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COMPENSATION OF PERMITTEES UPON TERMINATION OF SUMMER HOME PERMITS IN THE NATIONAL FORESTS

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

NINETIETH CONGRESS
SECOND SESSION
ON

H.R. 11360 and H.R. 11370

APRIL 2, AND 3, 1968

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COMPENSATION OF PERMITTEES UPON TERMINATION OF SUMMER HOME PERMITS IN THE NATIONAL FORESTS

TUESDAY, APRIL 2, 1968

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

The subcommittee met, pursuant to notice, at 10:20 a.m., in room 1302, Longworth House Office Building, Hon. John L. McMillan (chairman) presiding.

Present: Representatives McMillan, O'Neal, Foley, Dow, Teague of California, Hansen, Mrs. May, Mathias, and Purcell.

Also present: Martha Hannah, subcommittee clerk; Hyde H. Murray, assistant counsel, and L. T. Easley, staff consultant.

Mr. McMILLAN. The subcommittee will come to order.

I want to apologize for being late. The chairman of the full committee asked us to wait and vote on another bill before the subcommittee meeting. They were not as ready to vote as we thought they were.

We have before us for consideration this morning two bills, H.R. 11370 and H.R. 11360, which, together with the departmental report, will be made a part of the record at this point.

(H.R. 11360 by Mrs. May, and H.R. 11370 by Mr. McMillan, are identical bills, the text of which together with the departmental report, follows:)

[H.R. 11370, 90th Cong., first sess.]

A BILL To require the Secretary of Agriculture to compensate certain permittees where permits for summer or recreation-type residences on national forest lands are terminated and not renewed, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever an area of national forest land upon which a summer or recreation-type residence was constructed and is being maintained under a permit is needed for public use or other purposes and the permit therefor is either terminated or not renewed or extended, the Secretary of Agriculture shall, notwithstanding any specific provision of the permit, compensate the permittee, for the reasonable cost of moving the buildings and associated structures to such other site as may be available, and, if no other site is available, compensate the permittee for the value of such residence and related structures as determined by competent appraisal: *Provided,* That in no event shall the compensation for the cost of moving such residence and related structures exceed the value thereof. In determining the compensation to be made to the permittee, due consideration shall be given to the proportionate share of the permittee in any community systems or facilities constructed and maintained by the permittees in the area.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., September 26, 1967.

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

DEAR MR. CHAIRMAN: As requested by your letter of July 27, 1967, here is our report on H.R. 11370, a bill "To require the Secretary of Agriculture to compensate certain permittees where permits for summer or recreation-type residences on national forest lands are terminated and not renewed, and for other purposes."

We recommend that this bill not be enacted.

H.R. 11370 concerns compensation to permittees whose use of National Forest lands for summer homes or other recreation-type residences is terminated or not renewed or extended because the land under permit is needed for public use or other purposes. The bill would require the Secretary of Agriculture, notwithstanding specific permit provisions, to compensate the permittees in such cases for the reasonable cost of moving permittee-constructed buildings to another available site. If no other site is available, he would be required to compensate the permittee for the value of such residence and related structures as determined by competent appraisal.

In no event would the compensation for the cost of moving such residence and related structures exceed the value thereof. In determining the compensation, due consideration would be given to the permittee's proportionate share in any community systems or facilities constructed and maintained by the permittees in the area.

The provisions of this bill would apply only to summer home or other recreation-type residence permittees. However, enactment of legislation on this subject would be precedent-establishing. We view the problem of the precedents which enactment of this bill would establish as leading to many of the same problems as those associated with H.R. 4884 and similar bills on which we reported June 13, 1967.

National Forest special-use permits are legally drawn and executed agreements between this Department and the permitholders. All existing National Forest permits specifically set forth what, if any, obligations the Federal Government has 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.

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 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. Term permits frequently do provide for compensation if the permit is terminated during the term.

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 termination. In all the cases we have been able to identify from our records here, such notification has been for 10 years or longer.

Most permittees who acquired or placed improvements on National Forest lands have done so under known and agreed to provisions of their permits. Since our report on H.R. 4884, we made a survey to determine the number of summer residence permits no longer held by the person to whom the original permit was issued. We found that about 70 percent of the permits have been transferred to a purchaser of the improvements. On a transfer of permit, the new holder is usually required to sign in acceptance of the terms. Consequently, we believe it is fair to say that most permit-holders know the provisions of the permits.

To give the present permittees entitlement to compensation, as H.R. 11370 would do, would bestow on them an asset or windfall, that was not contemplated when they accepted their permits. To give them entitlement to payment of moving costs and the other provisions of the bill, would create a privately owned interest in National Forest land which is a special privilege not available to any other

users of the National Forests or to the using public. Since there is no cut-off point, the obligation of the Government to be prepared to meet this obligation would continue indefinitely unless terminated voluntarily by the permit holder.

Enactment of H. R. 11370 also could, very well, constitute a precedent for other authorized users of National Forest lands. About 62,000 special-use permits issued by the Forest Service 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. Other Federal agencies also permit the use of lands administered by them for summer homes and other purposes. In addition, there are some 20,000 holders of permits to graze domestic livestock on the National Forests. Many of them feel there is a strong argument favoring some level of compensation for decreases in their use of the range for any reason other than the desire of the permittee.

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. Our first witness is our colleague, Mr. Dingell.

We will be glad to hear any statement that you care to make at this time. We know of your great interest in this subject.

STATEMENT OF HON. JOHN D. DINGELL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. DINGELL. Mr. Chairman, I want to thank you for your courtesy in extending to me the privilege of being here this morning. I understand that this subcommittee is very busy with another resolution, and for that reason I want to thank you particularly for the privilege of being heard on this legislation.

For the record, my name is John D. Dingell, and I am a Member of the Congress from the 16th Congressional District of the State of Michigan. I wish to appear in very strenuous opposition to H. R. 11360 and H. R. 11370.

In my part of the country there is an old saying to the effect that "you can't have your cake and eat it too." But this is exactly what the summer home permittees are asking of the Forest Service. After enjoying their special privilege "cake" for many years at bargain rates under legally executed agreements, the permittees now hope to have the whole "cake" restored to them in the form of payments for moving or vacating their summer cabins.

Let me explain my objections more specifically. In the first place, the national forest special-use permits under consideration here are legally drawn and executed agreements between the U.S. Department of Agriculture and the permit holder. The provisions of the permit are clearly spelled out. The permits specifically set forth what, if any obligations the Federal Government has for compensating the permittees for improvements built on the permit area upon the expiration or termination of the permit. Therefore, the contention that the permittee does not know the provisions of the legal agreement when he signs the papers is no excuse, and clearly on its face falls.

What H. R. 11370 proposed to do is to give certain present permit holders entitlement to unwarranted compensation. Actually, this would be an asset or windfall that the permit holder did not expect when he accepted the terms of his permit. I can see no sensible justification for making payments to someone who hopefully assumed that his limited term or terminable permit could be extended to

cover all eternity, and would afford him compensation above and beyond that which he has already agreed under the terms of the agreement.

Furthermore, there are grave dangers and implications in the precedent that the enactment of H.R. 11370 would establish. It could pave the way for a whole rash of retroactive claims against the Government in connection with several other types of special use permits, some of which might be the right to the person to use the public domain in the national forests for mining, for mineral explorations, for grazing, for timbering, and for a number of other activities that are permitted under the multiple-use section and under the Bureau of Land Management and other Federal agencies.

All these and other arguments have been presented at previous hearings. About the only people advocating the enactment of H.R. 11370 are the numerous permitholders who would stand to gain a sizable cash windfall if this bill were passed. For these reasons, I strongly urge that H.R. 11370 and H.R. 11360 be voted down.

Mr. Chairman, I would like to direct the attention of the subcommittee to the report of the Department of Agriculture, which is strongly in opposition to the enactment of this legislation. I would like to point out that the national conservationists are strongly opposed to this legislation, and I would like, now, if I might, Mr. Chairman, to direct the Chair's attention to the language of the bill which, I think, is extremely interesting. I refer to H.R. 11360 and H.R. 11370 which are substantially identical in terms of language, and I would note for the benefit of the Chair that at the bottom of page 1 of the bill it says:

That whenever an area of national forest land upon which a summer or recreation-type residence was constructed and is being maintained under a permit is needed for public use or other purposes and the permit therefor is either terminated or not renewed or extended, the Secretary of Agriculture shall, notwithstanding any specific provision of the permit, compensate the permittee, for the reasonable cost of moving the buildings and associated structures to such other sites as may be available.

And I want you to look at this language now—to repeat:

* * * shall, notwithstanding any specific provision of the permit, compensate the permittee, for the reasonable cost of moving the buildings and associated structures to such other sites as may be available.

This is highly objectionable, because the individual concerned has made a deal, and now, under this section, seeks the permission of welshing on it, and if no other site is available compensation will be made to the permittee for the value of such residence as determined by competent appraisal—something to which the permittee was not entitled under his agreement originally.

So, I believe that from this you can see that under this legislation permittees would be enabled to secure compensation far beyond that to which they were entitled under the agreement which they in good faith and in exchange for what they regarded as very good value, a very good valuable consideration, have entered into with the United States.

I would like to read some of the language that was put out by the U.S. Department of Agriculture, "Forest Service and Special Uses in the National Forest." Notice this: These are in the instructions, by the way, Mr. Chairman, to the potential users:

Terminable permits are revocable and may be terminated at the discretion of the Forest Service as well as for breach of conditions. These permits may be granted for any use and for any area. The revocation clause may be exercised at the discretion of the Forest Service.

Now, further, here is another example of instructions put out by the U.S. Department of Agriculture entitled "Recreational Residences on National Forest Land,"⁵ and it reads:

A National Forest recreation residence is an exclusive, private use of a small tract of public land. They are not allowed to interfere with public or semipublic uses. Rather, they are permitted only on sites which, because of topography or location are unsuitable for public use; or on areas which, as far as can be foreseen, will not be needed for present or future public use and where their presence will not interfere with public needs on nearby areas.

Then, there are a number of exceptions that follow here. Recreation permits will not be permitted to be sold. In other words, if a permit is terminated and that a new owner of the improvements may be issued a new permit, which may contain additional stipulations as determined by the Forest Service supervisor.

What we are talking about here, Mr. Chairman, is not really an assertable interest in the public lands; it is a side use. It is at most a peripheral interest under the law. The permittee is a bare licensee. He has no interest, no equity whatsoever in the land.

I will refer you now, if I may, Mr. Chairman, to the "Special Use Permits" and to the "Special Use Permits" language, and I will offer these for the record, Mr. Chairman.

I would refer you now to the conditions in the "Term Special Use Permit," items 11, 12, 13, 14, 15, 16, and 17. And I would refer you particularly to item 17 thereunder where it says:

The permittee agrees that the amount which the United States shall be required to pay for improvements under 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.

Now, similar language would appear in the "Special Use Permit," which is form No. 27H-4, revised 260, and you will again find here, for example, Mr. Chairman, that—

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 the permit. If the permittee fails to remove all such structures and 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.

Then, under item 12, it reads:

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 the 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.

United States Department of Agriculture Forest Service		NAME OF PERMITTEE	KIND OF USE
TERM SPECIAL USE PERMIT <i>Act of March 4, 1915, as amended July 28, 1956, or Act of March 30, 1948</i>		DATE OF PERMIT	FILE CODE
		REGION	RANGER DISTRICT
STATE	FOREST		

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 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.

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 stampage 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	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.

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	

GPO 905149

U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE, WASHINGTON

RECREATION RESIDENCES ON NATIONAL FOREST LAND

The National Forests are public property. They are managed by the Forest Service so as to assure an integrated sustained use of their multiple resources; "the greatest good to the greatest number in the long run."

One of the major uses of the National Forests is that of outdoor recreation. There are many aspects of this. One of the most popular of which for many years has been the erection and use, under Forest Service permit, of recreation residences. This use has steadily grown until there are now about 19,000 under permit.

A National Forest recreation residence is an exclusive, private use of a small tract of public land. They are not allowed to interfere with public or semipublic uses. Rather they are permitted only on sites which, because of topography or location, are unsuitable for public use; or on areas which, as far as can be foreseen, will not be needed for present or future public use and where their presence will not interfere with public needs on nearby areas.

Public recreation use of the National Forests has increased very rapidly, especially since World War II. It amounted to 135 million visits in 1964, and there is every indication that it will continue to increase. It is estimated that the National Forests will receive 250 million visits by 1976 and 600 million visits in the year 2000, an increase of more than five times the present use. As the need for public recreation use opportunity increases, it will become progressively more difficult to find areas suitable for private recreation residences which are not needed for public use. In many of the more heavily used National Forests it is already apparent that there is little opportunity to establish new private recreation residences because all the sites suitable and available for recreation use will be needed for public purposes. As a result on most National Forests the apparent demand for public recreation use is of such magnitude that additional private recreational sites will not be planned until it is definitely established that all of the potential public recreation needs can be accommodated.

Areas suitable for recreation residences, and considered available for such use, are selected by experienced Forest officers in accordance with the above principles. In order to prevent unnecessary intrusion into the forest scene and interference with general public recreation uses, recreation residences are not located within sight of highways or lakes, along fishing streams, near public use areas, or near scenic attractions. Nevertheless, suitable sites are often found within convenient distance of good recreation areas. Such suitable and available sites are surveyed and divided into lots of about one-third to one-half acre in size. Five to thirty or more lots may be located in one area in such a way that there is ample space between them. Because lots are grouped together, owners often find it desirable to cooperatively develop water systems, provide watchman and caretaker service, garbage disposal, and perform other beneficial community projects. It is both impracticable and undesirable to permit individual recreation residences in isolated, scattered locations.

Recreation residence permittees pay an equitable fee for the privilege of using National Forest land. These fees annually bring into the U.S. Treasury approximately \$1,000,000. The fee for each lot is determined on the basis of its value for this use. The minimum fee is \$25.00 per year and lots with more than minimum advantages rent for much more. If, and as the value of nearby private land raises, the fees for National Forest recreation residence are adjusted accordingly. Many lots on exceptionally good sites have a yearly rental of \$100 and more. All fees are reappraised and adjusted at five year intervals.

How to apply for a recreation residence.—The attached folder gives the location of all National Forests, the headquarters of the Forest Supervisors, the Forest Service regional boundaries, and the addresses of the Regional Foresters. Recreation residence permits are no longer available on all National Forests. Only those offices shown on the attached list have indicated that individual lots may be available. Information concerning the up-to-date availability of lots can be obtained by writing to one of these offices. If recreation residence lots are available on a Forest, the Forest Supervisor will arrange for an inspection of them and the prospective recreation residence permittee may take his choice of unoccupied lots.

Where demand for lots exceeds the number available, permittees are selected through drawings or priority lists based on dates of applications.

When a person has selected a recreation residence lot he is issued a special use permit. This grants him exclusive use of the lot with certain restrictions. The regulations and conditions governing the construction and use of recreation residences are those necessary to safeguard other users and the interests of the general public in the National Forests. Restrictions and special rules naturally vary with local conditions, but in general the principal ones are:

1. Buildings must be appropriate to the forest environment. The location of all buildings must be approved by the forest officer in charge. Construction plans must be submitted to the Forest Supervisor for approval before starting to build.
2. Latrines and garbage pits must meet State and county laws and National Forest regulations.

3. Recreation residences are for personal and not for commercial use. Subleasing may be allowed on a limited basis but only if first approved by the Forest Supervisor. It will not be approved as a general practice.

4. Recreation residence permits may not be sold or transferred. If the permittee through sale, transfer, foreclosure, or other legal proceeding ceases to be the owner of the improvements, his permit is terminated. The new owner of the improvements, if qualified, may be issued a new permit which may contain revised or additional stipulations and conditions as determined by the Forest Supervisor.

The tenure status of recreation residence permits.—Most recreation residences are authorized under a 20-year term permit. There is no government obligation beyond the terms of the permit. If the permit is not renewed at its expiration the permittee must remove the improvements without compensation.

If the United States needs the land occupied by recreation residence during the life of a term permit the permit can be revoked. The United States will then compensate the permittee for the value of the improvements in accordance with the provisions of the permit.

Additional information.—Even though there are no new sites or lots available on many National Forests, there may still be an opportunity to obtain a recreation residence by purchasing the improvements covered by an existing permit and obtain a new permit. There is a constant turnover in the 19,000 existing recreation residences. Permittees have the right, subject to the terms of their permit, to sell the improvements under permit, and the purchaser may apply for a new permit. When a new permit is issued under these conditions the Forest Service frequently requires certain changes in the permit conditions. This may include a limited tenure provision. Therefore a prospective purchaser of improvements on a special use permit should check with the Forest Supervisor before completing negotiations with a permittee so that he may know the exact conditions under which the existing permit was written and how it will be reissued to him. The Forest Service does not keep records of persons desiring to sell their improvements. Prospective purchasers of improvements under special use permit should negotiate with local real estate brokers, or directly with permittees.

The following locations have indicated some lots are available:

Regional Forester, Region 4, Forest Service Building, Ogden, Utah 84403.

Regional Forester, Region 6, 729 NE. Oregon St., Post Office Box 3623, Portland, Oregon 97208.

Helena National Forest, Steamboat Block Building, 616-618 Helena Avenue, Helena, Montana 59601.

Flathead National Forest, 290 N. Main, Kalispell, Montana 59901.

Allegheny National Forest, Post Office Building, Warren, Pennsylvania 16365.

U.S. DEPARTMENT OF AGRICULTURE, FOREST SERVICE, WASHINGTON

SPECIAL USES ON THE NATIONAL FORESTS

Under the general authority of the act of June 4, 1897 (30 Stat. 35) the Secretary of Agriculture has issued Regulations U-10, U-11, and U-12 authorizing the Chief Forest Service, and Forest officers designated by the Chief, to issue special use permits on National Forest land authorizing individuals to use such lands for specific purposes and under specific conditions. A special use permit is required for any permanent occupancy of National Forest land. Camping, picnicking, and other short term uses do not require a special use permit.

The general policy of the Forest Service is that special uses may be granted if the proposed use is consistent with the overall objectives of National Forest management which is that the Forest shall be managed for the greatest good of the greatest number in the long run.

In general, all uses of a commercial nature and those granting exclusive occupancy to individuals or organizations are on a charge basis. Uses of a public nature may be issued free.

The fee charged for special uses of a commercial nature is commensurate with the value of the use authorized by the permit.

There are two types of special use permits—terminable permits and term permits. Both may be issued free or for a charge, depending upon the circumstances.

Terminable permits are revocable and may be terminated at the discretion of the Forest Service as well as for breach of conditions. These permits may be granted for any use and for any area. The revocation clause may be exercised at the discretion of the Forest Service.

Term permits are authorized by the act of March 4, 1915, as amended July 28, 1956, and are not revocable except for breach of conditions or by reimbursing the permittee for the appraised value of his improvements. Term permits may be issued for hotels, resorts, or other structures needed for recreation, public convenience, or safety; summer homes and stores; industrial or commercial purposes; and to public or nonprofit agencies for public purposes. Term permits, except those for summer homes and stores which may not exceed 5 acres, are limited to 80 acres in area and may not exceed 30 years in duration. The act of March 30, 1948, applicable only to National Forests in Alaska, authorizes term permits covering structures and improvements owned by the United States and land used in connection therewith.

The authority to issue most special use permits has been delegated to the Forest Supervisor, and anyone desiring a special use permit should make application to the Supervisor. Even in the few cases where the Supervisor does not have sole responsibility, such as large resorts, ski lifts, or improvements located within the roadside zone of important highways, the application should be submitted to the Supervisor who will make the field examination and recommend action.

Mr. McMILLAN. Thank you, Mr. Dingell. This Subcommittee on Forests visited the forests in several States last fall. We have gone into all the points that you have brought out. I think we have gone into this rather thoroughly, with regard to the points that you mentioned, in 1967. The committee is happy to have your opinion on this subject.

Mr. DINGELL. You and I have been good friends for many years. I want to thank you for the privilege of being with you to discuss this subject. I have a high regard for your judgment.

Mr. McMILLAN. We appreciate your taking your valuable time to come down and give us your opinion on this important problem.

Mr. Teague wants to ask you a question.

Mr. TEAGUE of California. I understand your arguments. They are well made, in the matter of contract law. It is not clear to me why the conservation groups take the position that they do. Are they opposed to the entire permit system and would like to see it abolished completely?

Mr. DINGELL. I suspect that the time is coming in this country when we probably will have to do away with some of the system, at least insofar as affording the kind of special use that we are discussing today.

Mr. TEAGUE of California. Is it not just a continuation of something we are already doing?

Mr. DINGELL. This is a continuation, but the legislation contemplates a very broad expansion of the rights of the persons who signed these contracts. No, I do not think the conservation organizations are opposed to the permit system, but I think that I can express their attitude in this fashion: Their attitude on this is that the national forests belong to the people, and there have been a continuing series of attempts over the history of this Nation to provide for special interests, to assert special interests by groups, and special rights in these areas, as to timber, minerals, water, game, and grazing—to all of the incidents of ownership of this land, and, fortunately, we have in most cases been successful in terminating these attempts, in heading off these attempts to assert this kind of ownership in the public domain. We have had attempts to change portions of the national forests in stump lands. We have had throughout the years problems with people who achieved licenses for mining rights on the public domain and who then convert this into the privilege of cutting valuable standing timber and have never actually engaged in the use of the land for purposes of mining, even though they had achieved mineral rights, the right to

mine, in the public domain. We have had attempts to assert prior water rights above and beyond those that might be necessary for conservation—continuous flow for the protection of other water rights, for the protection of the people generally or for the protection of the public to recreation. And if you look around the national forests, you will find areas where you have reservoirs that are set up, which are drawn down to mudflats every year.

All of the conservation organizations recognize that the national forests belong to all of the people. We have to allow timbering. It is a desirable use. We have to allow a certain amount of mineral exploration. This is also a carefully controlled desirable use. We have to allow water for irrigation and agricultural and municipal purposes. We recognize that people have a place in this world, too, but where someone negotiates in good faith a contract saying that they will have certain rights and then come forward to the Congress and seek added advantage without any justification whatever, in the face of these agreements freely executed by them for good and valuable consideration—this, frankly, goes too far. I do not think that I would say that the conservationists are opposed to all permits or other uses on the national forests. They recognize that the public domain is for the benefit of all of the people and within certain wide limitations that it should be available for certain uses, mineral and the like, things of that kind. But they watch very carefully to see to it that there are limitations imposed upon permittees to assure that the permittees conform very carefully and very closely to what is regarded to be in the interest of public and good conservation practice.

Mr. McMILLAN. Thank you.

Mr. DINGELL. I certainly thank you.

Mr. McMILLAN. Our next witness is Mr. Edward P. Cliff, Chief, Forest Service.

We will be glad to hear any statement you might like to make. Do you have anyone with you?

I want to take this opportunity to congratulate you on the award that you recently received.

STATEMENT OF EDWARD P. CLIFF, CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE; ACCOMPANIED BY M. M. NELSON, DEPUTY CHIEF, THEODORE SCHLAPFER, STAFF ASSISTANT, MEL LOVERIDGE, STAFF ASSISTANT, AND R. G. FLORANCE, DIRECTOR, DIVISION OF LEGISLATIVE REPORTING, U.S. DEPARTMENT OF AGRICULTURE

Mr. CLIFF. I appreciate the opportunity to discuss with you the legislation proposed in H.R. 11360 and H.R. 11370 and the problems related thereto which this committee has so diligently sought to resolve.

In view of Associate Chief Greeley's previous appearance before this committee and the Department of Agriculture report of September 26, 1967, on this matter, I will just restate briefly our position on this legislation and on similar legislation such as H.R. 4884.

We have recommended that these bills not be enacted and this is still our recommendation.

