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# FOSSIL BUTTE NATIONAL MONUMENT

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## HEARING

BEFORE THE

SUBCOMMITTEE ON PARKS AND RECREATION

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

NINETY-SECOND CONGRESS

SECOND SESSION

ON

**S. 141**

A BILL TO ESTABLISH THE FOSSIL BUTTE NATIONAL  
MONUMENT IN THE STATE OF WYOMING, AND FOR OTHER  
PURPOSES

FEBRUARY 28, 1972



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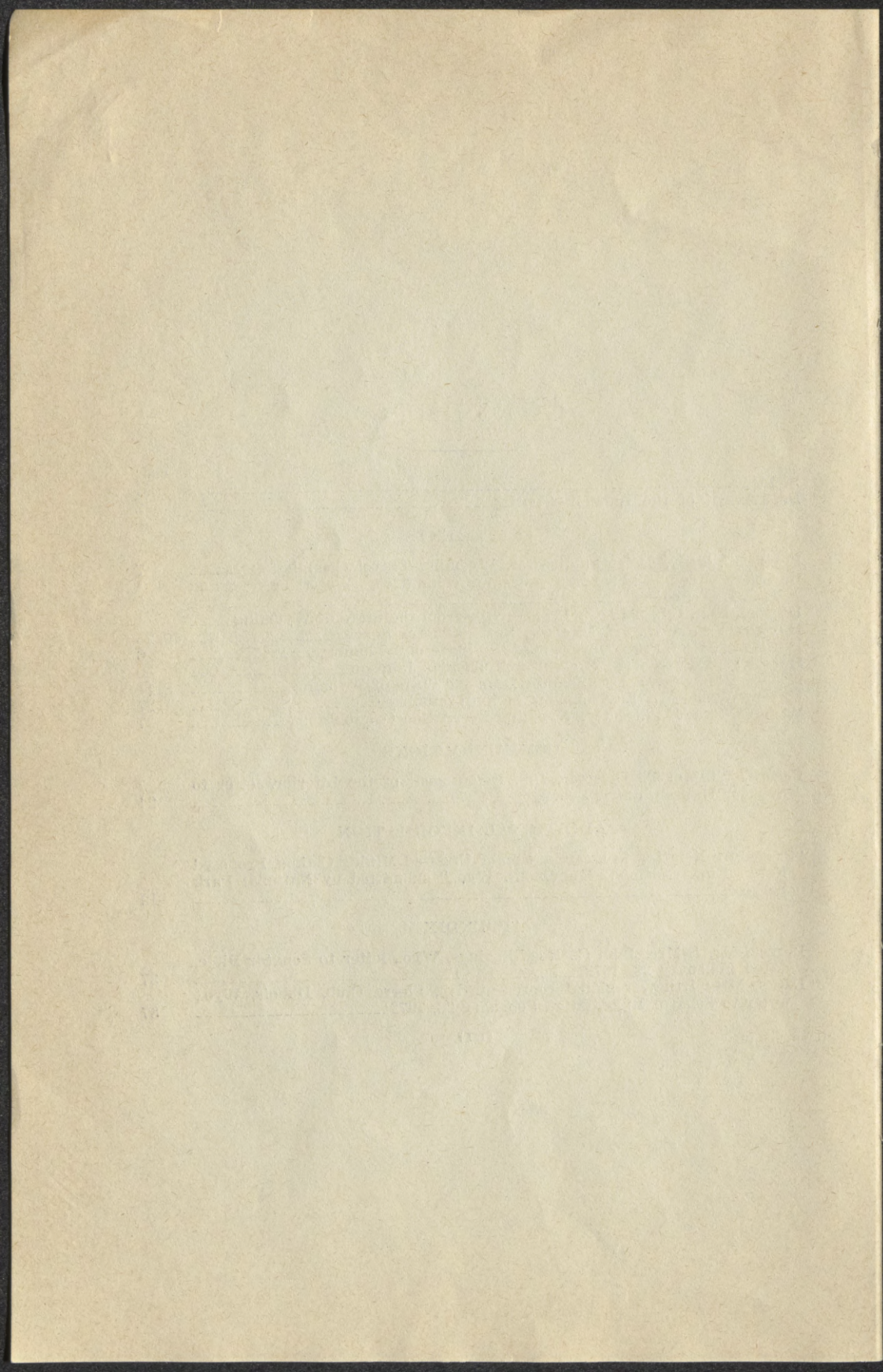
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# FOSSIL BUTTE NATIONAL MONUMENT

MONDAY, FEBRUARY 28, 1972

U.S. SENATE,  
SUBCOMMITTEE ON PARKS AND RECREATION  
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
Washington, D.C.

