters shown or referred to in this Schedule except to the extent that the owner of any mortgage or that the persons or corporations having an interest through or under any agreement for sale, shown in Part Two, are expressly insured in Paragraphs numbered 4, 5, and 6 on page one of this policy.

Part one: This part of Schedule B refers to matters which, if any such exist, may affect the title to said land, but which are not shown in this policy:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing agency or by the public records; and easements, liens or encumbrances which are not shown by the public records.

2. Rights or claims of persons in possession of said land which are not shown by the public records.

3. Any facts, rights, interests, or claims which are not shown by the public records, but which could be ascertained by an inspection of said land, or by making inquiry of persons in possession thereof, or by a correct survey.

4. Mining claims, exceptions and reservations in patents, water rights, claims or title to water.

5. Any zoning ordinances, laws, governmental acts or regulations, restricting, regulating or prohibiting the occupancy, use or enjoyment of the land or any improvement thereon, or prohibiting a reduction in the dimensions or area, or separation in ownership, of any lot or parcel of land; or the effect of any violation of any such restrictions, regulations or prohibitions.

Part two: This part of Schedule B shows liens, encumbrances, defects and other matters affecting the title to said land or to which said title is subject: (All recording data refer to records in the office of the County Recorder of the County in which the land is situated.)

1. 1958 taxes, a lien but not yet due or payable.

2. Reservations as contained in the Patent from the United States of America, reading as follows: "Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States of America." (Affects Parcel No. 2)

3. Reservations as contained in the Patent from the United States of America, reading as follows: "Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law, and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States of America." (Affects Parcel No. 3)

4. The effect of instrument entitled "Sale of Cattle and Lease of Ranch", between Arthur N. Lee and Maxie M. Lee, dated February 1, 1956 and recorded March 14, 1957 in Book 21 of Official Records, pages 179-182.

5. Mortgage to secure an indebtedness of \$15,000.00 and other amounts payable thereunder, executed by Marion M. Lee (same person as Maxie Lee) and Glyda M. Lee, his wife, and Arthur N. Lee and Kathleen W. Lee, his wife, to the United States of America, acting through the Administrator of the Farmers Home Administration, dated June 10, 1958 and recorded June 10, 1958 in Book 27 of Official Records, pages 215-218, records of Apache County, Arizona. (Affects Parcels No. 2 and 3)

6. Mortgage to secure an indebtedness of \$12,000.00 and other amounts payable thereunder, executed by Arthur N. Lee and Kathleen W. Lee, his wife and Marion M. Lee (same as Maxie Lee) and Glyda M. Lee, his wife, to the United States of America, acting through the Administrator of the Farmers Home Administration, dated June 10, 1958 and recorded June 10, 1958 in Book 27 of Official Records, pages 211-214, records of Apache County, Arizona.

SCHEDULE A

Policy No. : S-279687-M.

Amount : \$15,000.00.

Policy date : June 10, 1958 at 3:30 o'clock P.M.

Insured : United States of America, Acting Through the Administrator of the Farmers Home Administration.

1. The title to said land is, at the date hereof, vested in Maxie Lee and Glyda Lee, husband and wife.

2. Description of land in the County of Apache, State of Arizona, title to which is insured by this policy :

Parcel No. 1

Lots One (1), Three (3) and Four (4) in Block Thirty-four (34) of the Eagar Townsite, according to the plat thereof recorded in Book 1 of Maps, page 29, records of Apache County, Arizona.

Parcel No. 2

An undivided one-half interest in the East half of the Northeast quarter of the Southeast quarter ($E\frac{1}{2}NE\frac{1}{4}SE\frac{1}{4}$) of Section Six (6), Township 6 North, Range 30 East of the Gila and Salt River Base and Meridian, Apache County, Arizona.

Parcel No. 3

An undivided one-half interest in the Southwest quarter of the Northwest quarter ($SW\frac{1}{4}NW\frac{1}{4}$) of Section Five (5), Township 6 North, Range 30 East of the Gila and Salt River Base and Meridian, Apache County, Arizona.