These bills, we believe, would give preferential treatment to the holders of one type of permit. This could be called an unexpected windfall, one that was not contemplated when they accepted their permits nor justified under the terms of the permits. Also, we believe this legislation would create a privately owned interest in national forest lands for the summer homeowners, a special privilege which would not be available to other users of national forest lands.

There are about 63,000 special use permits issued by the Forest Service which authorize use of national forest lands for a wide variety of purposes. They are legally drawn and executed agreements between the Department of Agriculture and the permit holders. They set forth the obligations, if any, the Federal Government has for compensating the permittee for improvements built on the permit area upon the expiration or termination of the permit. These permits also specify the rights and obligations of the permittee as to removal of the improvements upon such expiration or termination. None of the permits provides for any compensation to the permittee when the permit is terminable at anytime or when the specified term of the permit has expired.

Most of the permits for use of national forest land, including those for summer homes, involve permittee built and owned improvements. The value of these improvements could exceed \$1 billion. Many of the permittees holding permits for uses other than summer homes feel that they also could make a strong argument for compensation should their permits expire or otherwise be terminated, notwithstanding the provisions of the permit.

The provisions of these bills would apply only to holders of summer home or other recreation residence permits, but the enactment of these bills would set an undesirable precedent with respect to the other permittees. Also, the effect of these bills, if enacted, could extend precedentwise to permits on lands administered by other Federal agencies which permit the use of such lands by private persons for various purposes.

We have given thought to the so-called Foley amendment,¹ but we do not have an official position on it. Its apparent purpose has some merit, but the inclusion in the bills of the principles of this amendment would not eliminate the features which cause us to recommend against the enactment of the bills. If the amendment were to be favorably considered, we believe that careful consideration would need to be given to the language.

With this brief summary of our previously stated position and briefer comments on the proposed amendment, I will try to answer any questions you may have.

Mr. McMILLAN. Thank you, Mr. Cliff. I think that the members of this subcommittee are well aware of the opinion that you and the members of the Forest Service hold on this subject. We want you to know that we are glad to have your opinions on this important problem.

Mr. Teague has some questions.

Mr. TEAGUE of California. The so-called Foley amendment, what is it?

Mr. CLIFF. The Foley amendment is one that was proposed by Congressman Foley which would insert at line 10, page 2 of H.R. 11370 the following language:

Section 2(a), notwithstanding—

Mr. TEAGUE of California. Excuse me. This is the amendment as it was drawn?

Mr. CLIFF. Yes. This would provide that upon the transfer or the sale of any permit, et cetera, that such sale be made on a random selection basis.

Mr. TEAGUE of California. This is all I need to know.

Mr. CLIFF. That person would be selected by the department, from interested applicants who offered to make a bona fide payment for the improvement.

Mr. TEAGUE of California. Thank you.

That is all, Mr. Chairman. I have no further questions.

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

Mr. CLIFF. Thank you.

Mr. McMILLAN. Our next witness is Mr. Kenneth B. Pomeroy, chief forester of The American Forestry Association.

Do you care to make a statement at this time?

If so, we shall be glad to hear it. If you have anyone with you that you would like to have sit with you, you may do so.

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

Mr. POMEROY. Mr. Chairman and members of the committee, I am Kenneth B. Pomeroy, chief forester of the American Forestry Association.

I would just like to tell you a little bit about our association. We have more than 50,000 members. These people are housewives, schoolteachers, businessmen, doctors, attorneys. About 6,000 of these people live in the State of California where most of this problem seems to center. They are aware of the situation today.

The members of our association understand the unfortunate financial position summer home permittees have gotten themselves into by not paying attention to the legal provisions of their permits. We also understand how these permits acquired large intangible values because of their location, limited number, and prestige value.

But we also are mindful that national forest land belongs to all citizens of the United States and that this land must be managed for the benefit of all and not for the advantage or profit of a few privileged individuals.

In the Organic Act of 1897 (30 Stat. 34, 35, 36) the Congress instructed the Secretary of Agriculture "to regulate their (national forests) occupancy and use and to preserve the forests thereon from destruction."

In the Multiple Use-Sustained Yield Act of 1960 (74 Stat. 215) the Congress authorized the Secretary of Agriculture "to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield of the several products and services obtained therefrom."

In section 4 of the same act the Congress defined "multiple use" to include "sufficient latitude for periodic adjustments in use to conform to changing needs and conditions."

These provisions in the acts of 1897 and 1960 provide authority for the issuance of special permits for summer homes on land not

needed currently for some other purpose. These acts provide for reclamation of control over the land when it is needed for some higher public use. The provisions governing special uses are spelled out in detail in each permit. The permittee agrees to the provisions in advance of use of the land when he signs the permit.

Now, just what is it these summer home permittees are asking for in H.R. 11360 and H.R. 11370?

They are asking for reimbursement of any personal expense incurred in developing public property for their own private use and payment for any intangible value that may have accrued to the use of the land for summer home purposes.

No private landlord in his right mind would ever agree to such a lease arrangement.

We do not agree either. In fact, it is difficult for us to understand how the Congress can simultaneously ask us to increase our taxes and at the same time seek authorization to pay our money to a self-seeking, special interest group of summer home permittees.

Mr. McMILLAN. Thank you, Mr. Pomeroy.

Mr. Teague?

Mr. TEAGUE of California. I have no questions.

Mr. McMILLAN. Thank you very much. We appreciate your statement.

Mr. POMEROY. Thank you.

Mr. McMILLAN. Our next witness is Mr. Louis S. Clapper, chief of the division of Conservation Education of the National Wildlife Federation.

We will be glad to hear from you, Mr. Clapper.

STATEMENT OF LOUIS S. CLAPPER, CHIEF, DIVISION OF CONSERVATION EDUCATION, NATIONAL WILDLIFE, FEDERATION, WASHINGTON, D.C.

Mr. CLAPPER. Mr. Chairman, I am Louis S. Clapper, chief of the division of conservation education for the National Wildlife Federation. National headquarters are located at 1412 16th Street NW., Washington, D.C.

Ours is a private, nonprofit organization which seeks to attain conservation goals, through educational means. Affiliates of the federation are located 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 two and one-half million persons.

It was our privilege last year to comment briefly upon H.R. 4884 and other proposals relating to use permits for national forest lands. These bills apparently were the forerunners of H.R. 11360 and H.R. 11370, the subjects of discussion today.

While these latest proposals certainly have narrowed the problem to one type of use of national forest lands—that of summer homes—we still must oppose the principle expressed by them.

As we read these bills, if the Forest Service wishes to terminate a summer home permit for any purpose it would be required to compensate the permittee for either the expenses of moving the building to another site or for the value of the structure, plus appurtenant devel-

opments. Such a requirement, in our opinion, is not in the overall best public interest because:

1. It would infer that a permittee has a vested "right" in the use of public lands. We believe this is a privilege which must not be magnified into a right; and,

2. It is discriminatory in favor of one type of forest user. Holders of permits for grazing, or logging, or mining, or other purposes could claim a need for compensation when a permit is not renewed with equal validity. Thus, in our opinion, an unfortunate precedent would be established.

As best we can determine, a summer home permittee was aware of terms of the lease or contract when it was issued—or should have been, at least. He or she then should have invested in property in the light of the possibility that the permit would not be renewed.

If it would be helpful in assuring tenure, we would not object to some sort of a requirement that permittees be given advance notice (even as long as 10 years in the case of summer homeowners) of an intended termination of a permit.

Thank you for the invitation and opportunity to make these remarks.

In response to one of the questions that Mr. Teague asked earlier of Mr. Dingell, the National Wildlife Federation did support the multiple-use principle as approved by this committee about 10 years ago, and we recognize that summer homes are legitimate uses, along with timber production and mining, and along with grazing and with fish and with wildlife and other recreation uses. And we think, too, that these are privileges, and we would oppose the extension of this.

Thank you.

Mr. McMILLAN. Just a minute.

Mr. Teague, do you have any questions?

Mr. TEAGUE of California. I have no questions.

Thank you.

Mr. McMILLAN. I understand, Mr. Clapper, as to these bills pending before this subcommittee, you and your organization oppose them?

Mr. CLAPPER. Yes, sir.

Mr. McMILLAN. We thank you for your statement. We appreciate your taking your time to appear before us this morning.

Mr. CLAPPER. Thank you.

Mr. McMILLAN. At this time, we will hear from the National Forest Recreation Association witnesses, the first of whom is Mr. Sam E. Osborne, who is the president of this organization.

We will be glad to hear from you now.

STATEMENT OF SAM E. OSBORNE, PRESIDENT, NATIONAL FOREST RECREATION ASSOCIATION

Mr. OSBORNE. Mr. Chairman and members of the committee, my name is Sam E. Osborne, and I am the manager for the Pahaska Co., a national forest resort complex between Cody and Yellowstone Park, Wyo. Our company has been a member of the National Forest Recreation Association for many years and we look upon the association as our trade communications center.

We appreciate very much the courtesy extended by this hearing group and the opportunity to once more appear before this committee to further explore with you the following matters:

1. H.R. 11360 and H.R. 11370 legislation providing for reimbursement of homeowners whose permits are terminated or who have been refused renewal of permits;
2. The status of the concessioner operators of outdoor recreation services and facilities upon national forest lands and problems with which they are confronted;
3. Status and purpose of the new Supporting Membership Division of the National Forest Recreation Association, activated just recently.

H.R. 11360 and H.R. 11370. We have with us today members of our executive committee and our association consultant, Mr. O. S. Peterson, whom you met last year at the time of our testimony in support of this same legislation. Mr. Peterson is former president of this association, whom I succeeded last November when I was elected to the presidency at the 19th annual meeting of our association held in Morro Bay, Calif. Mr. Peterson was responsible, in November of 1962, for establishment of a homeowners' division in the National Forest Recreation Association, at the annual meeting held at that time in Boise, Idaho. He has served three consecutive terms as president of NFRA and, because I feel its inception helped chart the course of the homeowners' division, I am going to ask Mr. Peterson to present to you, with your permission, that part of our testimony relating to the homeowners on national forest lands for whom relief is intended under the provisions of this legislation.

We also have with us as vice president of the association and heading up the homeowners' division, Mr. Leo Rossier of Havasu Lake, Calif., who will support Mr. Peterson's statement and also present to you a brief background statement of the plight of homeowners occupying, under lease status, lands under the jurisdiction of the Department of the Interior. These homeowners will not be affected by the pending legislation, but we feel that your committee should be familiar with the situation with which they are confronted, and with your permission, we will have Mr. Rossier present this statement.

OUTDOOR RECREATION CONCESSIONAIRE ON NATIONAL FOREST LANDS

Our current Vice President heading up the NFRA Division of Resorts is Mr. Rex Borough of Albuquerque, N. Mex. Mr. Borough is the operator of a retail concession in the Sandia Mountains on the Cibola National Forest in central New Mexico. The National Forest Recreation Association Resort Division includes all services and facilities to the recreation public, including trailer courts, boat marinas, motels, retail stores, service stations, et cetera. We feel that your committee will want to understand the situation with respect to these operations on national forest land, in addition to the homeowner story which is involved in the pending legislation. Please understand we are not asking for legislation, at least at this time, with respect to the concessioner group, but feel that you should be apprised of the situation and conditions under which these concessioners must operate.

THE NATIONAL FOREST RECREATION ASSOCIATION SUPPORTING MEMBERSHIP PROGRAM

We have with us our executive secretary, Mr. Mayhew Davis, who, with your consent, will present a very brief outline of the reasons for and status of our most recent division of NFRA. This consists of the individual who is himself a recreationist but is not a homeowner nor an operator of a resort or concession but is vitally concerned with all policies and problems associated with outdoor recreation. Mr. Davis will bring you up to date on this matter so that you will be informed of our total program, including this new segment of our operations.

GENERAL STATEMENT

I feel that I should paraphrase the statement which we wish to present, with my assurance to you that the National Forest Recreation Association is mindful of its obligations to the general public, and that, contrary to some of the testimony presented to your committee in opposition to the homeowner legislation (H.R. 11360 and H.R. 11370), we do not feel that we are asking for special privilege, and I wish to explore this reasoning with you.

The Congress, in its wisdom, has enacted a multiple use statute which provides for the utilization and use of national forest resources to assure most effective benefit to the whole people. The harvest of timber, fish and game crops, forage for livestock use, protection of water supplies and against erosion, protection against fire, and appropriate use for recreation all have been outlined by the Congress as recognized, proper use of national forest lands. One of the difficulties in the application of this multiple use policy is that in our judgment, there is lacking a clear statement with respect to recognized desirable public use. Delegation of policy interpretation and application through the Secretary of Agriculture through the Chief of the Forest Service has resulted in administrative decisions which we feel are in conflict with and prejudiced against the special use permittee, or in many cases, applicants for special use permits, on national forest lands for both residential use and concessioner use. For example, Deputy Forest Service Chief Arthur Greeley has testified before this committee that the policy of the Forest Service is against issuances of new additional residence permits. This is an administrative decision and we feel is not within the policy initiated by the Congress by adoption of the multiple use act. Furthermore, many concessioner operators are being forced out of business because of administrative decisions on the part of the Forest Service making it impossible for the concessioner to secure financing because of lack of permit tenure adequate to enable procurement of loan capital.

We are here before your committee to plead that recreation use in its full sense, including not only the general public but also the concessioner and homeowner permittee—be accorded recognition as a full partner under the multiple use declaration of the Congress of the United States. We plead for equal representation on advisory committees and in treatment by the Forest Service as a full partner with the timber operator, the livestock operator, the conservationist groups, mining, and hydroelectric industries under the multiple use program. Frankly, we are tired of being on the defensive with other

minority groups such as the American Forestry Association and the National Wildlife Federation, as seeking favored treatment. We are seeking the opportunity to function in our proper place under the American system of the profit motive and free enterprise.

In order not to duplicate testimony that will be offered by Mr. Peterson, Mr. Rossier, Mr. Borough, and Mr. Davis, I will close with the request that this committee recognize that the great majority of the areas involved, both for residential use and also for concession use, are at an elevation which limits operation for use to a seasonal basis, usually only 3 or 4 months during the year. For example, summer resorts, packer-outfitter stations and dude ranches, and also residential sites, normally are rarely used outside of the season of approximately May 1 to September 30.

Winter sport areas conversely are definitely seasonal operations dependent upon availability of snow, hence may involve cases where only a few days a year are operable and the cycle of good snow years may range from 2 years to even 10 years or more, as is the case in southern California. The foregoing outlines the reasons of existence for the National Forest Recreation Association. We are in the 20th year of operation and will celebrate our 20th anniversary in the State of Colorado next November. This will be at the Hilton Hotel, November 12, 13, and 14. The Honorable Wayne N. Aspinall has accepted our invitation to be our keynote speaker in his capacity as chairman of the Public Land Law Review Commission and chairman of the House Interior and Insular Affairs Committee.

Finally, may I call your attention to Public Law 89-249 of October 9, 1965, entitled "Concession Rights in the National Parks." This law outlines the policy of the Congress and presently is under study by the President's Council on Recreation and Natural Beauty as to means for extending the policy provisions which the law applied to recreation concessions within the national parks to similar concessions on Federal public lands administered by other departments of the Federal Government, particularly the Department of Agriculture and the Forest Service therein, responsible for administration, protection, and development of the national forests. If you have questions at this time, I will be happy to try to answer them but suggest perhaps you would prefer to receive our other testimony first in order to have a more complete understanding as a basis for your questions. I express my personal and official appreciation to the chairman and members of this committee for the opportunity afforded me today. Thank you.

If agreeable to you, Mr. Chairman, may I suggest that we call upon Mr. O. S. Peterson at this time?

MR. O'NEAL (presiding). I was planning to do that, Mr. Osborne. I should announce that Chairman McMillan found it necessary to go to another committee of which he is the chairman and he has asked me to preside in his place.

I assume that Mr. Peterson is ready and standing by, but before he does come to the stand I would offer opportunity to members of the committee to ask you any questions that they would like to ask.

Does anybody have any questions?

MR. TEAGUE of California. Mr. Osborne suggested that we hear the other witnesses first before questioning.

MR. O'NEAL. I know that. Thank you.

You may retire. Mr. Peterson may take the stand and present his statement.

We are very glad to have you here. You have been extensively introduced by Mr. Osborne.

You may proceed.

STATEMENT OF O. S. PETERSON, FORMER PRESIDENT AND CURRENTLY EXECUTIVE CONSULTANT, NATIONAL FOREST RECREATION ASSOCIATION

Mr. PETERSON. Mr. Chairman and members of the committee, my name is O. S. Peterson and I am here in my capacity as former president of this association and executive consultant to the National Forest Recreation Association. I appreciate very much the opportunity of appearing before you again and still thrill to the memory of my previous appearance before this committee on June 14, 1967. It is indeed a tribute to our American form of government that the citizens may enjoy opportunities such as we have today of appearing before committees of the Congress and being accorded the courtesies and privileges of citizenship. For this, I am indeed grateful, most grateful.

My purpose today is to supplement testimony which our executive secretary Mayhew Davis and I presented to you last year in order to support the pending legislation, H.R. 11360 and H.R. 11370, and even more particularly to clarify the background of this situation.

As a citizen, taxpayer, and user of national forest lands for many years, I am shocked, as I hope you are, at the arbitrary decision by the Forest Service that use of national forest lands for residential purposes is not appropriate under the multiple-use act and in the interests of the whole people of the United States. Testimony presented to your committee by Arthur W. Greeley (see p. 60, serial J, p. 2, June 15, 1967, hearings before the subcommittee on Forests, Committee on Agriculture, House of Representatives, "Management Policy and Other Problems of the National Forests") included the following, and I quote:

* * * 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 transfer. We might offer transfers where we had made commitments or where it would be desirable to make commitment to offer a lieu lot to somebody, that is a permitholder who had been put on notice that his lease would not be renewed at the end of a term * * *.

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.

I respectfully submit to this committee that this constitutes a biased and prejudiced administrative decision on the part of the Forest Service and is not in the spirit of the multiple-use act nor in the interests of the whole people of the United States.

This committee has listened to testimony in opposition to enactment of H.R. 11360 and H.R. 11370 by special interest groups, including the American Forestry Association and the National Wildlife Federation, which constitutes biased attitude by special interest groups. It is for this reason, partly but substantially, that this association has activated a supporting membership division in order to expand the membership and the strength of this association and our position. The Forest Service, with increasing frequency, has been terminating summer home

and residential permits, taking tangible, physical property from citizens of the United States without any compensation in connection with such actions. True, in a few instances, they have offered lieu sites with the stipulation that the permittee move the improvements from one site to the other at the permittee's expense, and in many cases, without any possibility of moving existing structures because of terrain and physical obstacles involved.

I submit to the committee that the Forest Service has been arbitrary in furtherance of this "phaseout" program and that it has, in many instances, refused to issue renewal permits involving residential sites which were not, in fact, honestly needed for higher public use at the time. Testimony involving permit terminations is on record for areas such as Pinecrest (Stanislaus National Forest, Calif.), Lake Alpine (Stanislaus National Forest), and elsewhere—see hearings, Select Committee on Real Property Acquisition, Committee on Public Works, House of Representatives, 89th Congress, second Session, October 4-7, 1963—California, "Real Property Acquisition Practices," et cetera—which we feel emphatically substantiates the claim of administrative confiscation of personal property rights. We feel that the Congress of the United States should provide adequate safeguards to prevent further abuses involving the homeowner permittees on the national forests.

I want to raise the question at this time of how the Forest Service can possibly justify the policy decision indicated above for the tremendous areas involved in the national forest system when the very economic and social well-being of our citizens demands a more forthright, professional attitude toward a more desirable type of use of national forest lands. Let me illustrate:

The great State of California involves roughly 100 million acres. Approximately 20 million acres or one-fifth thereof, is within the boundaries of national forests within that State. Approximately 20 million acres more are owned by the Federal Government. Can the Forest Service by any stretch of the imagination question the availability of at least several hundred thousand acres out of the 20 million that could logically be classified as desirable for residential use within the concept of the multiple-use policy relating to the national forests?

I am confident that the time will come when the citizens themselves and county boards of supervisors within the national forest areas are going to demand a more realistic economic and social attitude on the part of our public land administrators. Many counties within the States have a vital economic dependence on the type of use provided under the Forest Service administration.

Again, using the State of California as an example, assuming within a given national forest averaging surely at least 1 million acres, I ask the Forest Service if they can point to any higher economic form of use than that provided by occupancy of lands for residence purposes? Using only two sites per acre—which is extremely conservative, at below average current rates of \$100 per annum special use fee, provides a recurrent earning for the taxpayer of \$200 per acre, 75 percent of which goes into the Federal Treasury and 25 percent in lieu of taxes return to the State for allocation to the counties for school and road purposes. An additional 10 percent of these fees is returned for road and trail purposes within the national forests concerned.

In addition to the above, the economic stability given to the counties through availability of personal property in the form of structures of various kinds for county tax purposes is a very real and significant economic factor. In an increasing number of States, taxing of possessory interest rights adds a further increment of substantial economic importance. The purchase of materials and supplies and employment of labor for construction of residences and related improvements is an important economic factor.

We have recently discussed with members of county boards of supervisors the phaseout policy enunciated by the Forest Service for residence use of national forest lands. We predict that this committee and Members of the Congress will be hearing increasingly from constituents with respect to this threat to earnings from use of national forest lands to which the taxpayers collectively must offset in the form of local tax payments. We urge this committee to look into this matter and ascertain why, out of the millions and millions of acres within the national forests, the Forest Service can justify such a policy or claim that such type of use is not desirable and in the public interest. We emphatically challenge this policy decision on the part of the Forest Service and respectfully request that the Congress be asked to declare that such use for residential purposes is a highly desirable and necessary use of national forest lands.

Now, with respect to H.R. 11360 and H.R. 11370. We have canvassed our membership, and I can report to you that we are not in favor of the proposed Foley amendment to this legislation. We feel it is unfair. May I point out that one of the most important facets of our social history has been the privilege and responsibility of the parents to direct the upbringing of the children in the family in accord with the American tradition of freedom of speech, worship of God, and reverence for the great outdoors. There are thousands upon thousands of our citizens who cherish childhood memories through the experiences afforded in the great outdoors environment of our national forests because parents pioneered in constructing mountain cabins or homes and provided this healthful opportunity for children and their friends to acquaint themselves with the beauties and associations of nature. Many, and probably most, of the summer home or residence permittees have passed on to children and grandchildren, cabins and residences which were the strongest family ties available and which enabled the upbringing of the children into the type of citizen of which we may be proud. The Foley amendment not only would preclude this highly desirable use, but would, in fact, destroy any possibility of the individual for disposing of his personal property equity in a manner which has been traditional through the years. As a matter of fair play and to avoid what surely would be an administrative monstrosity, we urge the committee to reject the Foley amendment in its entirety. We say this with full respect to the Honorable Thomas S. Foley, feeling that the Forest Service itself surely would object to the administrative problems which adoption of this amendment would establish.

In closing, I personally, and on behalf of the National Forest Recreation Association, urge that this committee provide for a hearing within the State of California as a supplement to the hearings held last year in Spokane, Wash., Yakima, Wash., Missoula, Mont., and

Idaho Falls, Idaho. This would enable homeowners in the State of California to be heard with respect to their deep, and in many cases emotional, feelings that they have been dealt with unfairly. Further application of the Forest Service phaseout policy will result in very serious financial losses to citizens who, in good faith, accepted the assurance of the Forest Service through the years that they need not fear that their permits would not be renewed except in the event of clearly justified higher public need. I come before you with deep humility as a citizen and with grave concern in my capacity of a representative of the 19,000-plus citizens of the United States who are involved in this phaseout program as a result of what I personally feel to be a capricious and unjustified administrative decision by one of our great Federal agencies.

Mr. Chairman, I am proud to be an American but plead for your concern with the threat toward arbitrary administrative decision which can destroy our very roots of democracy.