The subcommittee met at 10 a.m. in room 3110, New Senate Office Building, Hon. Alan Bible, presiding.

Present: Senators Bible (presiding), Moss, Hansen, and Hatfield.

Also present: Jerry T. Verkler, staff director; Bernard C. Hartung, professional staff member, and Thomas Nelson, assistant minority counsel.

Senator BIBLE. The hearing will come to order.

The hearing today is for the purpose of considering Senate bill 141, introduced by the two distinguished Senators from Wyoming.

Miss Reporter, the bill will be made a part of the record and the official report of the Department of the Interior, dated February 25, 1972, and signed by Nate Reed, the Assistant Secretary of the Interior, will be made a part of the record at this point.

(The text of S. 141 and department report follows:)

## S. 141

A bill to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in order to preserve for the benefit and enjoyment of present and future generations outstanding paleontological sites and related geological phenomena, and to provide for the display and interpretation of scientific specimens, the Fossil Butte National Monument (hereinafter referred to as the "monument") is hereby established, to consist of lands, waters, and interests therein within the boundaries as generally depicted on the drawing entitled "A Proposed Fossil Butte National Monument, Wyoming," numbered FBNM-7200, dated April 1963, revised July 1964, and totaling approximately eight thousand one hundred and eighty acres. The Secretary of the Interior (hereinafter referred to as the "Secretary") may revise the boundaries of the monument from time to time by publication of a notice to that effect in the Federal Register, except that at no time shall the boundaries encompass more than eight thousand two hundred acres.

SEC. 2. The Secretary shall administer the monument pursuant to the Act approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4), as amended and supplemented.

SEC. 3. Within the boundaries of the monument the Secretary may acquire lands and interests in lands by donation, purchase with donated or appropriated funds, or exchange, except that lands or interests therein owned by the State of Wyoming or a political subdivision thereof may be acquired only with the concurrence of the owner. When acquiring land by exchange the Secretary may convey to the grantor federally owned land under his jurisdiction which he classifies as suitable for exchange or other disposal. The properties so exchanged

shall be approximately equal in fair market value, but in order to equalize values the Secretary may accept cash from, or pay cash to, the grantor.

SEC. 4. (a) The Secretary shall permit the use of lands and waters within the monument for grazing and stock watering at such periods and places where such uses will not conflict with public use, interpretation, or administration of the monument for a period of thirty years from the effective date of this Act: *Provided, however,* That the Secretary shall have the power to extend the use of the lands for grazing and stock watering for as long after the thirty-year period as it is determined by the Secretary that such use does not conflict with the public use, interpretation, or administration of the monument: *And, provided, further,* That the use of lands within the monument for stock driveways shall continue in perpetuity at such places where this use will not conflict with administration of the monument.

(b) Upon termination of the uses set forth in subsection (a) of this section, the Secretary of the Interior is authorized to provide for the disposition and use of value surplus to the needs of the monument, to a point or points outside the boundaries of the monument.

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

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U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
WASHINGTON, D. C., *February 25, 1972.*

HON. HENRY M. JACKSON, *Chairman, Committee on Interior and Insular Affairs, U.S. Senate Washington, D.C.*

DEAR MR. CHAIRMAN: YOUR committee has requested a report on S. 141, a bill "To establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes".

We recommend the enactment of S. 141, if amended as suggested herein.

The Fossil Butte area contains some of the best known and most significant Eocene fish fossils in the world. This region once was the locus of ancient Eocene lakes which teemed with aquatic life. Referring to this region, paleontologist Custis Julian Hesse has written that "no other fossil-bearing formation in North America has produced so many and such characteristic fossils as this great series of lake beds". Moreover, the area proposed for a national monument evidences outstanding examples of lake, shoreline, and tributary flood plain deposits and graphically portrays the geologic events associated with major earth movements that formed the present Rocky Mountains. All of these elements—the fossil fish, other related Eocene deposits, and the mountain building process—make up the story of Fossil Butte.

Fossilized marine life is a relatively rare find, as scavengers and wave currents scatter and destroy the remains of the fish that sink to the bottom of the lakes. It is known, however, that large lakes may become thermally stratified so that layers of dense water near the bottom lack oxygen but are charged with hydrogen sulphide in which there is no life except anaerobic bacteria.