SCHEDULE B

This policy does not insure against loss by reason of the matters shown or referred to in this Schedule except to the extent that the owner of any mortgage or that the persons or corporations having an interest through or under any agreement for sale, shown in Part two, are expressly insured in Paragraphs numbered 4, 5, and 6 on page one of this policy.

Part one: This part of Schedule B refers to matters which, if any such exist, may affect the title to said land, but which are not shown in this policy :

1. Taxes or assessments which are not shown as existing liens by the records of any taxing agency or by the public records; and easements, liens or encumbrances which are not shown by the public records.

2. Rights or claims of persons in possession of said land which are not shown by the public records.

3. Any facts, rights, interests, or claims which are not shown by the public records, but which could be ascertained by an inspection of said land, or by making inquiry of persons in possession thereof, or by a correct survey.

4. Mining claims, exceptions and reservations in patents, water rights, claims or title to water.

5. Any zoning ordinances, laws, governmental acts or regulations, restricting, regulating or prohibiting the occupancy, use or enjoyment of the land or any improvement thereon, or prohibiting a reduction in the dimensions or area, or separation in ownership, of any lot or parcel of land; or the effect of any violation of any such restrictions, regulations or prohibitions.

Part two: This part of Schedule B shows liens, encumbrances, defects and other matters affecting the title to said land or to which said title is subject: (All recording data refer to records in the office of the County Recorder of the County in which the land is situated.)

1. 1958 taxes, a lien but not yet due or payable.

2. Reservations as contained in the Patent from the United States of America, reading as follows: "Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws and decisions of courts, and also subject to the

right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law." (Affects Parcel No. 1)

3. Reservations as contained in the Patent from the United States of America, reading as follows: "Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws and decisions of courts; and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States of America." (Affects Parcel No. 2)

4. Reservations as contained in the Patent from the United States of America, reading as follows: "Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights as may be recognized and acknowledged by the local customs, laws and decisions of courts, and also subject to the right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted, as provided by law, and there is reserved from the lands hereby granted, a right of way thereon for ditches or canals constructed by the authority of the United States of America." (Affects Parcel No. 3)

5. The effect of instrument entitled "Sale of Cattle and Lease of Ranch", between Arthur N. Lee and Maxie M. Lee, dated February 1, 1956 and recorded March 14, 1957 in Book 21 of Official Records, pages 179-182.

6. Mortgage to secure an indebtedness of \$12,000.00 and other amounts payable thereunder, executed by Arthur N. Lee and Kathleen W. Lee, his wife, and Marion M. Lee (same as Maxie Lee) and Glyda M. Lee, his wife, to United States of America, acting through the Administrator of the Farmers Home Administration, dated June 10, 1958 and recorded June 10, 1958 in Book 27 of Official Records, pages 211-214, records of Apache County, Arizona. (Affects Parcels No. 2 and 3)

JUNE 16, 1967

Mr. O'NEAL. Mr. McROREY, we will ask you to take the witness stand. I understand Mr. McROREY is the Director, Division of Land Adjustments, Forest Service.

You may proceed.

STATEMENT OF RUSSELL P. McROREY, DIRECTOR, DIVISION OF LAND ADJUSTMENT, FOREST SERVICE

Mr. McROREY. Mr. Chairman and members of the subcommittee, I appreciate the opportunity to appear before this committee to present a statement on H.R. 7908.

The purpose of H.R. 7908 would be to quiet title to certain described tracts of land located within the boundaries of the Apache National Forest, Ariz., which is administered by the Forest Service of the Department of Agriculture. They consist of four separate tracts held and claimed by Leonard Rogers, John Corcoran, Ethel Pensinger, and Marion and Arthur Lee, respectively, under a chain of title dating from December 4, 1903.

This bill would authorize and direct the Secretary of Agriculture to convey to the respective claimants by quitclaim deed all right, title and interest of the United States in the tracts described. The conveyance would be without consideration, but the claimants would bear any expenses incident to the preparation of the legal documents which are necessary and appropriate.

In its report on H.R. 7908, the Department of Agriculture recommended that the bill not be enacted. The detailed circumstances involved here are described in the report. I will summarize them briefly for you.