Thank you very much for the opportunity of appearing before you today and for the courtesies which you have shown throughout my contact with your committee.

I suggest, if you concur, that Mr. Leo Rossier, vice president of our homeowner division, outline for you the situation involving lessees occupying lands under the jurisdiction of the Department of the Interior.

Thank you very much.

Mr. O'NEAL. Thank you, Mr. Peterson. You have spoken very forthrightly, I would say.

Are there any questions?

Mr. Foley?

Mr. FOLEY. Mr. Peterson, I know that you and the National Forest Recreation Association and Mr. Pomeroy, chief forester of the American Forestry Association, are both taxpayers and you both are opponents, and you are both calling the other self-seeking interested groups.

Mr. PETERSON. That is right.

Mr. FOLEY. During the course of the testimony this morning, have you not done so?

Mr. PETERSON. I recognize that, and I really take exception to the statement that we are a self-interested group, any more than the conservationists are. The fact is that the conservationists want to put a certain amount of land aside to one side for certain use only.

Mr. FOLEY. You call them a special interest group, and they call you a self-seeking, special interest group.

Mr. PETERSON. That is right.

Mr. FOLEY. Certainly, we do not have anybody here this morning who is completely objective about this. I have learned in the past several months that it is quite dangerous to effect compromises in emotional situations like this. So, it is with a little misgiving that I am going to press on here and ask you a few questions about the so-called Foley amendment.

Were you aware that the so-called Foley amendment would require the concurrence of the individual landowner before it would apply?

Mr. PETERSON. I do not quite understand that.

Mr. FOLEY. Were you aware that in its form the amendment would not affect the permittees who did not sign a new and specific permit agreeing to its terms? Were you aware of that?

Mr. PETERSON. No; I did not know that.

Mr. FOLEY. When you canvassed your members, did you inform them that it was a voluntary and not a mandatory proposal?

Mr. PETERSON. Well, I think that most of them that are affected were aware of the fact that it did not—that it would be too difficult in accordance with your idea of—

Mr. FOLEY. Is it not true, sir; there were two primary reactions to it, in opposition? One was that it would restrict to some extent the sale of the improvements and, second, that it would prohibit the inheritance by children?

Mr. PETERSON. That is right.

Mr. FOLEY. When you canvassed your members to get their opinion on that, did you specifically inform them that no one would be so restricted unless he or she voluntarily agreed to it?

I do not believe you did.

Mr. PETERSON. We did not understand that would be voluntary.

Mr. FOLEY. I have had some reaction from this, when, frankly, no one understood that it was to be limited to those who voluntarily agreed to this.

Assuming that the Forest Service has ended for all practical purposes any further extension or addition of permits on Federal forest lands, do you think that there is any difficulty created by 19,000 people holding permits that are otherwise denied to the general public at large?

Mr. PETERSON. The thing that I can see—the difficulty is—the difficulty that arises from it causes inflation.

You take California, with all of the millions of acres in the areas that are available—I mean that are there, very little is available for mountain cabins and the like.

Mr. FOLEY. So, actually, these permits have more value, at least in terms of their limited availability, than they had before when there was an open policy?

Mr. PETERSON. They did. The amount of homes went down, and if the National Forest Service would open up, it would go up. It is held down to a certain extent. It is not as inflated as much as it could be, on account of the uncertainty of the tenure. That is making it very difficult.

Mr. FOLEY. Do you think there are cases where the improvements have been sold at greater than what would be their appraised value?

Mr. PETERSON. Not the appraised value. In my area—and I cannot speak for the entire United States—I will take California for an illustration. Most of it has gone at the appraised value.

Mr. FOLEY. Do you think that there is justification for the individual permittee to make on a sale more than the appraised value, including a profit for increase in value of the improvements?

Mr. PETERSON. I do not think that they are getting too much more when you figure out the fact that all the years you have to maintain this. You have, in fact, built the cabin about twice, say, in 20 years. Do you see what I mean?

Mr. FOLEY. I am not questioning your judgment here, nor that they do get more in your area of the country. But supposing that we

take a property improvement that was constructed at \$10,000, and it is now appraised at \$15,000, and it is sold for \$20,000. Is that not a possibility these days?

Mr. PETERSON. That all depends upon the area. In some areas it would be possible.

Mr. FOLEY. What does the \$5,000 over the appraised value refer to?

Mr. PETERSON. You are getting your profit.

Mr. FOLEY. Is it profit, or is it, in effect, selling the permit?

Mr. PETERSON. Well, you have a term permit. That is your term. Supposing that you only have 5 years to go, it is very difficult to sell the home, a summer home. In fact, I know what I am talking about. I have one for sale.

Mr. FOLEY. That is right. My amendment would permit those who wanted to agree to it to sell their summer homes for the appraised value of the improvements including a profit; and there would not be any limitation on the permit, because the permit would be good for whatever the surviving rights of the parties would be.

I am not trying to sell the amendment here, but just to note very briefly my concern that we must have some public character to those lands so that we do not have a phaseout policy. For several generations it has been the private property of about 19,000 permittees but it is not private property, it is public land. And it seems to me that we ought to be able to strike some kind of a compromise here. After a family has had the property with the expectancy of the husband or wife receiving it, and when they have a full return of their improvements and their investment, and when they voluntarily agree to that as a method of getting the return, we have a reasonable approach to the problem which is presented to you. I think if your membership had taken the time to look at the amendment a little more carefully, and had noticed that it was voluntary and not mandatory and that it was designed to enable your members to realize some kind of reasonable return for the improvements and, perhaps, to remove some of the objections that the Forest Service has had, you might say, to the extension of these permits, in what amounts to not a special-interest group but certainly a small and limited group of American citizens, maybe the amendment would have had a better hearing. I am not going to press it. I do not think it satisfies everybody. But somewhere down the line, sir; certainly we will have to try to come to grips with this problem. I share with you the deep concern of the people who have invested their money and have worked hard on their properties lest they be phased out without any compensation. But I think that if we are going to have a choice between everything or nothing, we are going, very probably, to have out of this legislation nothing.

Thank you. That is all, Mr. Chairman.

Mr. O'NEAL. Are there any other questions?

Mr. HANSEN. I would like to ask you, Mr. Peterson, in your statement, as I understand it—also that of Mr. Osborne, you two gentlemen stand in favor of this legislation that we are considering?

Mr. PETERSON. For compensation?

Mr. HANSEN. Yes.

Mr. PETERSON. Yes.

Mr. HANSEN. We have had a lot of testimony that did not come out clearly on that. You do favor this legislation, but prior to the

colloquy between you and Mr. Foley you did not favor the Foley amendment.

Mr. PETERSON. That is right. I might take another look at it, with his explanation and take it to our membership and possibly find in favor of it.

Mr. HANSEN. So, you are willing to reevaluate the situation with regard to that amendment under the stipulations as pointed out by Mr. Foley, in the future?

Mr. PETERSON. We are openminded.

Mr. HANSEN. Thank you. That is all, Mr. Chairman.

Mr. O'NEAL. Mr. Dow?

Mr. DOW. No questions.

Mr. O'NEAL. Mr. Mathias?

Mr. MATHIAS. No questions.

Mr. O'NEAL. Thank you.

Now, Mr. Osborne and Mr. Peterson, along with the other members of the National Forest Recreation Association, were not scheduled to appear and testify until tomorrow. However, because we had finished with the first four witnesses scheduled for today and we still had time it was the chairman's idea that we should proceed today. However, another matter needs to be considered, and that is that at the time that Mr. Cliff of the Forest Service and the other witnesses, Mr. Pomeroy and Mr. Clapper, testified most of the members of the subcommittee were not here, because it was necessary for us to be in the full committee meeting, I thought it might be well to offer to the members of the subcommittee the opportunity to ask these witnesses some questions, since they were not here at the time they testified.

Suppose you, Mr. Cliff, come back to the stand just a moment, and we will see.

Are there any questions of Mr. Cliff?

Mr. Foley?

STATEMENT OF EDWARD P. CLIFF—Resumed

Mr. FOLEY. Mr. Cliff, I note that you, too, have analyzed the Foley amendment and found it wanting?

Mr. CLIFF. Yes, sir.

Mr. FOLEY. But you do offer a word of encouragement there in your testimony that it has some merit. I am overcome with curiosity to know what merit?

Mr. CLIFF. Mr. Foley, I appreciate this opportunity to comment further. The Foley amendment, as I understand it, is designed to give people, other than those who now have summer home permits, an opportunity to enjoy the privilege by purchasing when a permittee decides to sell. It also is designed to squeeze out any value that might be attached to the permit as such and not to the improvement. I think that both of those objectives are laudable and desirable.

There is some language, I think, that needs to be explored in connection with this amendment, in that the present language would apply the provisions to all permits issued, renewed, or extended from the date of enactment. About two-thirds of our permits are terminable annual permits and they expire every year and they are renewed every year. And the application of the provisions of the amendment would

not be uniform. One-third are term permits and would expire at the end of the term. This is one problem that I see with the amendment, as to the uniform applicability, with two-thirds of the permits being renewed every year when one-third is renewed otherwise.

Mr. FOLEY. I think that one of the other purposes of the amendment very clearly is to try to get a greater degree of security in the holding of the permit for the permittee, based on the assumption that if they sell or if the Government acquires their improvements, they should be paid; that, otherwise, they would not be terminated until there is a specific need for the property for public purposes. I want to put that in the record. My amendment is designed to meet the needs and the problems of the permittees as well as to compensate them, to give them some security.

The Department's standpoint derives from the need to give a basic public character to a limited number of land permits and to avoid an unjust enrichment of the permittees by the sale of what is essentially a Government asset.

Do you see any administrative problem? Or do you see any policy problem, as well?

Mr. CLIFF. I am sure that there would be some administrative problems, but they would not be insurmountable, if the amendment was adopted. As I testified, however, notwithstanding the Foley amendment, the Department of Agriculture is opposed to the other provisions of these two bills. The Foley amendment would not remove our objection to those.

Mr. FOLEY. I did not soften your heart any more than I did the heart of the recreation association, I see.

Thank you, Mr. Chairman.

That is all.

Mr. O'NEAL. Mrs. May, do you have any questions?

Mrs. MAY. May I begin by stating, Mr. Chairman, that I am sorry that I had to leave the room for a few minutes. Mr. Cliff, I was not able to hear the previous questioning. I hope that this will not be a duplication of questions.

Would you comment on some of the statements that have been made by witnesses this morning that the policy you have indicated, concerning no more permits for summerhome users, is in conflict with the multiple-use concept of the Forest Service?

Mr. CLIFF. I am glad that you have asked me that question, Mrs. May.

I am the one that is responsible for the policy that is under criticism, and I am the one being accused of violating the multiple-use concept and unprofessional conduct. I do not believe that either is true.

The multiple-use aspect does provide for outdoor recreation and is one of the purposes for which the national forests are there—along with a number of other purposes. Outdoor recreation takes many forms, of course.

Outdoor recreation is being accommodated on the national forests under the multiple-use concept in ever-increasing amounts, and this is one of the reasons for the policy decision that was made.

Mrs. MAY. May I interrupt you there, Mr. Cliff?

I was on the committee that worked on the multiple-use bill. I know of the days of hearings that we held on that bill, and it is my very, very strong recollection that the use of national forest lands for summer home uses did come under the definition of the multiple uses, under outdoor recreation; is that not right?

Mr. CLIFF. I do not remember the specific testimony or the legislative history on that, Mrs. May, but we regard summer home use as being proper under the multiple-use act, and any implication that would tend to discontinue summer home use completely, to phase it out completely, is erroneous. We do not have that in mind.

Mrs. MAY. Where did this erroneous impression develop?

Mr. CLIFF. It apparently has developed in the minds of these people who are opposing the policy of not issuing additional summer home permits.

Mrs. MAY. One of the witnesses, Mr. Peterson, said in his testimony today where he quoted Mr. Greeley, citing the proper page references in his testimony, saying:

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 lease would not be renewed at the end of a term.

And further quoting:

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.

Would you comment on that?

I assume that in speaking of his boss, he meant you.

Would you comment on that?

I think Mr. Greeley was speaking of you as his boss.

Mr. CLIFF. I would be very happy to do so. I have been waiting for this opportunity.

The reason for arriving at this decision was the fact that recreation in the national forests is growing so rapidly that we do not foresee that we will be able to set aside more land for private use as opposed to public recreational uses.

We made a survey, starting in 1960, an area survey of the available recreational sites for development into recreational uses. We have done this in each national forest. These areas were delineated according to criteria such as the slope, character of the land, availability of water, proximity to water, and other factors. This was a very carefully conducted survey.

We identified 1,200,000 acres of land as suitable for recreational development in the national forest system. Of that, 100,000 acres have been developed.

Mrs. MAY. When you say "public recreation," you are not speaking of those having summer homes?

Mr. CLIFF. Yes, ma'am, these summer homes occupy the kind of land that I am talking about. The summer home permittees want a desirable site, as near to water as is possible. It cannot be located every place in the vast areas we have heard about, and when you start mapping out the areas that are desirable and available for recreational development, there is not a vast amount of land. It is in areas where there are lake shores and where there is attractive land.

It is not a vast area.

Mrs. MAY. What is the size of the national forest, sir?

Mr. CLIFF. 187 million acres.

Mrs. MAY. Of that, you have established as of now, I suppose, the availability of acres for summer home development. And would there be access roads built?

Mr. CLIFF. It includes that which is accessible by roads and that for which roads are projected.

Mrs. MAY. And that came out to 1,200,000 acres that would be suitable for recreational development, some of which might be going to summer homes?

Mr. CLIFF. Some of which is already occupied by summer homes. The projections made by the Outdoor Recreation Resources Review Commission predicted that outdoor recreation in this country would increase threefold by the year 2000. Our present projection on the national forest indicates that it would exceed that rate by the year 2000. Our recreation use by actual records has been increasing at the rate of 11 percent per year. Looking to the future, as to what is happening in the outdoor recreational area, we are going to need the preponderance, of the available, desirable and developable land that we have for public use.

In the administration of recreation on the national forests we have necessarily set priorities. This is not new. This has been done for years. We give public use first priority. These are public lands. We give camping and picnicking, that part of public use, first priority.

The second priority is given to resort and public service uses which are needed to serve the entire public in the enjoyment of these lands.

The third priority is semipublic use, through such organizations as youth organizations, church groups, community organizations where the entire public is not permitted to use the area, but it is semipublic use and serves a lot of people.

The fourth priority goes to private use. And this has been our policy for years. It is not new. What is new is the great boom in outdoor recreation and in public use. We are going to be hard put to take care of all of the public use that we see forthcoming.

Mrs. MAY. May I just interrupt you there?

Are you saying that this 1,200,000 acres that you feel has a potential or is being used for recreation development, that all of that will really have to go to the first three priorities under outdoor recreation that you have mentioned, public use, resort, and semipublic use?

Mr. CLIFF. I am not exactly saying that. I am saying that about one-third of this is either already developed or has already been committed. I am saying that the other two-thirds, we are going to have to keep for future public use, with these priorities. Private uses must take a low priority.

Mrs. MAY. What percentage of that 1,200,000 acres is in summer homes now?

Mr. CLIFF. We have about 19,000 sites.

Mrs. MAY. About 19,000?

Mr. CLIFF. Recreation homes, summer homes, and recreation residences together with buffer strips and service areas make approximately 20,000 acres in total.

Mrs. MAY. Those are all private?

Mr. CLIFF. Yes; each lot is smaller than an acre. I want to clarify that. We provide buffer or protective strips around these areas, and there are roadways and service areas. This amounts to approximately an acre of land per homesite.

Mrs. MAY. In your projections for the future, how much of that land do you have any idea might have to be taken over within this 1,200,000-acre area—taken over for the higher public uses?

Mr. CLIFF. Mr. Greeley has testified on this before. We feel that the majority of the existing recreational residence areas can be continued.

Mrs. MAY. We are speaking of all summer homes throughout the National Forest Service—or maybe I am not understanding you.

Mr. CLIFF. I am speaking of the 19,000 we now have.

Mrs. MAY. Throughout the United States there are 19,000 in summer home uses?

Mr. CLIFF. Yes.

Mrs. MAY. Do you think that as of now—excuse me. Let me hear your statement—let me have you finish your statement first.

Mr. CLIFF. We feel that the majority of the summer homes can continue. We intend to try to continue them, but where summer homes are occupying land that is desperately needed for public use, we have had to phase some of them out. This has caused unhappiness.

Mrs. MAY. How many have you phased out up to date and what do you anticipate that you might be phasing out in the future?

Mr. CLIFF. Over the years, as long as we have had these summer homes, which dates back about 60 years, we have phased out a total of 461 out of 19,000. We have an additional 734 on notice that their permits will not be renewed after a specified date.

Mrs. MAY. Acres, persons, or permits?

Mr. CLIFF. Permits, 734 permits. This, in my opinion, is not a large number considering the history of summer homes and the great increase in public recreation demands.

Mrs. MAY. That is about 1,100 permits. How much acreage would that be?

Mr. CLIFF. About the same amount of acreage.

Mrs. MAY. About 1,100 acres?

Mr. CLIFF. Assuming about 1 acre to a summer home permit.

Mrs. MAY. That would be out of the 19,000?

Mr. CLIFF. As far as we can foresee, the majority of what is left will be continued. We will make an effort to continue them. Mr. Greeley testified that for perhaps two-thirds to three-quarters of them we do not foresee any need for taking the land for other purposes. I think that is about as good an estimate as we could make.

Mrs. MAY. Two-thirds of that remaining?

Mr. CLIFF. Two-thirds.

Mrs. MAY. These would be left untouched?

Mr. CLIFF. Two-thirds to three-quarters. That is about as good an estimate as we could make. It is difficult to predict what is going to happen, such as reservoir construction and highway construction entering into the picture and a further increase in public demand, but as far as we can estimate that is about the dimension of the problem. And where sites are needed for public use, we intend to give the permittees as much notice as we can. It has been our policy to give them at least 10 years' notice so that they can enjoy the permits for

that length of time and know what is to be expected. We would really run into trouble if we cut them off without advance notice, which we could under the provisions of the terminable permits. Let me say that we have not done that. We have given them as much as 20 years notice where we foresaw we would need the land for public use.

Mrs. MAY. Of the one-fourth to one-third that it might be you would have to phase out, how long would it be before you would make that determination?

Mr. CLIFF. Well, as far as I am concerned, I would like to postpone that determination as long as we can and let these people enjoy the use of their places. When the situation arises and we can foresee the need for occupying some of the land, then we are going to have to give them notice as far in advance as we can.

Mrs. MAY. What factors are involved in this when you finally determine that you need a part of this one-fourth, when you see the need arise?

Under what circumstances do you determine that need has arisen?

Mr. CLIFF. We have an inventory of the developable areas. We are gradually developing and improving these areas. If we run short in certain areas and the public use is still increasing, we are going to have to take some of these summer home areas.

Mrs. MAY. Of the 1,200,000 acres under National Forest administration in these areas, do you think you will only have need for 1,200,000 acres for recreation or is it possible that future development might mean opening new areas for public use beyond the 1,200,000 acres?

Mr. CLIFF. I think there are possibilities of using more land than that, but we would be using less desirable lands; we would be using second- and third-rate lands to accommodate this use.

I would like to comment also, that this country is not going to stop growing at the year 2000. We, in the Forest Service, are looking ahead to provide for stands of timber 100 years ahead in our plans, and we cannot stop at the year 2000. What I am saying is that in our overall recreation plans the public use must come first. I cannot accept any other philosophy than that on public lands. And when there is a need for developing lands for public use, private use might give way. We are hoping that this can be minimized.

I fully sympathize with the fact that improvements have been built under these permits. It is not an easy job to discontinue one of the permits. It is a disagreeable job all the way around, but when it has to be done, we do it.

Mrs. MAY. Mr. Cliff, back to the possibility of there being further phasing out of those 19,000 homes that are now on permits. Am I correct in understanding that you will continue in the Forest Service the policy of the Forest Service under your administration, to give them 10 to 20 years notice wherever possible?

Mr. CLIFF. Mrs. May, I am prepared to adopt a policy to give these people the maximum security that would reserve the opportunity to the public to use these lands, if necessary. At the present time, one-third of our summer home permits are under term permits. Usually, 20 years. Two-thirds are annual, that is, revocable. They have to be renewed each year. We would be glad for these permits to be term permits. There is some reason that I do not fully understand that the permittees have avoided this opportunity—at least they have not

chosen it when we have offered them a chance to convert the terminable permits to term permits.

Mrs. MAY. Is this not a human reaction, that hope springs eternal?

Mr. CLIFF. Under the term permits, of course, there is a clause providing the compensation in case of termination during the life of the permit, but with no commitment to reimburse after the term expires. Thus there may be a reluctance to accepting a permit with a definite specified term period because they might feel more secure on the annual renewal basis. I do not fully understand this line of reasoning.

Mrs. MAY. I think that in our hearings in the West, we had a very clear expression of this by most of the people we heard from. They said if they gave you a 20-year cancellable term permit, then this was an irrevocable step that they had taken, so they would rather go ahead on the hope that lightning need not strike them, that they would be one of the fortunate ones.

Mr. CLIFF. I think that is actually right. Under the term permit there is authority for reimbursing if you cancel the permit during the term. There is authority for this. In practice, we try to give as much notice as we can foresee, so that they will not be faced with the cancellation of the permit. This applies to both term and annual.

Mrs. MAY. I think that we have had a case here, as I have gathered from all of the testimony, that there is no real reimbursement for someone who has built in a summer home area. We are discussing the possibilities. We know that we cannot reimburse them, or replace the place which they have come to love for many years—30, 40, or 50 years—we cannot replace that for them. That is the first step. And to go to the second step, perhaps we can work out some possible monetary reimbursement for the expense of having to give up their improvements.

Mr. O'NEAL. Will you yield for one question?

Mrs. MAY. Yes.

Mr. O'NEAL. I am trying to straighten out my thinking. I just want to ask one question as to this point. Under your past policy and your present policy, is it fair to say that it is generally regarded that there is more security for the permittee in a 1-year permit than in a 20-year permit?

Mr. CLIFF. Actually it is just the contrary.

Mr. O'NEAL. I understood from what you said that you had never canceled a 1-year permit without giving 10 years' minimum notice; is that true?

Mr. CLIFF. To my knowledge that is true, and we have also extended term permits unless we gave the same kind of notice.

Mr. O'NEAL. You mean the 20 years really means 30 years?

Mr. CLIFF. Yes, it could.

Mr. O'NEAL. It could?

Mr. CLIFF. Yes.

Mr. O'NEAL. If you gave them notice at the end of the seventh year, it would mean 17 years?

Mr. CLIFF. Yes, it would, but if we canceled the 20-year permit at 17 years, there would be an obligation on the part of the Government for a payment to the permittee.

Mr. O'NEAL. I see.

Mr. CLIFF. If we canceled it during the term.

Mr. O'NEAL. In other words, if you had a 20-year permit and canceled it before the 20 years was out, you would have an obligation, because they had an interest that extended for 20 years?

Mr. CLIFF. That is right.

Mr. O'NEAL. I see.

Mr. CLIFF. I just want to make it clear: Where we have initiated the change, we have in every case that I know of tried to give at least 10 years of notice for both the term and the terminable. There have been cases where people have lost their permits without that much notice, and I want to make this clear: This usually was because of actions initiated by other Federal or State agencies and not the Forest Service. A good example would be Highway 40 that runs through the Sierras in California. This went right through an area of the summer homes. The action of the Federal-aid highway builders dispossessed these people. Some of them had terminable permits. These could not be reimbursed by the Federal Government when they were removed. And they did not have 10 years' notice. If they had had term permits, they could have been reimbursed when they were dispossessed within the term.

Other instances have arisen where a reservoir was built by another Federal agency which flooded out these summer homes. The other Federal agency has no authority to pay when the terminable permit is removed from that land.

There is a longstanding rule that all Federal agencies have to live with that they cannot disburse money for something that the Government is entitled to without payment. This is what we faced in these cases where highways and reservoirs or other public works dispossess summer home permits. This is why I think that a term permit has more advantage to these permittees than a terminable permit.

Mrs. MAY. Is there anything in Forest Service policy that requires that you tell these people, when they go on these summer forest lands, that there is a possibility that there is a Federal agency outside of the Forest Service management that takes precedence and that they cannot be reimbursed even with a 20-year permit in the case of a highway going through?

Mr. CLIFF. I do not think that it is expressed in those terms. The permit is rather simple. It is on two sides of one sheet. It says definitely that it may be canceled at anytime; that it is terminable. It is very clear.

Mrs. MAY. I understand that.

Mr. CLIFF. And the other one does provide that if the land is taken before the term ends there will be reimbursement.

Mrs. MAY. There were some people in some areas in another section who did not understand this. I have a letter on this. They did not understand that an action by the State or a Federal Government agency concerning highways would be an exception to guaranteeing that the permit would not be disturbed for 20 years.

Mr. CLIFF. I do not see a reason for misconstruing that. A highway is a public use superior to a private use on public lands. We do explain these things, Mrs. May. People have a way of listening to the things that they want to hear and disregard things they do not want to hear.

Mrs. MAY. Yes, that may be true.

Mr. CLIFF. I do not believe the highways are specifically mentioned in the terms of the term permit. Another fact that you need to consider here is that 75 percent of these permits have changed hands many times. I repeat, 75 percent of them have changed hands, and when they change hands we have an opportunity to explain the terms of the permit to the new permittee. We have them sign or countersign the permit so that they understand the terms and agree to them. We have learned the hard way to do this; so, there is no misunderstanding. We try to make this as clear as we can, what their rights are and what the limitations are. We are not trying to mislead anybody in these matters.

Mrs. MAY. I think that is a very true statement, but I think that Mr. O'Neal and others have found out that perhaps sometime in the past this was not true. But that is water under the bridge. We have no control over that—that is, where an original misunderstanding was had. But it was a very strong feeling expressed by some of the witnesses we heard.

Mr. CLIFF. Another factor illustrates the real tenure of these permits you hear about, the ones that have been canceled. The average age of the 19,000 summer homes, that is. The time the people have been using them, is 41 years. On the average they have enjoyed them for 41 years. That means that some have had them for 50 years and more. Some much less. The average is 41 years.

When we issued these permits, I am sure—just as sure as I am here—that the Forest Service officer in those times was doing just as good a job looking into the future as he could. They would not have issued these permits if they had felt that there was a reasonable chance that there would be reason for change or if the permittees had not felt that there would be a continuation for a long time.

Mr. O'NEAL. At that point, is it true that at that time there was some necessity for selling the public on the idea and now the opposite is true, that this is a buyer's market instead of a seller's market?

Mr. CLIFF. That is a confused picture, too. In the early days of the Forest Service, people who wanted this kind of recreation, those who enjoyed the mountains, selected a site and came in and applied for it, and if there was no other use of the land they were usually given the site. We started out by getting some isolated cabins here and there. It was difficult to administer. It was impossible to develop common services. We did try to encourage the formation of groups of summerhomes. We laid out summerhome groups or colonies, trying to get them together so that they would be better managed, so that they jointly develop roads, water systems, sewage systems, lights, and other amenities. Once these groups were laid out, then they were available to the public on a first come, first served basis.

There may have been some promotion and selling, or there may not have been. It kind of grew. We are trying to get some control and system into it.

I have heard the statement that there was active promotion. I think this may have been true in some instances.

I have also heard the statement that people were misled, that they thought they had a 99-year lease. I am just completing 37 years in the service and I know of no responsible Forest officer who has told anybody that they were getting a 99-year lease, or anything like a

99-year lease. That was not possible. The law is clear. The maximum length of time under the law and as written in our manual and instructions is for less than that. Anybody who reads it knows this. So, the statements of 99-year leases have been somewhat misleading. I have heard people say, "I have a summer home, and it is as good as a 99-year lease." All of my time in the Forest Service, I have been trying to correct some of these interpretations. You hear real estate dealers who do not always represent things accurately saying this in trying to sell these properties. This misconception has grown from this kind of thinking. Actually, it has been as good as a 41-year lease on the average, with all of the permits that we now have. That has been a pretty good record of tenure, I think.

Nobody could foresee 40 years ago the public uses that are needed now. We have to correct some mistakes. We are trying to do it in a humane, fair way, and we do not think, as I testified before, that we should set a precedent of paying for securing public property for public purposes when it should have been understood all of the time that this was not the case.

Mrs. MAY. I think, Mr. Cliff, I want a clear expression from you on your policy in that regard, because I think that it is necessary for not only this subcommittee but for all of the 19,000 permit homeowners who are now on the land to have it clearly expressed as to whether they agree or not, or whether we agree or not, as to what the policy is in the Forest Service at this time, because only on that basis we can make a certain decision which will be fair to all.

Thank you very much.

Mr. CLIFF. Thank you.

Mr. O'NEAL. One more question, Mr. Cliff.

Has anybody gone as far as calculating what this bill would cost if it became law, in the light of your future requirements?

Mr. CLIFF. No, Mr. Chairman, we have not. The 734 that are under consideration now, if we had to pay the moving costs or the value of the improvements, the average value of those would be somewhere in the neighborhood of \$5,000. That could be multiplied out. Then, if we had to go farther in the future, up to one-fourth, one-third, that could be readily calculated. Some of these summer homes, as you understand, are very modest—most of them are rather modest, but some of them are rather expensive, modern dwellings, up to \$40,000 in cost, or more. There are more in recent years of that kind. To me, this is not the main issue, the cost.

Mr. O'NEAL. I understand. I knew that.

Mr. CLIFF. The main issue is that by passing this bill, Congress recognizes rights in public lands for a select group, a special group.

Mr. O'NEAL. After 50 years of not recognizing this, for 50 years the feeling that it was not public land and that now they only have a temporary interest, then we suddenly do this.

Mr. CLIFF. It would be the loss of flexibility in managing such public property that would be the serious thing, and it would not stop with the 19,000 summer homeowners. We have other kinds of users that have just as good a claim on compensation as the summer homes.

Mrs. MAY. Would you explain that?

Mr. CLIFF. Yes. We have 1,800 concessioner permits that are on public lands.

Mrs. MAY. Is that not a different matter? They are making money on these permits and the summerhome permittees are not?

Mr. CLIFF. I do not see the distinction. I think that if the person's livelihood is at stake he probably has a better claim for reimbursement than the one who does not have such a stake.

Mrs. MAY. Does not he get a special use permit with the idea that he will make his livelihood there on Forest Service land?

Mr. CLIFF. We have 70 percent of all of the concessioner permits on Federal lands.

Mrs. MAY. As I understand it, a man would not go into a concession unless he was sure of the fact that he would have it for a period of time long enough to get his investment out?

Mr. CLIFF. I am sure that they go into the business with that in mind. They have the same kind of permit with the same kind of terms as the summerhome permittees.

Then, there are other users that would want to get reimbursement. We have 63,000 of these present uses, most of them involving investments of private capital and improvements.

Mrs. MAY. You do not think we can make a valid distinction between a summerhome permittee and those who come on the Forest Service lands for a profit motive?

Mr. CLIFF. I fail to make that distinction. In fact, the concessionaire operator is more necessary for public enjoyment, that is, the public finds him more necessary in the national forest than the homeowner.

Mrs. MAY. I do not deny that. I am saying that one is for profit.

Mr. CLIFF. The dude ranch, the concessionaire operator, has money invested and is making his livelihood there. It seems to me that he can make a case that he is more entitled to recompense than the man who is there just for his own enjoyment.

Mrs. MAY. There is the economic impact on the man who is there in his own home and has the value of his investment.

Mr. CLIFF. I have the greatest sympathy for all of them. I like them all. But we cannot satisfy all of these needs, that is, in these restricted areas, and we are trying to spare as much as we can.

Mrs. MAY. Thank you.

Mr. O'NEAL. Mr. Dow is recognized.

Mr. Dow. Just a couple of questions. You mentioned that some of these properties where they had permits were taken because of highways or demands other than the Forest Service for needs of the properties for other purposes. Of these 1,100 or 1,200 properties that have been taken or are being contemplated to be taken, what number are being taken or have been taken by other than the Forest Service?

Mr. CLIFF. I do not have the exact number in mind, Mr. Dow, but it is a small number. It probably is less than 40 or 50, but we could supply this for the record if you so desire. I am sure that it is a rather small number. Most of them have been instigated by the Forest Services.

Mr. Dow. One other question. Where the takings have been by agencies of the Government other than the Forest Service, is there any compensation granted for the facilities under the long-term leases, rather than the annual?

Mr. CLIFF. Yes, if taken during the term, before the expiration of the term, the Federal authority or the Bureau of Reclamation, or the Corps of Engineers, whoever it is that is responsible for the

project, have legal authority to reimburse the permittees according to the terms of their permit. The term permittee had the added protection. In either event, we try to give them the same amount of notice that we are giving to these others.

Mrs. MAY. Excuse me. I think that I misunderstand.

On Highway 50, these were on land on which the owners were reimbursed; is that it?

Mr. CLIFF. No. Most of them were annual permits.

Mrs. MAY. Only those with 20-year permits were reimbursed?

Mr. CLIFF. That is correct.

Mrs. MAY. I am sorry. I misunderstood.

Mr. CLIFF. There may have been only one or two of those. I am not sure. But most of them, if not all of them, were annual permits.

Mrs. MAY. I am sorry. I misunderstand again. I thought that in the case of the 20-year permits, if a highway came in, then there was no reimbursement.

Mr. CLIFF. No; that is not correct. I started to tell you what policy we would be willing to follow under our present authority to give our present permittees as much assurance as we possibly can.

I have explained that we have authority to issue term permits in most cases where they are under annual permits. Except for those where we have put permits under tenure and those for sites where we can foresee the needs to terminate, we would be willing to convert the existing terminable permits to 20-year terms, running from now, and include a further provision that if the permit is not to be extended for at least 10 years beyond the 20-year term, we would notify the permittee at least 10 years before the permit term expires. In other words, for those that would qualify, we would give 20-year term permits and would renew the permits for at least 10 years, for a total of at least 30 years, unless within the next 10 years we notify the permittee that the permit would not be renewed. That is about as far as we can go in good conscience, in assuring these people.

Mrs. MAY. Let me see if I understand. Outside of those that are already under term notice for the reasons stated, where there is an immediate foreseeable need for the use of this land, within the next few years, you would offer to all present summer home permittees a 20-year permit—really a 30-year permit?

Mr. CLIFF. Twenty years, and at least a 10-year extension guarantee unless we gave them 10 years' notice.

Mrs. MAY. Unless within the next 10 years. You would have 20 years anyway.

Mr. O'NEAL. A minimum of 20 and a maximum of 30.

Mrs. MAY. A maximum of 30. That second 10 years might have to be negotiable.

Mr. CLIFF. If, within that period, we foresaw the needs, then we could give him—

Mrs. MAY. In other words, he would not get 10 years—you say that he would get his 20, though.

Mr. O'NEAL. But if you decided to do this at the end of 5 years, he would still have 15?

Mr. CLIFF. And if we did it and he was under a term permit, the terms would require that we pay a mutually acceptable price if we terminated it before the permit term expired. We can do this under our present authority.

Mrs. MAY. He would be reimbursed just as you do now, under the 20 years—you would not reimburse in the last 10 of the 30 years?

Mr. CLIFF. That is correct if it runs the agreed upon term. When we renew the permit, during the term, we would specify the period of the extension.

Mrs. MAY. He would still be protected.

Mr. CLIFF. We could do that, and we could to it without creating any property rights beyond the term. At least, it would give flexibility. It seems to me that it is necessary to have.

Mr. O'NEAL. And the man with the 1-year permit now would have a whole lot more security than many of them now feel they have.

Mr. CLIFF. Absolutely. I want to make it clear that we have to take a look at all of them. Where we foresee a need for future termination, we will not go into this. The ones that we are willing to continue, we would give them a 20-year term.

Mrs. MAY. Would you give this committee an idea as to the future as to how many people might, we ask—to give us some idea at this time of those where you would offer this—those that would be offered this, where that possibility would come up?

Mr. CLIFF. It would take quite a bit of on the ground-detailed analysis, Mrs. May.

Mrs. MAY. You would have to do that at some point if you put this policy into effect.

Mr. CLIFF. That is correct. The analysis would be right on the ground. It would take quite a while to do this in the many areas that we have. I could give you some estimate of the proportions of it.

Mrs. MAY. In essence, if everyone agrees to this and signs up, then there would be no more private summer home permits on forest lands except for 30 years?

Mr. CLIFF. The policy that I enunciated a year ago, referred to the issuance of new permits. That is a separate matter from this that we will do for the ones that we already have. They are two separate issues.

Mrs. MAY. You mean there would be so much further-on-down-the-road-policy determinations where circumstances might permit the opening up of new areas, or something, for summer homes?

Mr. CLIFF. I do not foresee the opportunity for making any substantial additional new summer home permits. I will tell you why. If we are going to really give these present summer home permittees any protection, we will have to use other areas we have to accommodate public uses. If we should subdivide for more summer homes, we would restrict our opportunities to protect the ones we now have. It happens that the greatest demands for summer homes is on those forests where they have the greatest demand for public uses. The two demands clash in the same general areas.

Mr. O'NEAL. Go ahead.

Mr. CLIFF. As to the question that you asked me, Mrs. May, did you intend to ask me if summer home permits would be eliminated at the end of 30 years?

Mrs. MAY. That is what I asked.

Mr. CLIFF. That was not my intention. I am sorry I misconstrued your question. At the end of the 30 years, if there are no foreseeable needs for this land for public use, we will continue the term permits for summer homes.

Mrs. MAY. In other words, what we are saying here now—and I am trying to get this straight for the record—is that this could be certainly 20 years, probably 30 years, and maybe beyond?

Mr. CLIFF. And it could be ad infinitum, for the majority of our summer homes. That is what I mean.

Mr. O'NEAL. That seems to me to be a magnanimous statement. It may be a solution to the whole thing. You have not announced this policy, have you?

Mr. CLIFF. No; I have not discussed it with anyone until right now, except our own people.

Mr. O'NEAL. Are you contemplating putting out a news release that you are thinking about this?

Mr. CLIFF. I have not carried my thinking that far. I am awaiting to see what the committee's reaction to this alternative would be.

Mrs. MAY. I think that we should certainly give it study.

Mr. O'NEAL. A man who is complaining about the insecurity of a 1-year permit could now swap it—that is, many of them could—most of them could, except those that you cannot offer it to—they could swap it for a minimum of 20 years, a possibility of 30 years and a possibility of extending beyond that.

Mr. CLIFF. That is correct.

Mrs. MAY. The term would be binding upon that particular permittee and the Forest Service would have to agree to transfer that permit to someone else. What would happen there if they did?

Mr. CLIFF. Our present policy provides for continuing it; the heirs, the surviving spouse, the children, could stay. The permit goes to the estate if the permittee dies.

Mrs. MAY. But what if there are no survivors, or anything like that, when then? What is your policy there?

Mr. CLIFF. It would be handled in the same manner as other estates. We recognize that the permittee owns the physical improvements. If they are sold on behalf of the estate to a qualified applicant, we would renew the permit.

Mrs. MAY. If they had agreed to this 20-year or possibly 30-year, that would be binding on whoever took over the improvements?

Mr. CLIFF. Yes.

Mr. O'NEAL. The quorum bells have rung. We will have to adjourn now. But under the committee's schedule we are expected to meet again tomorrow. Mr. Penfold is listed as a witness. Can you be back tomorrow, Mr. Penfold?

Mr. PENFOLD. Yes, sir.

Mr. O'NEAL. And the other members of the National Forest Recreation Association who did not testify today may come back tomorrow, too. At any rate, under the committee's schedule, we will now adjourn until 10 o'clock in the morning.

Mrs. MAY. Could I just say this?

Could we ask that the other witnesses might come back?

Maybe there are members of the subcommittee that would like to have them come back, to ask further questions. Not necessarily you, Mr. Cliff, but the other witnesses of the National Forest Recreation Association.

Mr. O'NEAL: Mr. Pomeroy and Mr. Clapper, would you come back tomorrow, too?

Mr. POMEROY. I shall be happy to.

Mr. CLAPPER. Yes.

Mr. O'NEAL. There may be questions for you and there may not be. The Committee will stand adjourned until 10 o'clock tomorrow morning.

(Whereupon, at 12:40 p.m., a recess was taken until 10 a.m., Wednesday, April 3, 1968.)

were also built as retirement homes by many working people, who
 saved and sacrificed to build, and then to them were to be their final
 homes. To lose these homes this late in their lives, creates a serious
 financial crisis from which some of these people can never recover.
 Senator Thomas H. Church has pointed out in testimony to the

**COMPENSATION OF PERMITTEES UPON TERMINATION
 OF SUMMER HOME PERMITS IN THE NATIONAL
 FORESTS**

WEDNESDAY, APRIL 3, 1968

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

The subcommittee met, pursuant to recess, at 10:20 a.m., in room 1302, Longworth House Office Building, Hon. John L. McMillan (chairman) presiding.

Present: Representatives McMillan, O'Neal, Foley, Dow, Teague of California, Mrs. May, and Mathias.

Also present: Christine S. Gallagher, clerk; and L. T. Easley, staff consultant.

Mr. McMILLAN. The subcommittee will come to order.

Mr. ROSSIER, will you come to the witness stand at this time?

If you have someone with you that you care to have at the witness table with you, you may do so.

Mr. ROSSIER. I might call on Mr. Peterson if necessary.

Mr. McMILLAN. The subcommittee will be happy to hear any statement that you care to make.

**STATEMENT OF LEO ROSSIER, VICE PRESIDENT, HOMEOWNER
 DIVISION, NATIONAL FOREST RECREATION ASSOCIATION,
 HAVASU LAKE, CALIFORNIA**

Mr. ROSSIER. Mr. Chairman, members of the committee, my name is Leo Rossier. I am retired and reside at Havasu Lake, Calif., in a home on land under the jurisdiction of the Department of the Interior, under provision of a permit from that Department.

While I am vice president of the National Forest Recreation Association, heading up the Homeowner Division, Mr. Peterson has outlined to you our position with respect to the pending legislation and other homeowner situations on national forests. As a matter of information, we feel you should be familiar with the situation existing involving several hundred occupants of Department of the Interior lands under residence occupancy on Department of Interior lands. Many of these leaseholders are elderly people who have occupied these lands for residence purposes and are confronted with the same phaseout policy as has been indicated for the Forest Service. In numerous cases these homes are used on a year-round basis. They are also the only homes many of these pensioners, retired persons, veterans, and "oldsters," living on a fixed income, have. These homes

were also built as retirement homes by many working people, who scraped and sacrificed to build, what to them were to be their final homes. To lose these homes this late in their lives, creates a serious financial crisis from which some of these people can never recover.

Senator Thomas H. Kuchel has pointed out, in testimony to the committee, that the same situation prevails on Forest Service lands as on Department of Interior lands. As homeowner groups residing on Department of Interior lands, we are only attempting to obtain equal treatment and rights along with all homeowners on other Federal lands. For the same reasons as outlined by Mr. Peterson, we feel that we are being deprived of personal property assets without compensation.

We recognize that this particular situation comes within the jurisdiction of the Interior and Insular Affairs Committee and the Department of the Interior. We have testified before the Public Land Law Review Commission, for which the Honorable Wayne N. Aspinall is chairman. He also is chairman of the Interior and Insular Affairs Committee of the House of Representatives. We feel, however, that your committee should be informed of this situation, and perhaps in some manner, can communicate with the Interior and Insular Affairs Committee of the House in order that effective coordination may be secured. The same situation confronts both agencies and homeowners on their lands.

We do not question the right nor the responsibility of the Department of the Interior as an administrative agency involved, to consider in all of its ramifications, the public, interest factors involved. However, we feel that if we are to be deprived of our personal property assets, there should be provision for reimbursement for the value of these improvements. Again, as in the situation involving National Forest lands, we believe that our occupancy provides a tax base to the counties concerned and to the Federal Government through fee charges and that since we must maintain our improvements to a satisfactory standard, the value of these improvements is tangible. If we are to be deprived of these values, we are entitled to compensation. If, in your judgment, you can see your way clear to expressing an interest or concern, either to or through, the Public Land Law Review Commission or to or through the Committee on Interior and Insular Affairs, we would greatly appreciate such action.

We are proud to be associated with the National Forest Recreation Association, which in our judgment, provides a forum and communications center without which we clearly would be greatly weakened in furthering our cause. We feel that the National Forest Recreation Association is doing a commendable job in the public interest and commend this association to you in the hope that you will see fit to accord the recognition which we feel it deserves. I will be glad to answer any questions but feel that this opportunity to acquaint you with this situation is most opportune, and I want you to know that I appreciate your courtesy and consideration.

Thank you.

We have asked our membership to comment with respect to the proposed Foley amendment and the response has been almost totally negative.

I suggest, if you concur, that Mr. Rex Borough, vice president, Resort Division, National Forest Recreation Association, present his

testimony with respect to the recreation concessioner situation on the national forests.

Thank you very much;

Mr. Chairman, I have completed my formal presentation. However, we have compiled a bill of particulars with respect to H.R. 11360 and H.R. 11370 which bears on the problem and why we feel the Foley amendment is not desirable. These points constitute a summary compiled from replies to our questionnaire to homeowner members, including comment on this Foley amendment to H.R. 11360 and H.R. 11370. I will not read this, some of which 51 points are repetitious, but, with your permission, request they be entered in the record. I desire to emphasize the following 16 of the total 51 points: Nos. 3, 4, 6, 7, 11, 15, 17, 18, 20, 27, 31, 32, 40, 44, 45, and 51.

1. The Forest Service and the Department of Interior have often declared that all the general public should be permitted to share in the use of public lands. If this is true, they should open more Federal lands to the homeowner class, as a segment of our society.

2. If, as some persons advocate, all permittees were to turn over their homes to the general public, the turnover would be negligible, relative to serving our present population.

3. Under present conditions, natural transfer due to death or sale, provides ample turnover relative to the number of homes involved. Objectionable results of present policy, include: higher insurance rates; higher Forest Service fees; increasing possessory interest taxes; possible phaseout; no security; no compensation; no restrictions upon higher land fees in the future; no transfer of permit; no surface rights; no road maintenance; no water systems; no guest houses; no snow removal; and removal of improvements if phased out.

4. The final phaseout pattern, whether compensation is paid or not, will eventually leave nothing to pass around to anyone. This must be a factor in planning and it should favor the permittee, as he now is taking a total loss.

5. The experience of many of the permittees is to the effect that coordination in passing out information, as defined by agency heads, has been a major underlying factor responsible for the dilemma the homeowner is now confronted with.

6. The wide variety of rule interpretation by different districts and regions has created and caused serious emotional distress, anxiety, lack of trust and faith in Government agencies and their personnel, fear of heavy financial loss from which many of these oldsters cannot recover, and a very unfair manner in which the entire homeowner problem has been projected.

7. Hearings have shown that homeowners were not informed of possible phaseout and were permitted to make extensive and expensive improvements, only to be told later, they would be phased out in the near future.

8. With these uncertainties now facing the permittee, he may be very reluctant to repair his home, if severe snow or storm damage results. The cost of repairs, for what he receives from the agency, could make it unreasonable to continue as a permittee on Government land. Once again, he suffers a complete loss.