The tracts to which the claimants seek title were originally held by the United States as a part of the public domain. In 1903, a single tract encompassing the four tracts involved here was patented to a Mrs. Sarah P. Hamblin following a homestead entry. This patent to Mrs. Hamblin is the origin of the chain of title under which the claimants make their claim. In 1904, Mrs. Hamblin conveyed the tract to a Mr. W. H. Clark.

The section in which the tract lies was withdrawn from entry under the public land laws for the purpose of creating the Black Mesa Forest Reserve in 1898. In 1905, Mr. Clark executed and recorded in Apache County, Ariz., a deed conveying the tract back to the United States. He also, in 1905, 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 an equal acreage of vacant public land open to settlement.

The lieu selection provisions of the act of June 4, 1897, were repealed (33 Stat. 1264) prior to Mr. Clark's application. Consequently, the General Land Office rejected Mr. Clark's application.

The tract was conveyed to a Mr. Greenwood by quitclaim from W. H. Clark in 1921. A number of transfers occurred before the tract was subdivided and conveyed to the present claimants by 1953.

The status of the tract was affected by the provisions of the act of July 6, 1960 (74 Stat. 334). 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 the reconveyances or other rights, the grantors were entitled to payments of \$1.25 per acre with interest. Payments were also authorized to the heirs or assigns of 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 tract involved had been conveyed to the United States in 1905 under the lieu selection provisions of the act of June 4, 1897. Although Mr. Clark's application for lieu lands was rejected, no reconveyance by the United States to Mr. Clark or his successors in interest had been made. Under the act of July 6, 1960, the tract has become part of the Apache National Forest and title to it is in the United States.

The present claimants did not exercise their right to payment under the act of July 6, 1960. This right to payment has expired. Other opportunities for relief were also afforded to their predecessors in interest in 1922 and in 1930.

We believe the claimants and their predecessors in interest have had adequate opportunities to obtain the relief they are now seeking through H.R. 7908 or to obtain compensation for the lands they claim. Congress has, in three separate instances, recognized the problems relating to relinquishment deeds for lieu selection purposes and provided solutions to these problems. Enactment of H.R. 7908 would

weaken the effect of the act of July 6, 1960. It would be an undesirable precedent that could lead to similar claims for valuable public lands in the national forests, national parks and other Federal reservations.

I would be very happy, Mr. Chairman, to answer any questions.

Mr. O'NEAL. I do not believe I have any questions. Mrs. May?

Mrs. MAY. I am going to, if I may, Mr. Chairman, defer to our counsel here, because I was not here when the author of the bill made his statement yesterday. He did bring up some applicable points that I think questions should be directed to.

Mr. O'NEAL. Mr. Murray is recognized.

Mr. MURRAY. Yesterday, were you here for the testimony of Mr. Steiger?

Mr. McROREY. No.

Mr. MURRAY. Then you probably have not had a chance to read the record, but perhaps you could comment for the record on the disclaimer that was put in yesterday by Mr. Steiger in behalf of his constituent. His disclaimer purported to be issued by the Forest Service in the 1920's to some of these people that claim title to these lands, that they had received the assurance from the Government that this was their land and therefore they felt that they did not have to go through the remedy that was provided by the act of 1960 or the previous remedies.

Mr. McROREY. Presumably, the disclaimer referred to was a letter written by the General Land Office, Department of the Interior, to the John H. Page Co., in 1922. They inquired at that time about several parcels of land, one of which included this particular section, section 5. This particular letter, written in response to a request from the Page Co., stated that the records of the Office showed title to all lands in question had passed out of the United States and an attempt was made to reconvey the tracts in section 5 to the United States, in forest lieu selection, 13414, under the act of June 4, 1897. Said selection, however, was canceled June 29, 1906.

The letter goes on to say that there is no record, however, of any attempt to reconvey the tracts in sections 29 and 32. In other words, this particular letter was directed at three specific sections of land: 5, 29, and 32. They refer to an attempt made to reconvey the one tract. The letter also states that there was no attempt made to reconvey the lands of the other two sections, 29 and 32.

The following sentence says: "If any attempt has been made to reconvey to the Government the above described tracts the United States does not now claim any right, title, or interest in or to said described tracts." It would appear to me that the reference to the disclaimer is to sections 29 and 32 rather than section 5.