9. Permittees or homeowners, as a class of society, do not prohibit the use of lakes, streams, mountains, beaches, forests, et cetera, to the general public.

10. As a general rule, they contribute much more to the multiple use of these resources and areas. In many instances they furnish many more rooms and accommodations than the local commercial operator.

11. The homeowner pays the entire fee for all services necessary to live on Government land—garbage disposal, utilities, road maintenance, wood, water systems, et cetera. Not so the general camper or trailerite, except in certain designated areas.

12. The homeowner must maintain a clean area around his lot and keep it up to a high standard of repair when needed. Not so the camper or trailerite. The agency cleans up after him and furnishes the labor.

13. The extreme mobility of trailers and campers, their cost and upkeep, has reduced the desirability of owning a home on Federal land, especially under the present restrictions.

14. A terrific increase in home insurance rates for mountain or resort properties, in my case, an increase of 90 percent, further reduces the desirability of continuing as a permittee on Government lands.

15. Sales of these homes have been seriously affected and their value in many cases has been reduced to zero or salvage, due to the issuance of directives by Government agencies and failure of the agency to consider compensation to the permittee if he is phased out.

16. Many fine homes once having a high market value, comparable to homes on private property, now have their value reduced to about one-third.

17. In addition, the newly adopted fee rate system greatly detracts from the sale of a permittee's home and from any sales appeal it previously had.

18. In some areas, the fee raise is quoted as being 700 percent and from \$42 to \$225 in 6 years.

19. Adoption of these fee increases and the excessive rise, will eventually create a truly exclusive but financially able homeowner class of permittees. The middle and lower income families will be completely excluded, because of the heavy expense involved. This fee increase only adds to the inflation spiral upward.

20. The Forest Service and the Department of the Interior, by owning or controlling a majority of the forest lands, thereby create an artificial scarcity of private lands, and this in turn causes a terrific inflated price on adjacent private lands.

21. In many instances the annual fees are greater than the taxes.

22. Previous testimony has shown that the 5-percent fee, as it is now imposed, does not seem to follow the true or intended meaning of the Code of Federal Regulations.

23. It should be based on the use only, as authorized in title 36, section 251.3, subsection A, Code of Federal Regulations. Not on the basis of 5 percent of the true market value of the undeveloped lot.

24. President Johnson asked for a 3.2-percent hold-the-line policy on inflation. Hearings have shown a much greater fee increase. Surely this is not in keeping with the President's policy and wishes.

25. A 50-percent value factor would seem to be a fairer method of determining the fee for an undeveloped lot. Example: Lot value \$3,000 less 50-percent value, \$1,500. Annual fee 5 percent, \$75. The present one-third devaluation, \$3,000, less 33½ percent, \$2,000, at 5 percent, \$100 annual fee. This 50 percent seems closer to the President's instructions.

26. The new fee rate with its enlarged overall income to the agency, is very profitable, considering the minimum amount of effort and expense necessary for its operation. Therefore, it should be enlarged, not phased out.

27. The new fee increase should carry with it guaranteed assurances against any further rapid rise in fees and tenure should be stipulated.

28. Land fee payments over the years have in many cases more than paid the Government for the actual value of the lands or lots the permittee has developed without any help from the agency.

29. Testimony also shows that land appraisals have been made without a visit by the appraiser to the area in question. He just applied a general rule of thumb to the region and used it as a guideline to set up the fee rates. This does not seem in keeping with the fair practices one expects from his Government and its agencies.

30. A more equitable fee schedule should be developed.

31. Many counties are in need of the revenue from the permittee homeowner and they are reluctant to see a phaseout with resulting loss of revenue toward upkeep of their schools and roads. Local business would also be affected by the phaseout.

32. In view of the action taken by governing agencies, we feel that in keeping with established fair procedures of condemning properties, the Government should provide for termination of permit or phaseout. The permittee should have a choice of accepting a lieu lot rather than compensation.

33. This lieu lot should be in a comparable location relative to terrain. Services, roads, and utilities should compare to those vacated and be furnished by the agency.

34. If a lieu lot is accepted by the permittee, the agency should be responsible for the entire move and all its costs.

35. If the agency wishes to pay the permittee for the move to a new lot rather than attempt to have the job done itself, this payment should be available to the homeowner to rebuild a new home or as cash for the permittee.

36. New utilities should be provided rather than have the agency pay a depreciated value for the permittee's interest in the utilities he vacates.

37. Many homes cannot be moved due to rough terrain, narrow roads, tree interference, and as a result, would have to be severely cut up. This is one more reason why the permittee should be given the choice of cash for his home or an in-lieu lot.

38. It is unfair to penalize a permittee just because he has built a fine home. Therefore, it should sell at market price or to the highest bidder.

39. The agency should not be required to act as a real estate agent and show the permittee's property for sale. It should not be in a position where it could influence or dominate the purchase by any particular individual.

40. Limiting the sale price of permittee homes to \$20,000, as proposed, seems to be confiscatory and illegal.

41. All permittees should be compensated whether they are on an annual or on a term permit.

42. A permittee should have the same opportunity toward renewal of his permit, as the general public has toward purchase of it, at its termination date. He should not be discriminated against just be-

cause he is a permittee. If the public can purchase his property, he should be able to continue his permit if he so desires.

43. If a father and son or relative obtain a permit and build a home there in the father's name and he dies a few years later, the heir should be permitted to carry out the balance of the original permit in its present form and manner.

44. The Department of the Interior turned over numerous sections of Federal lands to the State of Arizona with the full knowledge that it was to be immediately sold to a private corporation for private gain—Lake Havasu City, Ariz. In all fairness, this same action should be permitted in other areas and States. There is no place in Government for discrimination of this type.

45. If the governing agencies fail to accept a full compensation bill at this time, it could project any intended phaseout program until the year 2000. This has often been suggested by Government personnel. This would eliminate any cash outlays by the agencies involved and give them additional time to alter their program as necessary.

46. If the agency needs extra revenue for its recreational programs, perhaps a transfer tax of 3 percent of market value could be levied if the permittee willed his property to an heir other than his spouse or if it were sold to another. Moneys derived from this tax could be used in developing new recreational areas.

47. If the tax was not paid in a designated period of time, the property would be sold at public auction and moneys received would go to the agency in control.

48. The Forest Service has stated it will renew 394 20-year permits and extend them into 1987. Therefore, the year 2000 is not an unreasonable date before any further phaseouts.

49. Legislation has been enacted to protect the investment of commercial concessioners on national park lands. Surely, it is only fair and reasonable to apply similar regulations to protect the permittee.

50. The rights of the few are as important as the rights of the many.

51. In any event, if an area phaseout is planned, the permittees should not be phased out individually but rather, as a group, the effective terminal date to be the latest date for expiration provided in any permit applicable to any member of that group.

The Forest Service use permit is an extremely tight legal document. It defines exactly what a permittee is entitled to do. It has a stipulated period of time on it. It is drawn strongly for the benefit of the U.S. Government, as all legal documents must be by law.

There is no other way a homeowner may have a use permit. In other words, a permittee can either take it or leave it. All legal documents provide definition, prescribe the minimum conduct. Less than minimum is illegal. However, by simply being legal does not necessarily make it fair, ethical, or moral.

There may be a wide disparity between these limits.

To say that a person signed a document and to shrug off as fair virtual confiscation of equity, because it happens to be legal, is a rather gross stretch of the term "fair play."

All we are really trying to do by the passage of H.R. 11360 and H.R. 13370 is to bring the lower limit of legality closer to the term "fair play."

Yesterday, in the testimony, Mr. Edward Cliff stated that the Forest Service was willing to exchange the present annual permits for term permits and to give the permittee a 20-year permit starting this year, plus a 10-year extension and notification period.

We would like to have a clarification on one point.

Would Mr. Cliff be willing to exchange the existing term permit for new 20-year permits, starting this year, with the same 10-year extension period?

I suggest that we hear next from Mr. Rex Borough, vice president, resort division of our association.

I thank you very much, again.

Mr. McMILLAN. Thank you.

Any questions, Mrs. May?

Mrs. MAY. I would like to come back to that last point that you made. Would you tell me how many homes there are in the Havasu area?

Mr. ROSSIER. Yes. There are five groups: Martinez Lake, Havasu Lake, Catherine Homeowners, Stewart's Point, and Temple Bar, in Nevada, Arizona, and California. I would say roughly that it would take in 400.

Mrs. MAY. 400 permittees?

Mr. ROSSIER. Yes.

Mrs. MAY. What is the average value of the homes?

Mr. ROSSIER. Homes run from \$5,000 to \$45,000.

Mrs. MAY. What would be the average value?

Mr. ROSSIER. The average in my own immediate area would be—I am rather conservative—\$15,000.

Mrs. MAY. What kind of leases are you offered by the Department of the Interior?

Mr. ROSSIER. Lease permits.

Mrs. MAY. What do they run, in years?

Mr. ROSSIER. Twenty years, and they are expiring in the next 60 days.

Mrs. MAY. They are 20-year leases, and they expire in the next 60 days?

Mr. ROSSIER. That is, a portion of them.

Mrs. MAY. A portion of them?

Mr. ROSSIER. Yes, ma'am. They are staggered. The entire area is a staggered permit area.

Mrs. MAY. When you renegotiate for an extension of your permit, have you had conversations with representatives of the national forest area? Do you know if they are going to allow you to extend, or what kind of terms are they offering?

Mr. ROSSIER. Yes. I called up Mr. Albert Romale, the administrator of the lower Colorado land use office, 2 days before I arrived in Washington, and he told me that he had just received the new fee schedules for the homes on the Havasu Lake area, this being the area in which I centered my interests, but it does apply to the entire area, except for the national park which he jumped, and that it was \$15, which was ridiculously low, to \$3,000, and with no graduated fee.

Mrs. MAY. At \$15 a year?

Mr. ROSSIER. Yes, ma'am. For the last 20 years it has been \$15.

Mrs. MAY. And it jumped from \$15 to what?

Mr. ROSSIER. It is a 2,000 percent jump.

Mrs. MAY. What is the length of the term?

Mr. ROSSIER. Five years.

Mrs. MAY. No 20-year term?

Mr. ROSSIER. No. It will be reevaluated every 5 years.

Mrs. MAY. But you have been there on it for \$15 a year?

Mr. ROSSIER. For 20 years.

Mrs. MAY. Twenty years?

Mr. ROSSIER. Yes.

Mrs. MAY. You said in your statement that these older people have put in these investments in these improvements because they would be their retirement homes.

Mr. ROSSIER. Yes.

Mrs. MAY. What did you mean by that?

Mr. ROSSIER. I have been with the State government for 32 years in California. In plain English, I have worked with these people. I have eaten with them. I have slept with them. And I, like everyone else, would not feel at home if I did not have complete faith in the people, and if I did not have complete trust, I would not have put in \$25,000. I was a deputy with the U.S. Fish and Wildlife Service and also with the State of California service. So, it was a great revelation and shock to find that this had come up. We expected that we could stay here. And the main thing that we based our decision on in staying here was the fact that we were told point blank: "If you do not violate any of the regulations, you may remain here and your leases will be renewed."

Mrs. MAY. Who told you that?

Mr. ROSSIER. The officials of the Wildlife Service—the official of the Wildlife Service who originally had the area.

Mrs. MAY. How long ago was that?

Mr. ROSSIER. That would have been for the first 10 years of the permit. That would have been from 1948 on.

Mrs. MAY. Do you have any record of that conversation or those conversations at all, any letters?

Mr. ROSSIER. No, none, naturally.

Mrs. MAY. What does the lease say?

Mr. ROSSIER. It says practically the same as the others, that it can be terminated when they feel like it, within a certain amount of time, 30 days, and we then have to remove the buildings and put the plot back in comparable condition to what it was.

Mrs. MAY. Was any question ever raised by any of the homeowners as to the apparent discrepancy between what the officials of Fish and Wildlife told you when you went on the land and what the lease spelled out when you signed it?

Mr. ROSSIER. Yes. I honestly believe, working with the boys, that they told us what they absolutely thought was the truth. I have a high regard for them. I have worked with them. They would not have had any reason not to have been truthful.

Mrs. MAY. They knew what was in the lease?

Mr. ROSSIER. They knew what was in the lease, but the way that they told us—that there had never been a cancellation and "we have no reason to expect it, unless they violated the terms of our permit." This is why we built our retirement homes there. This is why the working people from the cities, some of them, came out there and built homes, so that they could move there to retire. This is why the working people did that.

This is roughly our position.

Mrs. MAY. You said in your added statement that you would like to place a question to Mr. Cliff of the national forests concerning the proposition that he spelled out yesterday for the Forest Service.

Mr. ROSSIER. Yes.

Mrs. MAY. You wanted to ask him if he would be willing to extend to those that have the present 20-year permits an additional 10; is that it?

Mr. ROSSIER. No. I will try to make it clear.

This is the point that I was not clear on. We thought about it a little bit. I do not think that we are satisfied in our own minds.

For instance, this man here has an annual permit. Yesterday, we understood that he could receive a 20-year permit, if he was not to be phased out in the next 10 years, for it. And this man over here has an 8-, 9-, 10-, or 12-year balance, if this man here receives a 20-year permit, can this man over here on the term permit receive a 20-year permit at the same time? In other words, to make the areas identical.

Mrs. MAY. In other words, the question that we should ask the Forest Service is if a permittee has 9 years to run on a 20-year permit, would he be offered the same opportunity as the annual permittee gets, to add 20 years to his present-day permit, not inclusive?

Mr. ROSSIER. No, not inclusive. Here is a man with a term permit, and this man has an annual permit. These people are all going to be on the 20-year permit. If they are, then these term permits here we think should be likewise, that they should be 20 years.

Mrs. MAY. What about a man who has just started on a 20-year permit, should he be offered an additional 30 years?

Mr. ROSSIER. If you do not have a like function, then we have what we have, which is a staggered phaseout program. We will have 15 homes phasing out this year. We will have 10 homes phasing out next year; we will have 10 the next year. We do not feel that a phase-out should take one individual at a time. We feel that the area, if it is needed for higher public use, that the whole area should be taken.

Mrs. MAY. I was trying to see how this would work out.

The area that you are talking about, the particular area, is in the Forest Service?

Mr. ROSSIER. Yes, ma'am.

Mrs. MAY. You may have a number of 1-year permittees on it. You may have some that have been under a 20-year permit. You may have others that have just started out.

Mr. ROSSIER. Yes.

Mrs. MAY. And to offer all of them this 20-year permit, plus the possibility of 30, you would have to make different agreements?

Mr. ROSSIER. Not with the possibility of 30 on top of the 20. This year, you are going to make a new study on this. We will say that this is the key year. From this point on, this man, if he has a 20-year permit, and this man then ought to have 20 years. This is a condition that I am responsible for bringing up.

Mrs. MAY. I think that we should put this question to Mr. Cliff himself and see what his reaction would be. I think it is a germane question.

Mr. ROSSIER. We would like to have it clarified.

Mrs. MAY. So that it will be very clear. None of this will be made available to those who are on termination notice at any place?

Mr. ROSSIER. No, that is right—that is correct.

Mrs. MAY. My question, my final question—

I do not want to take all of the time, Mr. Chairman.

So far as the Interior land problem, over which we have no jurisdiction, is concerned, has anyone introduced a bill on behalf of those on Interior land?

Mr. ROSSIER. There was one introduced last year.

Mrs. MAY. And no hearings have been held?

Mr. ROSSIER. No.

Mrs. MAY. Thank you.

That is all, Mr. Chairman.

Mr. McMILLAN. Thank you.

Mr. O'Neal?

Mr. O'NEAL. The only thing that I have in mind has already been covered by my colleague, in the colloquy between her and the witness. I have no further questions.

Mr. McMILLAN. Mr. Teague?

Mr. TEAGUE of California. No questions.

Mr. McMILLAN. Mr. Dow?

Mr. Dow. I have one question. On page 2 of your testimony you indicate there are two classes of land, Forest Service land and the Department of Interior land. In this testimony so far we have been talking about Forest Service lands, have we?

Mr. ROSSIER. Yes.

Mr. Dow. Which involves about 19,000 families that are lodged on those lands. Does the Department of Interior lands involve additional people, additional to the 19,000 on Forest Service lands.

Mr. ROSSIER. Yes, sir.

Mr. Dow. How many additional?

Mr. ROSSIER. I only know as to my own area, I can only cite my own area and the areas around me. These groups will all come under the Interior Department.

Mr. Dow. You have no idea how many people are involved?

Mr. ROSSIER. No, sir, I do not. We feel that the Forest Service is the initiator in this program.

Mr. Dow. So far as you know, the Department of the Interior does not have any program similar to the Forest Service program relating to extensions, et cetera? In other words, it is a different problem that has to be solved by the Department of the Interior?

Mr. ROSSIER. It has to be solved by the Department of the Interior, but it is still very similar—almost identical. We have not been asking for anything. We want this legislation. We feel it is right. We ask for it.

Mr. Dow. I might ask this of the chairman. I suppose that the disposition of land under the Department of the Interior would come under the House Interior and Insular Affairs Committee.

Mr. McMILLAN. That is right.

Mrs. MAY. That is correct.

Mr. Dow. It is a question of harmonizing this legislation then.

Mr. McMILLAN. Congressman Aspinall has that proposed legislation in charge.

Mr. Dow. Thank you, Mr. Rossier. I understand your testimony now.

Mr. McMILLAN. We have one of our colleagues with us, Congressman Johnson of California. Congressman, we are happy to have you with us this morning. We will be delighted to hear any statement that you care to make.

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 am not going to take the time of the subcommittee this morning to go into my prepared statement.

I have appeared here over a number of years.

We have had this matter before the Congress for the past 9 years that I know of. And I merely want to say this morning that I would ask of the subcommittee the right to have my full statement put into the record at this point.

Mr. McMILLAN. Without objection that will be done.

(The prepared statement submitted by Mr. Johnson reads in full as follows:)

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

Mr. Chairman, the U.S. Forest Service is the largest single land owner in the State of California. One out of every five acres of land in our State is owned and managed by the Forest Service. This means 20 million acres of forest land and I should point out, as I have in the past, that of these 20 million acres, some 13 million are located in the 20 counties which comprise the Second Congressional District, which I represent.

As you can see, what the Forest Service does in administering these lands is of great importance to the State of California and especially to the Second Congressional District, which also has substantial acreages of Federally-owned land in addition to the National Forest. In many of our counties the Federal Government owns 75 to 80 percent of all the land in the county and, therefore, the economy—the very survival of these areas—is dependent upon the National Forest.

Mr. Chairman, last year this Committee held extensive hearings on my legislation—H.R. 740—legislation to establish certain policies with respect to certain use permits for national forest lands—and similar bills introduced by several of my colleagues. At that time I testified and presented in detail a comprehensive statement as to my position. I will not plow that ground again. The Committee is fully aware of my support of this type of legislation and, therefore, I endorse completely the legislation introduced by the Chairman, Mr. McMillan, H.R. 11370, and by Mrs. May, H.R. 11360.

These are good bills which if enacted as introduced certainly would correct an injustice under which many have suffered and under which many others will suffer even more.

The Committee's announcement of these hearings here today indicated that a major portion of the consideration would be given to the recommendations made by Mr. Foley.

Mr. Chairman, I cannot accept the amendment recommended by our colleague from Washington. The suggestion that the improvements on the lots covered by special use permits for summer cabin purposes be raffled off at the end of the 20-year term would create, I am confident, an Administrative headache of monumental proportions and would result in condemnation of real property without benefit of Court or other equitable action on the part of the permit holder.

Let me make crystal clear that I am concerned for the moment not with any improvements which might be added as a result of opening new tracts for summer homes—because the Forest Service has announced some time ago that it will not open any new tracts. While I might well disagree with this position, it is not an

issue here today and, therefore, I think we should direct our full attention to the conditions which exist for those who are already on the lots and whose improvements are built. As you are well aware, these improvements are built to standards imposed by the Forest Service. They are maintained at these standards and the investment required to meet these standards in many cases has been substantial, running into several thousands of dollars.

After an individual has made his investment, can we come in and say that an agency of the Federal Government will, at a certain date in the future, appraise his improvements and sell his property without the individual permittee's having any say as to what is going on? I believe this is what the Foley amendment would try to do.

You can readily see that this raffle, or lottery proposal, can raise lots of questions which cannot be answered: How are the appraisals to be determined? Will the appraisals include utilities which the individual permittee has helped to finance? These utilities include such things as streets, electricity, water, sewers, fire protection, and community centers. Can a value be placed on this type of thing by the Secretary of Agriculture? I think not.

Because these questions cannot be answered, I oppose the proposed amendment. However, my opposition goes even deeper into a fundamental question of constitutional law and a moral question of what is right and wrong. Is it right to take from an individual his property and sell it to another without any recourse or protection for the man whose property is taken? I don't care how conscientious and how fair a bureaucrat may be in trying to handle a transaction of this kind. I don't believe that he should be placed in a position of condemning a man's property, fixing a price on it, and selling it without the individual concerned having any say in what happens. This is confiscation. This is an extremely dangerous type of precedent, the type of thing which our founding fathers fought against in the days of the American Revolution. It is something the Constitution clearly prohibits.

Therefore, I do oppose the amendment with all my strength and energy.
Thank you.

Mr. JOHNSON. I merely want to state further that I am in complete support of the legislation that is pending before this subcommittee, the bill that was offered by the chairman, Mr. McMillan, and the bill offered by Mrs. May from Washington.

Representing an area in California which has many of these summer home tracts—I presume that I have somewhere in the neighborhood of 2,000 people located on land under special use permits from the Forest Service—I am very much concerned with seeing the people protected, either with moving costs or with a fair market value consideration, if the land has to be taken for a higher use.

When first coming to Congress, my first contact with this matter involved the use of Forest Service lands in an interstate highway system in our State. At that time, we tried to have the Federal Government consider the matter as far as moving costs and the fair market value were concerned. We were unsuccessful in trying to get legislation at that time.

We went back then to our State, and the State at that time passed enabling legislation to allow our highway department to reimburse these people for their fair market value on their homes, whether they had to be moved off or torn down and they paid the moving costs then. And as you all know, with this Interstate Highway System, it was 90 percent Federal aid and 10 percent State aid.

Through the enabling legislation passed by our State legislature without any opposition whatsoever, the people were all compensated for their moving costs or for their fair market value. Everyone was satisfied.

We have a number of large summer home tracts. One of such is Pinecrest. It was set up a long time ago. It involves about 400 homesites. They have a year-round community there. With the advent of

snowplows, and with the money that has been made available for snow removal by the State and the local counties and the homeowners association itself, they have been able to maintain snow removal in the area, and they have developed into a year-round community. We have a school; we have a post office. So I think the community is well established.

And I think that if the lands should have to be taken for a higher use, these people should be considered and either paid the fair market value for their improvements or for their moving costs, if they are going to go to another site in the area. I think this would only be fair, on the part of the Federal Government.

These people have maintained their homes; they have developed their water and sanitation systems, their roads, fire protection. They have fine communities in many of these areas.

The homes will range anywhere, in cost or value, from \$10,000 to \$50,000.

So I think that the legislation pending, offered by you two who are members of the subcommittee, is very worthwhile legislation.

I do not agree with the Foley amendment approach but I do believe in the bills that are offered by you, Mr. Chairman and Congresswoman May from Washington.

With that, I will close my remarks, and answer any questions.

Mr. McMILLAN. Thank you.

Mrs. May?

Mrs. MAY. Yesterday, Chief Forester Cliff came out in opposition to both of the bills that are pending before the subcommittee. In doing so, however, he made a counter offer in the way of a change of policy for the Forest Service. Have the contents of that offer reached your desk yet?

Mr. JOHNSON. No, they have not. I have not had the opportunity to see it. I would not say that it has not reached my desk. My desk is cluttered up.