Mr. MURRAY. Are all these lands in section 5 that are the subject of the bill?

Mr. McROREY. The lands that are referred to in this bill are all within section 5.

Mr. MURRAY. They are all within section 5?

Mr. McROREY. Yes.

Mr. O'NEAL. So you are saying that there is no disclaimer as to these lands?

Mr. McROREY. To the lands in section 5.

Mr. O'NEAL. To the lands in section 5?

Mr. McROREY. Yes.

Mr. O'NEAL. The disclaimer referred to refers to lands in other sections.

Mr. McROREY. Yes; 29 and 32.

Mrs. MAY. Mr. McRokey, did the owner of this particular section of land under the bill receive that letter back in 1922, whoever was on the land at the time?

Mr. McROREY. The letter was directed to an inquiry from the John H. Page Co. I have no knowledge of whether it went beyond the John H. Page Co., or not.

Mrs. MAY. But the inquiry that was directed, to which the letter was a response, did include a question about this section of land that is under discussion in this bill.

Mr. McROREY. I do not have a copy of the original inquiry, but the response refers to it, so presumably it did.

Mrs. MAY. So we can almost presume, then, that the people who were on the land at that time did get a copy of this letter that you are referring to. It would seem that they interpreted it as a disclaimer.

Mr. McROREY. The letter was written not to the owners of the land but to a company. They may have received a copy of it.

Mrs. MAY. That was inquiring on their behalf.

Mr. MURRAY. There was also inserted in the record yesterday a title search by a title company out there, in which they give their opinion that the title was good to the occupants. Is it your position that the title search was in error at that time?

Mr. McROREY. I have not seen the title search, but it would seem to me that if the title search was a complete search and went to the records of the Apache County, Ariz., it could only show that the lands were in the name of the United States. They were reconveyed to the United States in 1905 and were not reconveyed back into private ownership.

Mr. MURRAY. As to the occupants and their predecessors, how long have they been holding this land and how long have they been paying local taxes on the land?

Mr. McROREY. As I recall, the land was sold for taxes in 1950 by the county.

Mr. MURRAY. Not all tracts, though, were there?

Mr. McROREY. The chain of title I have here is specific as to one only. That is, one of the four subdivisions of the tract.

Mr. MURRAY. Could you furnish for the record the other claimants, too, because the testimony yesterday indicated that some of these people and their predecessors had been holding this land going way back into the last century, and that the first time that a claim was made by the United States that this was Forest Service land just several years ago.

Mr. McROREY. I would be very glad to.

(The information referred to follows:)

UNITED STATES DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., June 22, 1967.

Hon. W. R. POAGE,
Chairman, Committee on Agriculture,
House of Representatives.

DEAR MR. CHAIRMAN: During the recent hearings by the Subcommittee on Forests on H.R. 7908, the Committee Counsel asked us to supply information regarding the payment of taxes by the claimants for the lands involved in the bill. We are pleased to supply this information to you.

Available records indicate that prior to 1921 no taxes were paid on any of the four tracts described in H.R. 7908.

Since 1921 taxes apparently have been paid on the three tracts held and claimed by Leonard N. Rogers, Mrs. Charles W. (Ethel J.) Pensinger, Marion M. Lee, and Arthur N. Lee.

Taxes were apparently paid on the tract held and claimed by John P. Corcoran during the period 1921 thru 1944. The tract was sold for taxes in 1950. Taxes have been paid on this tract since 1950.

Sincerely yours,

M. M. NELSON,
Deputy Chief.

Mrs. MAY. What have they been using this land for?

Mr. McROREY. For grazing of livestock.

Mr. MURRAY. Thank you.

Mr. O'NEAL. That is all. Thank you, Mr. McRokey.

Mr. O'NEAL. The committee has one more subject to consider this morning and one more witness. The bill under consideration is S. 219, referring to a sale of land in Lander, Wyo. I understand this bill has passed the Senate and has been referred to the subcommittee.

(S. 219 follows:)

[S. 219, 90th Cong., first sess.]