Mrs. MAY. He just made it in the subcommittee hearing yesterday. I would be surprised if you had received it.

Mr. Cliff said, in response to a question as to the home permittees, that administratively the Forest Service would be willing to offer all present summer home permittees who are not already designated, for one reason or another, to be phased out, a 20-year permanent lease. At anytime, of course, their land might be taken. They would have the 20 years for sure, unless, for any unforeseen reason, their land was required, and then they could get compensation.

And, in addition to that, another 10 years could be added to the 20-year period, unless the Forest Service tells them within the first 5 years of their 20 years that they cannot have that extra 10 years; in essence saying that under certain circumstances, "You can have 30 years on the land."

Perhaps you are not ready to answer now.

Do you have any idea how you or the people you represent might react to such a proposition?

Do you think it would take care of some of the inequities that exist?

Mr. JOHNSON. That is a much firmer position on the part of the Forest Service than they have stated heretofore as far as taking care of those people who are on summer home tracts which have not been

considered for higher use. I think, however, that the concept of your bill, which treats everyone alike when the lands have to be taken for a higher use, is still proper. Every permittee should be considered, and that the fair market value should be paid for their possessory interest, or the moving costs be paid on the part of the Government. I do not think that we can say that 50 people or 100 people who have been notified should sacrifice their homes and receive no consideration whatsoever while other people will be given a 20-year special use permit with the right of a 10-year renewal, and then within the first 5 years of the new 20 years, if they are notified then at the end of the 20-year period their homes would be taken, too.

Mrs. MAY. Without any compensation or with compensation?

Mr. JOHNSON. Without any compensation.

Mrs. MAY. As I understand it, there would be compensation.

Mr. JOHNSON. If they were taken within the 20-year period. If they are notified within the first 5 years that they would be taken at the end of the 20-year period, they would receive nothing.

Mrs. MAY. We are a little hazy on this. We will have some more questions on it. We are not very sure what he had in mind.

Mr. JOHNSON. I think that is what he had in mind.

Mrs. MAY. He said that he would give compensation within that 30-year period if it were taken before the end of the second 10 years. I understand that. I am not certain. I hope I am correct on this.

Mr. JOHNSON. If they have made no move up to the end of the 20-year period, that is, on the part of the Forest Service, and then they grant the second 10 years, that would give them 30 years, but if they notified them within the first 5 years of the first 20, their property would be taken at the end of the 20 years, the first 20-year special use, they would receive no compensation.

Mrs. MAY. I am not certain about that.

Mr. JOHNSON. I think that you will find that to be it.

Mrs. MAY. If they have a 20-year period like today, they always get compensation.

Mr. JOHNSON. Within the 20 years.

Mrs. MAY. I may be wrong, but I do not think he meant otherwise. Having to be informed in the first 5 years referred only to the fact as to whether they would get the extra 10.

Mr. JOHNSON. Here is another matter that I am a little afraid of. The Forest Service has had certain practices for taking certain properties. The permittees have always received notification that their homesite permits will not be renewed. Some of these run out this year; some next year, and so on through. I think that the Forest Service has made a fair study of all of these special use permits, and if you were to adopt this, within that 5-year period, they would know exactly whom they were going to notify, how many it would involve, which is more than I know. I think everyone should be treated fairly.

So far as National Park lands are concerned under the Department of the Interior, the person, the permittee or the concessioner—people on special use permits within the National Parks have a possessory interest in the land. I think it has been a very sound policy. I cannot see any reason why the Congress would not enact enabling legislation to allow these people with National Forest special use permits, where they have built to specifications and have maintained their

places, have protected their water, under sanitation systems, their roads, and fire protection, why they would not be considered on the same basis as having a possessory right in the piece of land.

Under the present policy, reviewing the amount of fees as they relate to the special uses, they are subject to the reevaluation every 5 years, and certainly the Government is receiving a fair return on the land. I think you have heard from a number of permittees who are holding special use permits, and they will all tell you that at the time they took these out the fees were much less and that the fees have been increased continuously, and right now in region 5 in California they are evaluating the fees again and permittees will be notified again this year of a further increase. The yardstick has been laid down by the General Accounting Office to the Forest Service to take a look at this and to bring in a reasonable fee, based upon the values as to the private lands, similar to the special use home tracts that have been set up. I think the Government is getting a good return on this land. I think this makes it more mandatory that we give further consideration to the special use permittees, in protecting their interests.

Mrs. MAY. In the statement yesterday, Mr. Cliff said, referring to the bills before the subcommittee, that the reason they recommended against their enactment is that the Forest Service believes they "would give preferential treatment to the holders of one type of permit. This could be called an unexpected windfall, one that was not contemplated when they accepted their permits nor justified under the terms of the permits. Also, we believe this legislation would create a privately owned interest in national forest lands for the summer homeowners, a special privilege which would not be available to other users of national forest lands."

Would you be willing to comment on that statement?

Mr. JOHNSON. Some of the other type of use permits now being issued by the Forest Service involve a huge investment. You take in the winter sports development within the national forests, as an example: for the most part the development of such an enterprise would not be possible or successful without the use of Forest Service lands. Many of the basic facilities are built on private land, but the ski runs and the location of the lifts are generally on Forest Service lands, and for the most part these are 30-year permits. I am sure that the people who go into these enterprises and make these large investments that are necessary have to be protected and do have special protection over the special-use permits that are issued to summer homeowners.

Grazing permits are issued, and other types of permits are issued.

I do not think that this would jeopardize or unfairly treat those people if we were to grant a possessory interest in these.

The Forest Service set these up as summer-home tracts to start with. That is the only way you got in there. Certainly, they surveyed the situation. In their master plan they said that this could be set aside for summer home sites. That is the way the people have been allowed to go, and I think that they should have the same consideration that these people who are going on the Forest Service lands now have with large investments. I think that you would agree with me that to get into the winter sports development and to comply with

the specifications that are prepared and issued by the Forest Service entails huge investment.

Now, the little man who received a special-use permit to build a home has a big investment in it, that is for him, and for the most part he has to do a lot of the development, because there is no way that he can get financing other than to have his own finances to go in there and build his own home, and in the other type of development they have some outside plan of financing based upon a long-term contract with the Forest Service for this very large investment that involves winter sports development or summer recreation.

Mrs. MAY. What you are saying is that you do not agree that we would be setting a dangerous precedent?

Mr. JOHNSON. That is right.

Mrs. MAY. By passing this bill for other types of permittees, and because the circumstances are different, this would not necessarily then make a just claim for the same type of possessory interests that the summer home permittees would have?

Mr. JOHNSON. That is right.

Mrs. MAY. Thank you, Mr. Chairman. That is all.

Mr. McMILLAN. Mr. O'Neal?

Mr. O'NEAL. Mr. Johnson, I would like to get back to the offer made by Mr. Cliff. I am really sorry that Mr. Cliff is not here, because I do not know anybody better than Mr. Cliff who could answer questions about this. I may be contributing more confusion than help to the situation, but as I understood Mr. Cliff, his offer was announced after he had emphasized a special problem, and the special problem was that these permittees who have a 1-year permit, when a highway, for example, comes along and they want to take the property, the Government is forbidden by law to make any payment to the 1-year man, but if the permittee has a 20-year term permit, and there is a taking of the property, the taking authority, not the Forest Service, is permitted under the law to compensate, and does make compensation to him, for his losses.

Mr. JOHNSON. Right there—just a moment—right there at that point, that was the exact case that we had in California.

Mr. O'NEAL. Yes, sir.

Mr. JOHNSON. But they did not have the enabling legislation on the books at the time, so it was ruled that it would be a gift of public funds, because the Forest Service made the land available to the state as if there was nothing on the land whatsoever; but we find there were summer homes and also a commercial establishment on the property. We tried here at this level to get enabling legislation to allow the Forest Service to compensate them. We were unsuccessful. Then, we went back to the State and we passed additional legislation in California that would allow the State highway commission or the State highway department of the State of California to compensate these people. That legislation went through, but they turned around and used Federal funds out of the highway trust funds where the Government contributes 90 percent and the State contributes 10 percent. This situation existed there. And the State based it on the original appraisal. They had gone through and appraised the property. They compensated the people or paid them for their moving costs on that basis.

Mr. O'NEAL. Mr. Cliff expressed sympathy for these people who have a 1-year term permit. He was trying to solve this by pointing out a 20-year term permit is so much better, especially in cases of this kind. This is the reason that he made this announcement about what the Forest Service was willing to do.

Would you agree that the man with a 20-year term permit would be in a better position than a man with a 1-year term permit if this situation arises?

Mr. JOHNSON. Well, he is in a little better position, I will admit, but at the end of this 20-year permit, generally, the way they have to maintain the homes, the standards that you have today, contributes to making the homes worth more today than when built. They have all these things that have been developed, water and sanitation systems, fire protection, and the like. That is all done by the permittees or through their association.

Mr. O'NEAL. So he has a lot more security than a 1-year man.

Mr. JOHNSON. He does for that period of 20 years, but that home is just as valuable or more valuable at the end of the 20 years than it was when it was originally built.

I think you can solve this easily by granting him a possessory interest right, and if the lands have to be taken for a higher use, you do not have to go into all of this term permit or go into further consideration about the extension or notification, if they have to be taken. There are not too many. You can simplify the legislation.

What they are trying to do—and they have notified a number of people already that their permits will have to be terminated. Those are the people that we are concerned with, the immediate people that we are concerned with, and if they put their offer through, that is, what he made here yesterday, within the first 5 years, they notify you that at the end of the 20 years the property will be needed, I think that you will find that there will be no compensation nor consideration for those people.

I think that if you are going to treat everyone right, that you merely consider them all as being eligible for compensation or for moving costs if their lands have to be taken for higher uses, and this is not too many.

They brought in the records themselves, that over a long period of time there have not been too many people affected. But I think that each person who was affected is entitled to consideration.

Mr. O'NEAL. Thank you.

That is all, Mr. Chairman.

Mr. McMILLAN. Mr. Mathias?

Mr. MATHIAS. No questions.

Mr. McMILLAN. Mr. Teague?

Mr. TEAGUE of California. No questions.

Mr. O'NEAL. One more question, Mr. Chairman. I could not get an answer to this question from the Forest Service itself, but I wondered if you had an idea of what would be the eventual cost to the Federal Government for this?

Mr. JOHNSON. I think that the cost would be very, very small, based upon past terminations. I think that it amounts to a very little amount of money over a long period of time. So far as I know, there are 19,000 permittees on the Forest Service lands throughout the United States.

Mr. O'NEAL. Right.

Mr. JOHNSON. And when you look over how many have been terminated since the program was placed into operation, there have been very few terminations. Naturally, there is a little more pressure now in their master planning to take a few more of these homes. In many cases, they will set up another area and allow a person to move to another site, and the moving costs would not be too great. How many they would have to take is more than I know. I imagine they know, but how they figure they are going to terminate, I do not know.

Mrs. MAY. Will you yield?

Mr. O'NEAL. Yes.

Mrs. MAY. I think Mr. Cliff testified yesterday that of the 19,000 permittees on the land, somewhere between two-thirds and three-fourths would not be concerned; in other words, one-third or one-fourth of those would be.

Mr. JOHNSON. Over the history of the special uses permit, so far as homesites are concerned, I think that they testified a couple of years ago that there were about 300 that had been terminated. They know how many they have notified. That figure could be easily put together. They know, in their master plan, how many more. And I think that if you were to accept their proposal, 20 years with a 10-year extension, then the notification occurred 5 years within the first 20 years, they could give you that, too. I think, by and large, it would be a very small sum of money, that over a long period of time it would add up to quite a bit more.

Mr. McMILLAN. Thank you very much, Congressman Johnson.

We also have a statement from another of our colleagues, the Honorable Don H. Clausen of California. Without objection his statement will be placed in the record at this point.

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

I am pleased to have this opportunity to submit a statement for the record of the hearings on legislation to allow compensation for certain permittees where permits for summer or recreation-type residences on national forest lands are terminated and not renewed.

Last year I testified before this Committee in support of my bill, H.R. 8921, a bill similar to those under consideration, and by means of this statement, I want to reiterate my strong support for such legislation.

With nearly 50% of the land in California now owned by the Federal government, a substantial amount of which is in National Forests, this proposed legislation has a great significance for the people of my District and the State of California. Many of these people have a legitimate, vested interest in the National Forest lands—here they build their homes, summer retreats, hunting camps and other structures which in many cases, represent substantial investments. These lands also serve as a livelihood for lumbermen, miners and others who depend upon these lands for a living, but who have not yet realized the full potential offered in the vast forest lands of America.

This proposed legislation has the 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. These bills attempt to protect this injustice by providing protection for the rights of use permit holders.

I believe enactment of this legislation would go far beyond its specific intent, and I would like to briefly summarize the true potential of this legislation as I see it.

First, it will correct the injustice of those holding special use permits in National Forest lands should the government need or decide to recover these lands. The

government may continue to recover forest lands in the national interest—however, use permit holders would be compensated for the reasonable cost of moving existing structures to another site if available, and if none is available, it will compensate the permittee for the value of such structures.

Second, it will contribute immeasurably to opening up thousands of miles of back country through the resulting demand for extended accessibility into our forest lands. Accessibility for industry, for fire fighting, for sport, recreation, tourism, and for those who wish to make their homes in the beautiful forests of America.

One of the major problems limiting man's use of forest lands is the question of accessibility. Each year in the State of California we suffer devastation of our forest lands as a result of forest fires out of control because they cannot be reached by firefighters.

Four years ago, the House Public Works Committee of which I am a member, increased allocations for forest access roads from \$70 to \$85 million a year for the nation. Two years ago, we were successful in doubling this important authorization to \$170 million, thus representing a major advance by the government in opening up inaccessible forest lands.

I recount these points for the sole purpose of relating the many efforts which have been and are being made to deal with the access problem. As you can see, much remains to be done.

Third, enactment of this legislation will greatly encourage future financing and building on forest lands, thereby dealing with a major problem in areas in which forest lands abound. In these areas, 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. Much needs to be done if these industries, vital to my District and to the national economy, are to receive a much needed "shot in the arm."

This legislation, if enacted, will do much to resolve these problems.

It is my belief that these bills in question embody the principle of multiple-use of our public lands—a philosophy I have long held and advocated. It is essential that we seek ways to provide the maximum use of these lands to serve the greatest majority of our people. I believe many desirable long-range benefits will accrue from enactment of this legislation, and I hope the Congress will give it favorable consideration.

Mr. McMILLAN. We will next hear from Mr. Rex Borough.
We will be happy to hear you now.

STATEMENT OF REX BOROUGH, VICE PRESIDENT, RESORT DIVISION, NATIONAL FOREST RECREATION ASSOCIATION

Mr. BOROUGH. Mr. Chairman and members of the committee, my name is Rex Borough, and I operate under a special use permit from the Forest Service, a concession in the Sandia Mountains adjacent to the city of Albuquerque, N. Mex., within the Cibola National Forest. I appear as vice president of the National Forest Recreation Association and head the resort division of that organization.

This is my first appearance before this committee and I have been profoundly impressed by the reports rendered by Mr. Peterson and Mr. Davis, following their appearance before you last June, and the relationships established, which, in my opinion, are in the highest traditions of American democracy. It is a wonderful thing that minority groups have access to legislative bodies and can tell their stories in this manner.

Because I represent primarily recreation concession operators on the national forests, I should preface my remarks with the statement that we do not at this time request any legislation, but, rather, with your consent, desire to outline our status and our program so that you may evaluate this in conjunction with the homeowner situation and the entire recreation policy and program of the Forest Service.

As you know, the National Forest Recreation Association is in its 20th year of operation. It started as a small group of resort operators and has grown through the years to the five divisions presently involved, with membership running into the thousands. Through the years, the recreation concessioners operating resorts, marinas, trailer parks, campgrounds, garages, service stations, stores, motels, et cetera, and winter sports and packer-outfitter stations, have endeavored to secure recognition and program cooperation from the Forest Service in order to resolve problems of several kinds which have interfered with maximum service to the public. I want to pay full tribute to the Forest Service for their participation at our annual and regional and local meetings where there has been discussion of individual problems, and to this extent, we certainly must give credit to the Forest Service for their help and cooperation.

Unfortunately, however, even though request has been made repeatedly, we have never been able to get the Forest Service to sit down with us and to formulate either a joint recommendation to the Congress or an omnibus bill which would enable a clear-cut policy statement by the Congress, as was done by the National Park Service and the Department of the Interior for the National Park concessioners, resulting in enactment of Public Law 89-249.

Because the President of the United States himself recognized the very situation of which I speak, he directed that the Bureau of the Budget conduct a study and make recommendations. He commented that the concessioners operating on Federal public lands other than national parks were confronted with many or most of the same problems for which Public Law 89-249 was enacted and were entitled to consideration with the aim of equitable treatment to all concerned. This study, in turn, has been followed by further study through a task force chaired by Mr. Louis E. Reid, Assistant Director of the Division of Recreation and Natural Beauty, Bureau of Outdoor Recreation, Department of the Interior. We hope to meet with Mr. Reid this week, but I want to make clear our reason for wishing to familiarize this committee with the situation at this time, even though we are not requesting legislation.

As you realize, it is our understanding that the House Committee on Interior and Insular Affairs, and the Senate committee, recommends legislation and has jurisdiction over policy and procedural matters involving concessioners on national parks, because this Bureau is in the Department of the Interior. This committee, the Forestry Subcommittee of the Agriculture Committee of the House, traditionally has taken care of similar matters involving the Forest Service of the Department of Agriculture. You will appreciate, therefore, our reason for desiring you to understand our problem and the fact that unless, by Executive order, means are taken to resolve those situations which can be handled under Public Law 89-249, then presumably we would need to look to you for relief as indicated.

Now, to outline some of the problems which are making difficult provision of maximum service and facilities to the recreation public under our present policy in regard to recreation concessions on the national forests under special use permit from the Forest Service. May I first point out that the big majority of our concession operations involving resorts, winter sports, and packer-outfitter, dude

ranch operations, are seasonal. They must set up for business, employ necessary help, organize and train such help, procure supplies, repair any damage occurring during the closed period, for a season averaging usually approximately 3 months of operation. Think of trying to make a reasonable profit under such operating handicaps involving very difficult employment conditions and maximum risk factors so far as finance and profit are concerned.

Now, for the specifics: Recreation concessions are covered so far as national forest operations are concerned by special use permits issued and supervised by the U.S. Forest Service. These permits vary in tenure from annual to term, and term permits cover periods of from 5 years to the maximum of 30 years. Conditions of operation, fees charged for the permit, adjustment frequency, and other provisions are outlined, but, in my judgment, vary materially from Forest Service regions and even between forests within regions. With this preamble in mind, I am stressing the following:

1. LOAN CAPITAL

The greatest single operating difficulty of the typical recreation concessioner is difficulty of securing loan capital for major maintenance, for repair, or expansion. The Forest Service special use permit cannot be used as loan collateral. Commercial banks do not recognize Forest Service special use permits as valid collateral. Illustrative of this, and we have other tangible evidence, is a letter dated August 31, 1966, from the Bank of America of Fresno, Calif., signed by A. G. Framstead, vice president, and addressed to one of our resort operator members. The following is quoted from this letter:

The United States Department of Agriculture Forest Service Permit Agreement which you submitted was not acceptable to us for real estate purposes because of the following reasons: As suggested in the title, this agreement is really not a lease, but is simply a permit to build upon and use the property in question. Such permit may be terminated at any time at the option of the Government. The Government is required to pay for the value of the improvements if it does so terminate; however, this is not a claim which can be assigned.

This is one of many where they have been turned down by the banks, because in most instances there is no collateral.

Use of individual corporate capital in a recreation concession operation clearly is a risk venture of a high order. We must submit that if it is the policy of the Congress to encourage free enterprise and the profit motive through private investment, then a reasonable basis must be provided to minimize the risk and to assure reasonable protection, assuming valid management of such concessioners. We have requested repeatedly that the Forest Service cooperate by presenting this problem to the Congress. We have been unable to secure action in this matter. It is true that the Small Business Administration has proven helpful in meeting this problem. However, it does not adequately cover many entirely valid situations where, for example, a county health department requires installation of a completely new sanitary system for a resort or other concession operation. We continually receive requests for assistance from members who have encountered a blank wall in this kind of a situation.

2. INSURANCE

Briefly, liability and fire insurance, if available at all, is at such a high rate as to make this a major factor of operating expense. Some means needs to be found to remedy this problem.

This association has an insurance broker of record who has been working diligently, endeavoring to establish sound group underwriting programs. Success has been very meager because of inability to find underwriting companies willing to cooperate because of the wide geographic range involved, and, frankly, the fact that in the insurance world, we are talking about a small segment of total business.

We simply request your understanding at this time of this problem, with indication that we propose working with the Division of Recreation and Natural Beauty, Bureau of Outdoor Recreation, task force to explore a solution which can be recommended if legislation is required.

I do want this subcommittee to be aware of the fact that they do have quite a problem on insurance in these outlying resort areas and sometime it may even require legislation.

3. WATER AND UTILITIES

One of the major obstacles in installation, maintenance, and expansion of recreation services and facilities for concessions is the availability and cost of installation of water and utility systems. New concessions for public recreation services and facilities requires availability and provision of water and other services to the general public, a substantial proportion of which must be available without any cost to recreation visitors. We have many complaints in our files and these seem to be coming with increasing frequency, as to unwillingness on the part of the Forest Service to cooperate in development of water systems where, clearly, mutual advantage would ensue for the Forest Service and the taxpayer and also for the concessioner permittee. For example, just before coming to Washington on this trip, our office was requested to give assistance in connection with planning and development of a water supply at a lake where the Forest Service is planning to install a substantial camping unit (providing for some 300 persons) and where a concessioner permittee is urgently in need of additional water supply. The permittee has, over a period of years, requested Forest Service cooperation with the recurrent refusal to recognize as desirable cooperative handling of the situation. We submit, in all sincerity, that it clearly is in the public interest to provide at reduced cost to the taxpayer for needed water supply through cooperative agreement development in conjunction with a concessioner permittee.

In the illustrative case, it is proposed to pump water from a lake into storage facilities to provide for the campground needs of the Forest Service. The adjacent service station, proposed trailer park

needs of the concessioner permittee would enable reduced costs, both to the permittee and to the Forest Service and taxpayer through cooperative development and maintenance of the facility. This, unfortunately, has been too often the pattern followed by the Forest Service—that is, to bluntly assert development and maintenance operation of all utilities is strictly the problem of the concessioner permittee, regardless of the fact that mutuality of interests best would be served through cooperative development of the utility.

We submit that the Forest Service is not attempting to render availability of water and other utility service at least cost to the taxpayer when it refuses to cooperate with a bona fide recreation concessioner permittee to provide such service at least cost to all parties concerned. Members of the committee, we urge your understanding and recognition of this as one of our major problems.

4. TENURE

The wide variation in handling of renewal or issuance of new permits between regions and between forests within regions is an example of hodge-podge administration which we feel should be remedied promptly, and if the free-enterprise profit-motive system is indeed the intended means of services and facilities for recreation use, then the concessioner should be given the assurance and protection of having a term permit for the maximum period possible—30 years—except where clear-cut reason involving public interest can be justified by the Forest Service. The device of short-term renewal has been used all too frequently as a means of harassment, as a club, over the head of a permittee who, because of a short-term permit, is unable either to secure funds for operation and necessary maintenance and is also hindered or frustrated in attempting to sell his equity because of hopelessness in meeting the requirements of the Forest Service. This association has rendered friend-of-the-court service, both to the Forest Service and to permittees in a number of instances, and we are proud to tell you that in several cases, we have been able to resolve differences promptly and equitably, merely by bringing the parties involved around the table and laying the cards on the table as a matter of man-to-man—perhaps I should say “eyeball-to-eyeball”—frankness in negotiation.

We recognize that there are concessioners or permittees who, for various reasons, do not meet essential standards of operation or cooperative relationship with the administrative agency, in this case, the Forest Service. We assure you that we have advised several of our members to dispose of their properties because either they were not competent operators or they could not meet essential but fair administrative requirements. We believe such service by the National Forest Recreation Association is equally in the public interests, as it is invaluable to our membership. This is a vital matter and we urge

the Congress to let it be known clearly and emphatically that the Forest Service is expected to grant renewal for concessioner recreation permits to the maximum term, except where clearly a shorter term is warranted only because the operator cannot or will not meet essential minimum standards required for public protection.

5. PARKING AND ROADWAYS ESSENTIAL FOR PUBLIC USE IN RECREATION CONCESSION AREAS

A major problem, while affecting all recreation concession areas, is particularly of concern to our winter sport operators in connection with access roads and parking lots requisite in winter sport areas. The Forest Service has complete legal authority to construct access roads and parking lots, but with increasing frequency, is requiring this to be done at the expense of winter sport operators as a part of the total investment required of the permittee.

We respectfully point out that a substantial proportion of the use of such access roads and parking areas is by visitation—sight-seeing on the part of the general public, which provides no revenue whatever to the concession. We submit that a fresh look needs to be taken of this situation with recognition that the concessioner should not be saddled with the expense for provision of such access roads and parking facilities for the benefit of the nonpaying public use.

6. PERMIT FEES

We regret that the resolution adopted by our 19th annual meeting at Morro Bay last November with regard to acceptance in principle of the proposed fee schedule by the Forest Service for resort concession permits has been erroneously represented as endorsement of the total proposed fee schedule as proposed for adoption for July 1, 1968 by the Forest Service. This was not the case and, as we believe you are aware, as a result of action by a number of the members of the U.S. Senate, the Forest Service has agreed to defer application of the proposed fee schedule as it relates to winter sports concession permits until such time as a reevaluation can be made in cooperation with the winter sports industry division of NFRA and other winter sports associations, and a completely equitable formula agreed to. While the resort division of NFRA endorsed in principle the proposed fee schedule for resort concessions, it was clearly indicated that some misgivings were involved at what appeared to be unnecessary complexity of the proposed fee schedule developed solely by the Forest Service, although basic information was freely made available by NFRA members for use by the Forest Service in development of its proposed schedule.

We know that Park Service is working on a program.

We wish to make it clear that our concessioner members expect to pay a fair fee for the privilege of operation of the service or facility

on Federal land but such fees should be predicated on full recognition of risk factors, operating season, employment difficulties, management incentives, and in full accord with the free enterprise profit motive incentives which warrant investment of private capital and the avoidance of having to finance such facilities at taxpayer expense. We believe there is need for a very open-minded, cooperative relationship in consideration of what is a fair cost to the operator for use of the Federal land involved.

7. ISSUANCE OF NEW RECREATION CONCESSION PERMITS

We feel need exists to reevaluate the policy for the issuance of new concession permits. It has been customary for the Forest Service to develop and advertise prospectuses for the information of interested investors in the recreation concession field. In the invitation for bids and in the award of permits, it has been customary to give recognition to the highest percentage of gross receipts and/or specific cash bonuses as a factor in making awards. We consider this unrealistic and unfair, since such a basis for award clearly penalizes sound operating ability and capability to provide standards of service at prices to the public which can be justified under the profit system. They recognize that the concessioner in the Forest Service lands is serving the public. We submit that a prospective investor can only afford to pay a permit fee justified by rates to be charged which will pay a fair rate on the investment with due recognition of the risks and operating standards provided for by the terms of the permit.

We have had many situations in which audits have required increase in fees simply on the basis that a new permit, issued at a higher rate, warranted such proposed increase in fees. Sometimes the operators get penalized. They are doing their best job of serving the public. Surely, it must be clear that such finding is fallacious and can only result in chaos and frustration to the legitimate concessioner. This, in our judgment, should be clear responsibility on the part of the Congress to direct the administrative agency, in this case, the Forest Service, to eliminate unrealistic bid offers from consideration as a factor in awarding a special use permit to prospective permittees.

Our concessions tie in pretty much with the summer home situation, too.

8. THE SUMMER HOME RESIDENT SITUATION

As vice president for the resort division of the National Forest Recreation Association, I would be remiss if I did not indicate full support by our concessioners for the position outlined to you by our homeowners' division representative of NFRA. Our concession operator members are privileged to serve many homeowners in conjunction with their business operations. Purchase of supplies, rental of saddle and pack animals, rental of boats on marinas, et cetera, and coopera-

tive relationships in serving the recreation public make our interest in the tragic situation confronting the homeowners a very tangible one. We support emphatically the position of the homeowner division of NFRA that economic stability to counties and to the Federal Government itself best will be served by full recognition of the vital importance of designation of logical, suitable, areas and expansion of the homeowner program on a thoroughly planned basis within the national forests. In our judgment, ample areas are available for homeowner purposes which would constitute highest public service to the greatest number of people in accordance with the multiple-use program. We commend your favorable consideration to recognition of residence use of national forest land in a full partnership status under the multiple-use program.

In conclusion, I want to express my personal and official thanks to this committee for your courtesy in permitting me to appear today, and if you have any questions, I will of course be very happy to answer them to the best of my ability.

I cannot speak too highly on behalf of the concessioner permittees, and for the leadership and high standard of operations performed by the National Forest Recreation Association in the public interest and on behalf of its membership. It is unfortunate that this organization has had to struggle so hard through the years to attain its status it now has reached.

With your permission, may I suggest that we move on to our final presentation, a brief report on our new supporting members division, by our executive secretary, Mayhew Davis?

Mr. McMILLAN. Thank you, Mr. Borough. I want to thank you for a very fine presentation. You have added a great deal of information to our hearings.

Mrs. May, any questions?

Mrs. MAY. Two questions, Mr. Chairman.

Mr. Cliff stated yesterday, giving as one of his reasons for opposing the pending legislation—and I will quote from his statement:

The provisions of these bills would apply only to holders of summer home or other recreational residence permits but the enactment of these bills would set an undesirable precedent with respect to the other permittees.

My question is: Would you think that is a fair statement, if we passed these bills? Would those in your group that you represent then feel that you should have a special interest of a similar nature in your investment on Forest Service lines, such as a possessory interest?

Mr. BOROUGH. For the most part we do have. Many concessioner permits are on a term basis, so that for the most part the concessioner does have a possessory interest.

Mrs. MAY. You would have compensation for those terminated?

Mr. BOROUGH. I am not sure of that. We do have a possessory interest that can be sold, and in some cases there might be compensation. I do not know.

Mrs. MAY. You do not know what the term of your permit is?

Mr. BOROUGH. I know what the terms of my permit are. It would not provide any compensation at this point.

Mrs. MAY. How long a lease do you have?

Mr. BOROUGH. I have one of these annual permits, even though commercial.

Mrs. MAY. You are on an annual permit basis?

Mr. BOROUGH. Yes.

Mrs. MAY. Would you feel that under your classification, then, if these summer home permittees were offered possessory interest, if they were on an annual basis, that you should ask for the same type of possessory interest?

Mr. BOROUGH. Well, we are, regardless of the outcome of it, going to go on a term basis.

Mrs. MAY. One further question:

You spoke of a study made under the direction of the President of the United States, Bureau of the Budget, and the further study conducted by a task force under Mr. Louis E. Reid. Have those studies been completed and have recommendations been made?

Mr. BOROUGH. There has been a direct recommendation made by the President that this whole problem should be studied and ironed out.

Mrs. MAY. Is the study going on now?

Mr. BOROUGH. It is in focus now.

Mrs. MAY. But the recommendations have not been made?

Mr. BOROUGH. The final recommendations have not.

Mrs. MAY. Most of the problems you have brought up in your statement under consideration?

Mr. BOROUGH. I am sure that they will be taken into consideration. We testified in both.

Mrs. MAY. Is that one reason you have not asked for legislation?

Mr. BOROUGH. One reason; that is one reason.

Mrs. MAY. You are waiting for the recommendations of that study?

Mr. BOROUGH. That is right. We are impressed with the legislation. I might add that this bill would set a good precedent instead of a bad one.

Mrs. MAY. That is what we are after. [Laughter.]

Mrs. MAY. That is all. Thank you, Mr. Chairman.

Mr. McMILLAN. Mr. O'Neal?

Mr. O'NEAL. I think I have one quick question.

Did you get bank financing?

Mr. BOROUGH. No, we never borrowed any money; but we will need to in the very near future, because the area is growing and we are going to have to borrow money in the near future.

Mr. McMILLAN. Mr. Teague?

Mr. TEAGUE of California. No questions.

Mr. McMILLAN. Thank you.

The next witness is Mr. Mayhew H. Davis.

We will be happy to hear your statement.

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

Mr. DAVIS. Mr. Chairman and members of the committee, my name is Mayhew Davis, and I am the executive secretary of the National Forest Recreation Association.

Before reading my statement, in connection with the last question asked of Mr. Borough, if I might supplement his answer, I think it might help clarify this. I have here a copy of the report to the President on concessions on Federal lands available for public recreation, dated October 1967 which was based on the President's Council on Recreation Groups, a study with recommendations to support the implementation of the public law referred to, and the previous witness has an engagement with Mr. Edward C. Craft, Director of the Bureau of Outdoors Recreation, Department of the Interior, tomorrow afternoon to discuss this very matter and means by which it might be possible by legislation, or, if necessary, what type of legislation would be needed to implement the policies so that the Federal Government would be operating under a consistent, coordinated program.

Mrs. MAY. I am glad that you said that—if I may comment here. I had understood that was the case. I was not sure that Mr. Borough was referring to the same study.

Mr. DAVIS. I might add, too, that at our last annual meeting, Mr. Louis Reid, who has been the chairman of the task force for this appeared before our annual meeting in California and addressed us on this subject. We are working very closely with them. We recognize the problem, because of its relationship with agricultural aspects and the national forests, as opposed to the same kind of problems on national parks under the Department of the Interior which are considered by the Interior and Insular Affairs Committee of the House.

Mrs. MAY. What I did want to ask is this: Are a number of the problems, that Mr. Borough has raised in his statement under consideration in this policy study?

Mr. DAVIS. Very much so.

Mrs. MAY. Thank you.

Mr. DAVIS. I have served in this capacity, as executive secretary, since 1962 and, frankly, have been very proud to be associated with the very fine group of individuals making up our membership. I have been proud and happy, too, to work with the Chief and his staff and members of the Forest Service, who, I can sincerely state, are dedicated people endeavoring to the best of their ability to fulfill the professional requirements of the tasks assigned to them. I am certain that the differences of opinion and the frank discussion of problems involved are in the highest traditions of mutual relationships, and I want to make clear that directives to me as executive secretary by the officers, directors, and members of this association provide for full recognition of the responsibilities as well as the privileges resulting from association programs and operations.

I have been requested to outline very briefly the reasons for and the status of our new membership division in the National Forest Recreation Association. Our supporting membership division is the fifth to be initiated and it just has been launched within the past

60 days. This division results from a constantly increasing number of requests from individuals not otherwise eligible for membership in the National Forest Recreation Association, to affiliate with our association on the premise that they believe in the free enterprise system and the program and policies as enunciated by NFRA. We claim to be conservation minded and ever mindful of our responsibilities to the whole American public in the conduct of our program.

In arriving at decision to launch this new supporting member division, NFRA was aware of the existence of a number of so-called conservative groups which, in our judgment, too often were considering only the interests of a minority segment of our population and were overlooking the broad social, economic factors involved in our great federally owned public land programs, particularly those of the national parks and the national forests. Tremendous areas are being set aside in the national parks and within the national forests in the wilderness and related areas, to be inviolate so far as roads and physical improvements are concerned. We do not object to this; as a matter of fact, so far, are substantially in accord. However, we believe the time has come when we must take a good hard look at the social-economic situation confronting our Nation. We are of the opinion that we have a hodge-podge of administrative responsibility over our public land. We have different agencies and different departments recommending and administering policies and programs, some of which involve conflicting requirements and opportunities, with resultant effect on the taxpayer. We believe that recreation has not been accorded full partnership status under the multiple-use program. The best interests of the taxpayer will be served by utilizing to the maximum extent the free enterprise, profit motive system. The taxpayer is entitled to application of a policy which will assure that recreation use be managed on a basis which will provide highest social-economic return in perpetuity in the same manner as intended in the harvest of timber crops, forage crops for livestock, and management of other resources prevalent upon these public lands.

In application of such a policy, we ask the question:

What higher possible economic return can be secured from national forest lands than use of areas appropriately suited therefore for residence occupancy?

If a return to the taxpayer is desirable for the harvest of timber and forage crops, and for mining and hydroelectric development and similar uses, then a return of \$200 to \$300 per acre, recurrently, can provide for maximum return to the taxpayer over and above any other form of use. We recognize this should be in balance but contend that with the millions of acres involved in our national forest system, substantial areas exist which are best suited to this purpose and can bring to the taxpayer the highest possible monetary return.

For this reason, in believing that relief to local taxpayers is highly desirable, it was concluded that a new division of supporting members, aggressively carried out, would develop a membership potential that could support such a program. Therefore, it was voted to provide for a supporting membership division, with a membership card and membership decal to attract public interest and attention to the fact that the National Forest Recreation Association will be a substantial conservation entity to promote and work for policies and programs

relating to Federal public lands, and perhaps eventually to State and local public lands, which will assure new consideration to social-economic public interest.

We do not know, frankly, to what extent this new program will be accepted. Initial response is most encouraging. We hope that this membership develops to provide communications media, including newsletters and perhaps eventually a magazine which will compete favorably with existing conservation groups, which we feel go too far in locking up for benefit to minority groups vast areas which the American public can ill afford. This, in brief, is the story of our new supporting membership division, and we are happy to present each member of this committee with a decal and membership card with our compliments.

Thank you very much for this opportunity to appear before you.

I might add, just before coming back, we were requested to participate with the California State Association of County Supervisors in a review of this whole question of use of national forest lands for home site purposes, because of the great importance of the tax base that is involved to the economy of many of the counties—quite a number in California—for which total areas in a county exceed 70 percent within the national parks and/or other public land ownership. We, we submit, is a vitally important question and one which we are certain is going to receive increasing attention.

Thank you very much.

Mr. McMILLAN. Thank you.

Are there any questions?

Mr. Teague?

Mr. TEAGUE of California. Inasmuch as Mr. Davis lives a few miles from the northern boundary of my congressional district and resides in a city that I used to represent—aside from that and beyond that, I would like to commend him for a very excellent statement. I think you particularly touched my heart in your comments about the tax problem, and also you said it very kindly that some of the conservation groups are not realistic in their approach to some of these problems. I thank you.

Mr. DAVIS. Thank you.

Mr. McMILLAN. I want to thank you for the letters you have written me explaining this situation within the past months.

Mr. DAVIS. It was a pleasure to appear before this committee.

Mr. McMILLAN. Mrs. May, any questions?

Mrs. MAY. I would like to ask a couple of questions, and some of the other members do, too.

About how many States does your organization represent now?

Mr. DAVIS. Well, actually, we represent 50 States. We do not have membership in every one of them, but the principal membership is in the 12 Western States.

Mrs. MAY. That is what I was thinking.

I understand that your membership in this organization is supporting the approach for the summer home permittees as expressed in the bills that Mr. McMillan and I have introduced?

Mr. DAVIS. That is correct.

Mrs. MAY. And since I gather your members represent various facets of people who are interested, although there are those that

do not happen to be permittees, they are interested in any vested rights or regulations concerned with Forest Service lands—is that correct?

Mr. DAVIS. That is correct.

Mrs. MAY. And they, certainly, agree with the basic multiple-use concept as set up under the Forest Service?

Mr. DAVIS. That is correct. And the point that we were trying to make is not to deemphasize, but there appears to be some lack of understanding of the application of this intended multiple-use concept as enacted by the Congress as it is worked out by the administrative people.

Mrs. MAY. In this regard, when it comes to recreation uses of Forest Service lands, do you have any quarrel with the policy set out by Mr. Cliff yesterday that the 1,400,000 acres that he feels are potentials for recreational uses now and in the future, that we must certainly give priority to public recreation because of the increased needs in the foreseeable future, up to the year 2000 and beyond—do you agree with that general policy?

Mr. DAVIS. Mrs. May, we do not only agree with it, but we recognize actually that perhaps the homeowner would be taking a lower priority.

Mrs. MAY. He spelled out four priorities. I did feel that your organization would agree with that.

Mr. DAVIS. I might add, if I may, that the best example I can use is the State of California, again, where 20 percent of the total area of the State, which happens to be approximately 100 million acres, that the 20 percent would be 20 million acres, in the State of California, and it is impossible to conceive in our mind that out of 20 million acres in one State, 20,000 or perhaps 100,000 acres are not best suited to this type of use, if we take into consideration the present burden of taxpayers, the economic dependency of many counties on a tax base which would be very seriously helped by this type of use recognition. We have many, many letters in our files that are increasingly raising this very question, that if we can get a return of several hundred dollars per annum from this type of use, and there is no higher type of return on the use of any National Forest lands than this. But we still recognize the picnic grounds and public use is No. 1 and we maintain the Forest Service, if it is consistent, that their classification is on the basis that this 1 million acres plus is highly desirable recreation use. We do not ask that kind of a plan in any degree be turned over to cabin site use, but that they recognize that in this matter of the four categories and that there is still hundreds of thousands of acres that are admirably suited to summer homesites or residential occupancy use.

Mrs. MAY. One more question. I realize you cannot answer for your entire membership, when I ask this question, but I would like for you to comment on Mr. Cliff's suggestion of yesterday on the change of policy concerning the term permit for summer home permittees. Would you do that?

Mr. DAVIS. Yes, I would be very happy to do so.

I think that here is an opportunity for a material step ahead in resolving our total problem. Mr. Cliff's statement yesterday was not totally clear. I think this has been brought out today as to just exactly what he intended.

As I interpreted it, he indicated that of the 19,000 total, 200-some-plus had been phased out and some 700-plus were on 10-year notice, and about two-thirds were on an annual basis, and of this two-thirds on an annual basis, except for those that were not qualified, and this is one of the things that is confusing—he was willing to issue a 20-year term permit, and that as to those permits, if they were not informed prior to the last 10 years, that he would extend an additional 10 years.

Mrs. MAY. And he said that it allowed for more years.

Mr. DAVIS. Let us, if I may, say this: That we, for the last couple of years, have been trying to get to a solution to this. We are talking about the same thing. A lot of these people we are talking about now are on the 19th or the 20th year of their term permit. I happen to be one who has been very closely associated with it. I know, and have known for my adult life I would say, that probably thousands of summer home permittees—I have seen several generations go through the mill in one home. They say, "Well, you have had this for 20 years—even for 30 years—and your parents and grandparents and even your great grandparents in some instances have grown up in this area, and when the time comes you are still going to have the problem."

I urge you to recognize that Mr. Cliff's concession, while admirable and honest, will not resolve the problem.

Mrs. MAY. Apart from that, it is a question for the subcommittee to study. Perhaps, there is no perfect solution for all of the people involved. We would like to come up with something that will come as near to equity as is possible for these people we are concerned with.

Mr. DAVIS. Thank you, Mrs. May.

Mr. McMILLAN. Any questions, Mr. Foley?

Mr. FOLEY. I note by your statement that we are to extend the summer home permits because of the tax problem. Could we not solve it by selling off the public land?

Mr. DAVIS. I am not quite sure that I understand.

Mr. FOLEY. You suggested that we could ease the tax problem by extending summer home permits. Could we not have even a more dramatic effect on the tax base by selling off the Federal land?

Mr. DAVIS. It might be more dramatic.

Mr. FOLEY. If you did that, the land itself would go back into the tax base.

Mr. DAVIS. Certainly.

Mr. FOLEY. As well as the improvements.

Mr. DAVIS. That is right.

Mr. FOLEY. Did your organization go into the selective reduction in Federal lands?

Mr. DAVIS. I would have to speak advisedly, as in taking my whole organization it has not been voted on specifically, but I think that the organization would support legislation which would restore to the tax roles, for private ownership, certain areas which perhaps could be best used solely for the greater economic benefit for home occupancy.

Mr. FOLEY. Did you go into the question of private ownership or resort use, subdivision use, and various kinds of economic developments like that?

Mr. DAVIS. I would have to answer, generally, in response to the question, that we do support the national forest system. We believe in the multiple-use concept and, of course, when you start chopping off pieces here or there, either for timber or livestock or for home-ownership, generally, you would eventually disintegrate your national forest system.

Mr. FOLEY. I am always a little concerned and perplexed when witnesses say that they are for the free enterprise system, because everybody is for that, but specifically applied to this, do you favor the selective reduction in Federal ownership in public lands for private economic and initiative operation?

Mr. DAVIS. Under a very clearcut and conservative sense, that the total public interest classification would not dump into the interior boundaries of the national forests and take out a small part, simply because 40 acres might be best suited to one specific thing.

Mr. FOLEY. I do not want to press you on this, but would you think there are 3 or 4 million acres of Federal land that should be sold to private parties today?

Mr. DAVIS. Out of the total national forest system?

Mr. FOLEY. Yes.

Mr. DAVIS. Yes, there could possibly be 3 to 4 million acres that could be sold to private interests within the reasonable boundaries of being best in the public interest.

Mr. FOLEY. Do you think it could go as high as 10 million?

Mr. DAVIS. No; I do not.

Mr. FOLEY. You think there would be 3 or 4 million acres?

Mr. DAVIS. On a conservative basis, properly classified, there might be that much.

Mr. FOLEY. Is your organization actively pushing such a classification and evaluation?

Mr. DAVIS. No; because under the present national forest system, the intent of Congress has been declared through the multiple-use act which includes all of the things that we are talking about within the national forest system. So, we have no quarrel with that. In fact, we have fully supported the multiple-use act consistently.

Mr. FOLEY. I am still not quite sure what your program is. The program of most of the conservation organizations is to add to the Federal land base on a selective basis. Most conservation organizations like to increase to some extent the number of Federal acres in recreation or conservation use. Your organization wants to go the other way. I think we ought to have that very clear.

Mr. DAVIS. I think that in making my point, or trying to make my point, we feel that some of the so-called conservation organizations have gone too far. We have supported the wilderness program. We have supported the multiple-use program, but we think that the time has come when the economic status of the individual citizen has reached the point: Can we really afford this? How far can we afford to go?

Mr. FOLEY. You, generally, place the value and use of Federal lands in terms of its highest economic use, do you not?

Mr. DAVIS. Highest social economic use, because when you talk 'recreation', it is hard to define in terms of dollars and cents how much it is worth to a family to be able to go up into a national forest.

Mr. FOLEY. I could not do that.

You said a moment ago that in some cases you thought the highest economic use of the land was for the private summer home use, which would return \$100 a year, but by the same token you have another operation which would show a return, let us say, of \$2,000 per acre a year, such as in strip mining. Would you tend to favor that kind of operation?

Mr. DAVIS. I would not, because I happen to be too familiar with some of the background of strip mining, and because—

Mr. FOLEY. Let us take a nice clean mining operation that does not mar the surface. What I am trying to say is that the money that we are after—Is that what we are looking for?

Mr. DAVIS. No, not solely. But I am trying to bring out forcefully and as fully as I am capable of doing, that we are mindful of the economic plight—

Mr. FOLEY. Would it be fair to say that your organization believes the importance of producing tax revenues from Federal lands is presently underrated and favors greater emphasis to this now and lesser emphasis to such things as preservation of natural resources and scenic values and wilderness, et cetera?

Mr. DAVIS. I certainly would agree that we should give greater interest and return more money than we have been giving in the past; yes, sir.

Mr. FOLEY. Even if it would mean a reduction in these other interests?

Mr. DAVIS. A reasonable balance.