AN ACT To authorize the Secretary of Agriculture to sell certain land in Lander, Wyoming, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Agriculture is authorized to convey by quitclaim deed, for not less than fair market value, all right, title, and interest of the United States in and to lots 4 and 5, block 16, in the original town of Lander, Wyoming, and the improvements thereon and to apply the proceeds of such sale to the purchase of other land in or near Lander and the construction thereon of similar improvements.

Passed the Senate March 16, 1967.

Attest:

FRANCIS R. VALEO,
Secretary.

Mr. O'NEAL. We will hear from Mr. Richard F. Droege, Associate Deputy Chief, the Forest Service. You may proceed.

**STATEMENT OF RICHARD F. DROEGE, ASSOCIATE DEPUTY CHIEF,
FOREST SERVICE**

Mr. DROEGE. Mr. Chairman, I appreciate the opportunity of being here. It is my first time before this subcommittee and I hope it will not be the last.

I know you are short of time, and rather than read this entire statement we can put it in the record and just say that this bill provides for the Forest Service selling a tract of land used for an administrative site in the middle of Lander, Wyo., which has grown up around it.

Mr. O'NEAL. I assume you approve of the sale.

Mr. DROEGE. We approve of it very much. We would use the money to buy a bigger site, more suitable for Forest Service use somewhere out of the middle of Lander.

Mr. O'NEAL. How much land is involved?

Mr. DROEGE. Two lots, 50 by 150.

Mr. O'NEAL. What is the sale price?

Mr. DROEGE. We do not have a sale price yet. We would have to advertise and then sell it.

Mr. O'NEAL. Are there any questions?

Mrs. MAY. No questions.

(Mr. Droege's prepared statement follows:)

STATEMENT OF RICHARD F. DROEGE, ASSOCIATE DEPUTY CHIEF, FOREST SERVICE,
U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the committee, I appreciate the opportunity to appear before this Committee to present the views of the Department of Agriculture on the desirability of selling certain government lands with improvements in Lander, Wyoming, and using the receipts therefrom to acquire other lands and to construct thereon similar improvements.

Because of the special circumstances involved the Department recommends enactment of this bill.

S. 219 would authorize the Secretary of Agriculture to sell two lots and the improvements upon them in Lander, Wyoming, for not less than fair market value and apply the proceeds from such sale to the purchase of other land in or near Lander and the construction thereon of similar improvements.

One of the two lots described in S. 219 (Lot 5, Block 16, in the original town of Lander, Wyoming) was purchased by the United States from private owners in 1936 pursuant to the Emergency Relief Act of April 8, 1935, (49 Stat. 115). The other lot (Lot 4, Block 16) was obtained as a donation from the owners in 1938 under provision of the Act of March 3, 1925, (43 Stat. 1132). In 1938 a warehouse and garage building was constructed on these lots. This improvement was needed in connection with the administration of the Lander Ranger District of the Shoshone National Forest. It has been used to store tools and supplies and as a workshop during the winter months. When not used as a workshop it has been used to house district trucks.

When the lots were acquired and the building constructed the improvement was conveniently located and adequate for the intended purposes. Since then, however, Lander has grown and the facility is now located in the center of the business district of the city. In addition, the building is not now large enough to accommodate present needs and provide room for future expansion. The building is still used but its inadequacy and inconvenient location are creating many problems. Furthermore, the Forest Service has been advised that the city would like to see the site made available for more intensive urban use.

Suitable alternative sites away from the business district are available. These sites can be developed so that the Forest Service can perform its work more efficiently. Therefore, the interest of both the city and the Forest Service would be served if this facility were relocated in a less congested area better suited to National Forest administrative needs.

We believe that the land and building present owned by the Government can be sold for a sufficient amount to make possible the purchase of lands suitable in size and location for present and future needs and, also, the construction thereon of a warehouse and related facilities. Thus, the authority which this bill would provide for using the proceeds of such a sale would make it possible for the Forest Service to meet its needs at little or no cost to the Government.

Mr. O'NEAL. Thank you. You may be excused.

Mr. DROEGE. Thank you.

Mr. O'NEAL. This completes the schedule for the day, then, and the subcommittee will adjourn, subject to the call of Chairman McMillan.

(Whereupon, the subcommittee adjourned, subject to the call of the Chair.)