Mr. FOLEY. You think that they are out of balance, that the money has not been given enough consideration?

Mr. DAVIS. Yes.

Mr. FOLEY. Is your organization primarily concerned as taxpayers?

Mr. DAVIS. Not primarily concerned as taxpayers; we are primarily concerned in the concessioner phase of our program, with proper recognition and an administrative authorization to support the free enterprise profit motive system for providing the services and the facilities needed by the recreation problem.

Mr. FOLEY. Do you have a substantial element of your organization that is interested in the production from the use of public lands and you feel that this element believes this factor has not been given sufficient consideration and that this element has not been given sufficient opportunity to make profits and to make free enterprise work on the Federal lands?

Mr. DAVIS. That is correct.

Mr. FOLEY. And you feel that it is in the public interest to extend the profitmaking operations of private corporations and individuals on Federal lands?

Mr. DAVIS. Yes.

Mr. FOLEY. Even if it reduces—

Mr. McMILLAN. We have two more witnesses. Please make your question just as brief as possible.

Mr. FOLEY. Yes. I thank you.

That is all.

Mr. DAVIS. Thank you, Mr. Chairman.

Mr. McMILLAN. Our next witness is W. C. Hayward, of California. We will be happy to have you present your statement.

Do you care to make a statement off the cuff and submit your full statement for the record?

You may proceed in any way you desire.

We can sit until 12 noon, and we do not have too much time left. But go ahead.

STATEMENT OF WILLIAM C. HAYWARD, DIRECTOR, NATIONAL FOREST RECREATION ASSOCIATION, AND OWNER-OPERATOR OF JUNE MOUNTAIN

Mr. HAYWARD. Mr. Chairman, members of the committee, my name is William C. Hayward, and I am today representing the winter sports section of the National Forest Recreation Association in the absence of Robert B. Loughrey, chairman of the winter sports division of the National Forest Recreation Association.

The long-range goals of multiple use of national forest lands and other public lands call for and anticipate a tremendous investment by private individuals and private enterprise for the development of recreational facilities in the next short range period. Very nearly geometric growth in the long pull calls for an even larger investment. In order to achieve these goals it is of the utmost importance to solve the problems that are facing us today and at least make an effort to solve those problems that we see we will be facing in the very near future. I should like to outline these problems as I see them.

DEFINITION OF GROWTH

Of all the major industries across the Nation there is probably less known about the winter sports industry than any other. Incredible as it may seem there are millions and millions of dollars spent every year based upon supposition, hope, and fancy rather than facts gathered from sound statistical bases. Attempts have been made by the Department of Commerce in cooperation with the Forest Service to define as accurately as possible this industry. The "Skiing Market in Northeast North America" and the "Skiing Trends and Opportunities in the Western States" are two such documents. Further studies are obviously necessary to determine more accurately where we have been so that projections can be made on a reasonably factual basis as to where we are going. In short, we need a definition of the growth factor across the country.

FINANCING

There probably is no more pressing problem facing public land permittees than that of financing. In a letter to the Honorable Harold T. (Bizz) Johnson in 1966, I spent considerable time outlining the basic problems confronting the winter sports industry and for that matter all persons on national forest as well as other public land users. In short, financing is miserable. It is either not available by laws governing banks and other lending institutions or that which is available is too expensive, inadequate in amount, and amortized over too short a period of time.

BIDDING PROCEDURES

The accepted present method of bidding on a new project within national forest lands contains within itself the seeds of total destruction of anything that even smacks of consistency for the long pull. An invitation to bid is issued establishing a minimum acceptable fee or percentage. Bids are then accepted and in most cases, depending upon the users, the percentage bid will vary drastically when compared with other special uses of a similar nature across the Nation. The inconsistency is obvious. One bidder who may consider a special use to be of particular value, since this same bidder may have some private lands adjacent to this parcel which would more than slightly enhance its value, is willing to bid one figure. One, two, or five years later his special interest may be forgotten or unknown to another forester who sees this new higher bid and is looking for guidelines for a project in his area. There is no continuity because there is no available or definitive criteria.

RENEWAL OF LEASES

Lease renewals at times turn into a "take it or leave it" session. It is small consolation to be told "I'm sorry, but I have my orders." This is scarcely conducive to an endearing relationship. Very often fees are primarily set by higher fees paid elsewhere as a result of bidding procedures outlined heretofore, or for that matter by a good horse-trading forester who has managed to secure an increased fee which I'm sure he feels is justified.

TENURE

As investments climb, as they most certainly must in an active growing winter sports area, the gnawing doubt of "What happens if the Forest Service does not renew our lease in 5 years?" or 20 years, whatever the case may be. This cannot help but have a detrimental effect at some time on one's outlook when reinvestment is called for, for growth and development.

LACK OF BASIC ECONOMIC KNOWLEDGE OF SKI AREAS

It is disconcerting to say the least to be confronted with a continued lack of understanding of the rather basic economic principles on the part of some public officials who have a great deal to do with our industry. In some instances it would almost appear they were saying "We know better what is good for you than you know what is good for yourselves and whether you like it or not this is what is going to happen." This, of course, is all done and said very politely and properly, but it does not alter the facts. If it were not so serious it would be funny. It is almost like being told "Do not confuse me with the facts. My mind is made up." Costs, revenue, advertising, promotion, cash flow, depreciation, market penetration, market development, and specific market analysis are things which seem like introducing a foreign language in some cases. We do not expect total understanding, for these men are not experts in these fields, but on the other hand, we deserve more than a seeming deaf ear.

GRADUATED FEE STRUCTURE

Regardless of the criticism heaped upon it, the graduated fee system as presented by Richard Costley on July 10 was a necessary and commendable step toward seeking a solution and facing problems head on. I disagreed with the approach and in my letter to Mr. Costley dated February 14, 1968, I attempted to be definitive in my criticism as well as in my suggestion for changes. An even more detailed critique was prepared by the National Ski Areas Association. Nonetheless, I am still concerned that this graduated fee system having been set aside for implementation with regard to the winter sports industry has not, in fact, got problems contained in it with reference to other basic commercial enterprises operating on national forest lands that will be inherited once again by the winter sports industry. My first reaction and until recently, was that the graduated fee as presented was not conceptually off base. I have since had an opportunity to think about this in more depth and I am not so sure that as conceived, the graduated fee is really consistent with sound economic judgment which will aid in implementing advancement toward the basic goals of private use of public lands and the development toward the basic goals of private use of public lands and the development thereof by private enterprise. As I see them, these foregoing items are the major problems confronting the industry.

RECOMMENDATIONS

I should like to offer the following recommendations:

DEFINITION OF GROWTH

In order to properly project the direction and amount of the industry's growth it is vitally important to know where it has been. Toward this end, additional surveys should be conducted. Up-dating the past surveys from time to time would be of particular importance to show secular trends or modifications of direction of the industry as indicated by earlier surveys. The only criticism I could make of the two surveys prepared by the Department of Commerce was that in neither instance did they correlate their statistics with the present total population or population trends.

FINANCING

A real hard look should be taken at once and necessary steps taken without delay to drastically increase the available financing for permittees on national forest lands. In my letter to the Honorable Harold T. Johnson, I suggested some of these, possibly other people from time to time have suggested others. In short, special use permits should be made legally acceptable as collateral for loans. This alone would open a lot of doors. Secondly, the Small Business Administration regulations should be modified so they may lend funds for a period of 20 years rather than the present limit. The amount of funds available through SBA should likewise be increased. The longer period of time would quite favorably affect cash flow. There is a vast difference between cash flow and net profits. A company or

enterprise can very easily become insolvent making a profit simply because the equity payments were in excess of its ability to generate cash.

BIDDING PROCEDURE

The bidding process should be overhauled and no license to negotiate should be given to anyone to secure a percentage fee in excess of the minimum bid requirement. In its stead a cash fee or bonus could be considered to differentiate one bid from another, but in no event should there be any deviation from the requested percentage. Otherwise, in 5 or 10 years, we will be overhauling everything all over again in an attempt to equate the inequities.

RENEWAL OF LEASES

Renewal of leases should be handled in the same fashion as the bidding procedures heretofore mentioned. There should be strict prohibition for anything that smacks even mildly of coercion, implied or otherwise, in the renewal of use permits. What someone is paying in "Y" forest should have absolutely no bearing on what should be paid in "X" forest. We should be very careful that we are not comparing apples with oranges which, I think, we all try to do, but which, unfortunately, does not always happen. Hopefully, with a new fee structure study this would be adequately covered and corrected. Further, it is my belief that a permittee has a right to expect compensation for his improvements at expiration of his use permit. Such compensation could be defined, in the case of a disagreement, by three separate appraisers. A forester who knows that the Government will be buying a facility, if he is unable to execute a fair lease, is certainly going to act with natural constraint.

TENURE

An adequate basis for continued tenure by a permittee or his assigns should be established. This would obviously encourage expansion and put to rest his fears of having his property confiscated as it were.

LACK OF BASIS ECONOMIC KNOWLEDGE OF SKI AREAS

The Forest Service makes a commendable effort to seek all the information available from ski areas in order to understand their problems. This effort has gone a long way to allay the fears of many permittees. Even so, from time to time we are confronted with the very frustrating problem of trying to explain something which seems so fundamental on the one hand, and so difficult to grasp on the other. It is possible that this cannot be substantially changed, but it would be an immense help to know that local pressure groups were less effective and that sound economic principles would and could prevail.

GRADUATED FEE STRUCTURE

Without a doubt a new fee structure is called for which could, if properly structured, touch base on the bidding process, on the renewal of the use permits, and tenure all at the same time. It is vitally

important that the winter sports industry itself become involved. I would like to stress here particularly that in my view it is particularly important to the winter home sports section to become involved in the graduated fee. If the Forest Service's graduated fee structure has done nothing, it has galvanized the winter sports industry into recognizing they can no longer sit on the sidelines and be impassive. For the first time since I have become involved in the winter sports industry, the industry is not only willing but anxious to help in establishing a new fee structure that would be fair to all parties, public and private. I am sure that some in the Forest Service would say this is a Forest Service matter and one in which the industry has no right to become involved. On the other hand, if these permittees do not become involved, I do not believe that a lasting and fair fee structure can be developed. They will be the ones who will be administered and they have a lot to offer. Secondly, it is my belief that the Forest Service should place in limbo all the graduated fees that have been and will be signed with all permittees on national forest lands—not just winter sports alone—that have their bases in the graduated fee system as presented July 10th by the Forest Service. Without a cease and desist order the winter sports industry cannot help but fall heir to some of the basic concepts of the graduated fee system as they apply to other permittees. It is my view that some of these basic concepts are not economically sound and are not consistent with and conducive to the development of the ultimate goal of wide and expanded joint use of public lands.

What happens if we do not make these changes?

DEFINITION OF GROWTH

Without continued surveys and up-dating of past ones, we in the industry, as well as the Forest Service, will still be relegated to offering our best guess. We need facts, not supposition.

FINANCING

Without a basic change in the financing available on national forest lands, I see no way that we will be able to adequately grow to meet the demands of an increased population and its use of public lands.

BIDDING PROCEDURES

Unless the bidding process is substantially changed and modified there will be little or no way that we won't be repeating this same process in 5 to 10 years.

RENEWAL OF LEASES

The present process involved in the renewal of leases will without change, slowly break down the present favorable relationship of permittees to Forest Service and instead introduce suspicion and distrust.

TENURE

Even though tenure involves many things, without some definite reestablishment of purpose, there can be no real continuity.

LACK OF BASIC KNOWLEDGE OF SKI AREAS

Unless something can be done to increase the understanding of the industry itself, mistakes will continue to be made which will not only be embarrassing but costly in unrealistic pursuits.

GRADUATED FEE STRUCTURE

Without changes in the structure of the graduated fee, the winter sports industry will continue to bloom with its present popularity and then in all likelihood fade and get rundown as risk capital evaporates; as it is no longer attracted to the industry as a whole. An overhaul at that late date would undoubtedly be attempted, but might very well be too late with too little.

This may very well appear to some as a somewhat stinging indictment in view of the problems and the recommendations as set forth heretofore. Nothing could be farther from the truth. These problems got there in the first place in all probability by the rather natural application of Parkinson's law. No one person, public or private, or no agency, is responsible. It simply happened by slow attrition. I know of no person in the Forest Service who would even remotely deserve the crown of thorns that I have described. No one person is responsible and yet we all are.

One thing, however, is now unmistakably clear: It is time to take definite steps to correct the problems that we have as an industry and make it possible for all of us, both public and private, to achieve the common goal of better intelligent use of our public lands by all peoples. Toward this end, our industry stands ready, willing, and anxious to help. Please let us do simply that.

I should like to thank you for the opportunity to testify before this committee in behalf of the Winter Sports Division of the National Forest Recreation Association. If I may be of additional help or answer any questions you have, I will be happy to do so.

I would like, if I may, at this time, Mr. Chairman, to mention some of the problems we have had, specifically in relationship to some of the questions that were asked prior.

I believe the number of several hundred was used as the number of permittees of the 19,000 that were being suggested for termination of their permits.

Just a little quick calculation will reveal that this is probably in the neighborhood of probably not more than \$2 million in cost, and none of this will occur in any one year; it is my guess, and if you were to let that to cover the next 4 or 5 years it would not cost much in excess of \$500,000 a year. I suggest that you give the sum basis of the evaluation in terms of dollars.

I would like to respond in terms of a question that Mr. Foley asked with reference to what do we really think in terms of joint use, et cetera.

I can speak for myself here in this instance, without equivocation. I am actually not in favor of anything which is going to destroy the esthetic values of our national forest lands. Obviously, we are talking about balance. We are talking about judgments. In the purview of those definitions, it is obvious that it is necessary to tear off a little here and there, but if I know the sports service, they would get rid of

the 19,000 permittees for the administrative cost alone. In some instances that might be very wise, and in some instances that might be very foolish in the joint-use problem that is involved, but I do not think that you can really seek a single answer for that question by any stretch of the imagination.

In the county in which June Mountain is located, we have a specific problem with reference to Federal lands. Seventeen percent of our county is owned by private individuals. All of the rest is Federal or governmental lands. That is a pretty small portion of the total lands, and we are trying to face those problems as best we can. We have growing problems. And with the cooperation of the Forest Service—and we have been getting a lot of that—we think that we can make substantial headway towards that end.

I would like to thank you, Mr. Chairman, very much for the opportunity of being here today and the opportunity of testifying.

Mr. McMILLAN. Thank you, Mr. Hayward.

Our next witness is Mr. J. W. Penfold.

We will be happy to hear from you at this time.

STATEMENT OF J. W. PENFOLD, CONSERVATION DIRECTOR, Izaak Walton League of America

Mr. PENFOLD. Mr. Chairman and members of the subcommittee, I am J. W. Penfold, conservation director of the Izaak Walton League of America. The league is a national membership organization dedicated to the conservation and wise use of the Nation's natural resources. We appreciate the privilege of presenting our views on H.R. 11370 and related bills.

The issue in these bills is one of judging equities between the permittee and the Forest Service representing the interest of the general public which owns the national forest lands and millions of whom use the national forests for recreation. The 50,000 or more members of the league are such users of the national forests. Quite a few of them hold summer home permits.

National forest policy on recreational residence permits has been of concern to us for many years.

Our members studied and debated the subject at our 1963 annual convention in Cincinnati. We adopted a resolution which recognized the fairplay owed to the permittee but which recommends a policy in favor of restricting these permits in the future. The text of this resolution follows:

RESOLUTION NO. 1.—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 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 canceled 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.

Briefly our position is that an increase in summer home permits, or their perpetuation, is not in the public interest. Consequently, no new permits of this type should be issued; and existing permits should be phased out as more and more national forest lands are required for public recreation. The accomplishment of this long-range objective should not be made more difficult by excessively high costs to the public.

Permittees should not be led to believe that permits will be valid for such extended period of time as to encourage them to place elaborate and expensive improvements on the land.

Under existing policy the permittee puts improvements on his permit land with full knowledge of the nature of the privilege. If the Forest Service has given him a permit for a term of use, the permittee is entitled to expect occupancy for that term and builds in reliance thereon. If his permit is canceled in the public interest before the end of the term, fairness requires that the permittee be compensated for the unamortized value of his improvements.

A holder of a terminable permit knows the Forest Service can cancel his privilege at anytime. He takes this risk, then, when he builds a cabin or other improvements. The Forest Service generally gives 10 years notice when one of these permits is to be terminated. There is sufficient equity here and compensation is not appropriate because the permittee has no reason to rely upon the privilege continuing for any definite or indefinite length of time. Similarly, the provision to compensate the permittee for moving expenses would confer an extra benefit the permittee did not expect when he received his permit. An extra expense would be added to the Forest Service's budget for these payments, and we fear the appropriations committees would consider this an easy item to cut at budget-trimming time. The result would be a much slower rate of termination of permits and slower conversion of lands for public recreation.

This being our view, we do not favor the enactment of H.R. 11360 or 11370. For these same reasons we do not feel that the proposed amendment improves the bills enough to warrant their favorable consideration. The amendment would operate to distribute the privilege of a permit somewhat more widely among the public. It would also prevent the permit from acquiring a market value of its

own, which present policies sometimes cannot prevent. Aside from these merits, however, the amendment still provides excessive compensation and perpetuates the summer home system which we believe is contrary to the broad, long-range interests of the public and should be phased out.

Thank you for this opportunity to submit our views.

Mr. McMILLAN. Thank you, Mr. Penfold.

Mrs. MAY, any questions?

Mrs. MAY. One question.

Do you know of any cases where permits have been terminated without a 10-year notice?

I think your statement said that all were given a 10-year notice.

Mr. PENFOLD. I know of none personally.

Mrs. MAY. I am not sure that is correct. I think there are cases where they were not given a 10-year notice.

Mr. FOLEY. As I recall the testimony, he said that in his testimony.

Mrs. MAY. You know of no case?

Mr. PENFOLD. I know of none personally.

Mrs. MAY. Thank you.

Would you quickly comment on the proposal made by Mr. Cliff yesterday? Were you here?

Mr. PENFOLD. I was here, Mrs. May.

Mrs. MAY. What would be your reaction to that?

Mr. PENFOLD. Mrs. May, I would have to answer it this way: I think, first of all, that Mr. Cliff is the kind of man who will lean over backward, as the Forest Service does, to be fair. So, this is strictly a mighty fair proposal that he made yesterday, but our basic feeling is this: As he brought out in his testimony, the opportunity for summer homesites is distinctly limited on the national forests. We agree with this; whether it is 19,000 or 15,000 or 22,000, these opportunities, we do not know. That is unimportant. They are distinctly limited. These have been available on the average for individuals, for families, on the average of 41 years, that is, these permits have been. This means 19,000 families out of a population of 200 million.

The very reason that the summer homesites have been issued permits—and we accept this—is because they are the highest possible quality of our outdoor recreation, in a summer homesite. This is something which is confined to 19,000 families. No one else in the public has a chance at this kind of an experience in the national forests, as wonderful as it is.

Our problem, which is mentioned briefly in the resolution which we adopted several years ago, is that if this kind of opportunity is available, it should be available to a far larger segment of the population than the 19,000.

Mrs. MAY. How would that be possible, if we have so little land, as Mr. Cliff stated, that is usable for summer homesites?

Mr. PENFOLD. What it means is that instead of the 19,000 families having these sites and these cabins available throughout the year and throughout the years, that they would be operated, as in many of our national parks and in so many of our State parks where these kinds of facilities are available to the public and the public comes in for a week at a time or two weeks at a time.

Mrs. MAY. Are we not doing that anyway?

This would include that part of our future recreation plan, of which more and more land is going to be available so more of the public can rent summer homes for short periods.

Mr. PENFOLD. This is what I mean, on the national forest lands.

Mrs. MAY. I think that we have quite a bit of land for that kind of development outside of these 19,000 permittees.

Mr. PENFOLD. No, we do not.

Mrs. MAY. Out of all of the million of acres that we have, we do not have that?

You mean that the Forest Service has no potential for this type of public recreation facilities with all of the land available?

Mr. PENFOLD. I think that Mr. Cliff pointed out yesterday in his testimony that the type of land that was suitable for this kind of recreation is distinctly limited.

Mrs. MAY. He mentioned 1,400,000 acres.

Mr. PENFOLD. 1,400,000 acres for all of this type of developed recreation.

Mrs. MAY. Surely, within that 1,400,000 acres—I will not quarrel with that—there must be developmental areas for public cabins and facilities. I believe such facilities are very important to future recreational development on Forest Service land.

Mr. PENFOLD. I could not argue that there is no further opportunity within this 1,400,000 acres that Mr. Cliff talked about, but what I am saying is that 1,400,000 acres is a mighty small amount of land available for all of this type of recreation.

Mrs. MAY. I quite agree with you. I really think it is a much too confined figure. I am not in a position to argue with Mr. Cliff, but I think that a lot of people feel that when we are talking about the year 2000 and beyond, that there will be more available for this purpose—maybe not the absolute perfect recreation places that we might desire, but I think that there will be a lot of it.

Mr. PENFOLD. This is one of the things that concerns us, of course, is that we have a population of 200 million now and after the 30 years that Mr. Cliff talked about yesterday we will have 300 million so, that the demand is going to be just about overwhelming, and we do not believe that in the long run we are going to be able to afford to set aside even a small acreage out of the total for the exclusive use of individuals.

Mrs. MAY. I know that we are running out of time. I would like to carry on this discussion with you, but I will yield now.

Mr. McMILLAN. Mr. Foley?

Mr. FOLEY. What you are saying is this, that regardless of how many acres we might carve out of the national domain and the National Forests System for recreation purposes, there is still a question of the equities involved when 1,400,000 of those acres, which would represent a substantial amount, is assigned apparently in perpetuity to 19,000 families.

Mrs. MAY. No, this is a thing of the past.

Mr. FOLEY. All right. Let us say that we have 19,000 summer home permits now, or 20,000 summer home permits, and that these 20,000 acres are in the exclusive use of the permittees, without an opportunity for any of the public to share in the use of that particular

area or areas, which raises a question of policy judgment and a question of appropriate use of public lands.

Mr. PENFOLD. This is the way we look at it.

Mr. FOLEY. I do not happen to agree with you that there is not a place for summer home permits, but I am very distressed that the summer home permittees fail to recognize that there is a moral and equitable question here in their generational use without any terminating point resulting in these lands not being open to the general public.

Mr. PENFOLD. I should make it perfectly clear, Mr. Foley, that we are not mad at anybody; we are not angry with the permit holders. We are concerned with the other 199 million who have never had an opportunity for this.

Mr. FOLEY. Thank you. That is all.

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

Mr. PENFOLD. Thank you.

Mr. McMILLAN. Is there anyone else present who cares to submit a statement?

The record will be held open for at least a week or 10 days for any person who may desire to file additional statements.

The subcommittee will now go into executive session on another matter.

(Whereupon, at 12:20 p.m., the subcommittee retired into executive session and the reporter was excused.)



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Mr. Foley: I do not happen to agree with you that there is not a lot of summer home permits, but I am very distressed that the summer home permittees fail to recognize that there is a moral and equitable question here in their exceptional use without any remuneration being resulting in the area and not being open to the general public.

Mr. Pexford: I should make it perfectly clear, Mr. Foley, that we are not mad at anybody; we are not angry with the permit holders. We are concerned with the other 999 million who have never had an opportunity for this.

Mr. Foley: Thank you. That is all.

Mr. McManis: Thank you very much, Mr. Pexford.

Mr. Pexford: Thank you.

Mr. McManis: Is there anyone else present who cares to submit a statement?

The record will be held open for at least a week or 10 days for any person who may desire to file additional statements.

The subcommittee will now go into executive session on another matter.

(Whereupon, at 12:50 p.m., the subcommittee retired into executive session and the reporter was excused.)