During the period of about one-half billion years until the Cretaceous Period some 80 million years ago, this portion of western United States was repeatedly submerged beneath the sea. During the Cretaceous Period mountains ancestral to the present ones in western Wyoming rose from the sea. These mountains eroded away and the basins filled with debris until the Eocene Period, some 60 million years ago, when the mountains were rejuvenated by uplift and block faulting. Rainfall increased, the uplands were subjected to chemical weathering, and the rocks decayed to form a deep mantle of red earth. The mantle eroded from the uplands and was deposited as red conglomerate, sandstone, and mudstone in alluvial fan and stream deposits now called the Wasatch formation. Throughout the mountains, basins sank and lakes formed within them. These lakes supported the life now fossilized in the Green River formation which developed from the thinly layered, white limey muds that accumulated at the bottom.

A long period of heavy rainfall created these lakes, but when rainfall later decreased the lakes shrank and finally disappeared. During this period the outlets to the sea were cut off so that more and more marine life had no means of escape. As marine life died, it sank to the bottom in great numbers where fossilization took place. Some of the more abundant fossilized fish are varieties of perch, paddle-fish, garpike, stingray, and herring whose descendants now live in

the sea. The herring may have been a fresh water fish or they may have migrated up ancient rivers and into lakes to spawn much like the modern salmon.

The bill establishes the Fossil Butte National Monument to consist of those 8,180 acres of land and water depicted on a map entitled "A Proposed Fossil Butte National Monument, Wyoming". Seven thousand and thirty-eight acres are already in Federal ownership. Seven hundred and sixty acres are owned by the State of Wyoming and 380 are owned privately. The Secretary is authorized to revise the boundaries and to acquire lands and interests therein by donation, purchased with donated or appropriated funds, or exchange. Lands or interests therein owned by the State of Wyoming or a political subdivision thereof may be acquired only by donation.

The Federal lands within the monument provide approximately 444 animal-unit-months (AUM's) of cattle grazing and 515 AUM's of sheep grazing use. There are in effect and applicable to these lands some 20 grazing permits, renewable annually.

Section 3 of S. 141 provides that land owned by Wyoming or one of its political subdivisions may be acquired only "with the concurrence of the owner". It has been the custom of Congress to require a State to donate its lands for inclusion within a unit of the National Park System. This purpose could be accomplished by striking the words "with the concurrence of the owner" on page 2, line 17 and inserting in lieu thereof: "by donation".

Section 4(a) provides that, for a period of 30 years from enactment, the Secretary shall permit grazing and stock watering within the area. This use may be continued after the 30-year period in instances where it will not be in conflict with the public use, interpretation or administration of the area. Stock driveway use of lands within the monument may be continued in perpetuity where there will be no conflict with administration of the area.

Section 4(b) provides that, upon the termination of the uses authorized in subsection (a), the Secretary may provide for the disposition of water, surplus to the needs of the monument, outside the area for watering stock.

While we believe that the limiting language in section 4(a) provides the Secretary with the control over grazing and stock watering which is requisite to park administration and management, we note that the period of time allowed exceeds that authorized in earlier park legislation. See for example, section 3 of the Act of September 12, 1964 (78 Stat. 934, 938), which established Canyonlands National Park in Utah. Under that Act, grazing pursuant to then existing Federal grazing permits has been permitted to continue for a period of 10 years. We believe that this precedent is sound, and we know of no reason to depart from it at Fossil Butte. In addition, section 4(a) of the bill is not clear as to whether it is intended to permit the continuation of existing grazing and stock watering, or to permit new uses of lands that may be acquired for the monument. We believe the bill should only recognize existing uses. We recommend, therefore, that on page 2, line 24 should be amended to read: "Sec. 4. (a) The Secretary shall permit the continuation of existing uses of Federal lands"; that on page 3, line 3, the word "ten" be substituted for "thirty"; and that the proviso, beginning after the word "That" on page 3, line 4, and ending with the word "further" on line 9, be deleted.

Land acquisition costs, including cost of acquisition of private lands, mining claim validity determination expenses, and expenses incurred pursuant to applicable provisions of the Uniform Relocation Assistance and Property Acquisition Policies Act of 1970 (P.L. 91-646; 84 Stat. 1894) are estimated to be \$378,000. Included in that figure is an amount which will be needed to determine the validity of 417 mining claims within the proposed monument.

We plan to develop the national monument so that the visitor will have an opportunity to see evidences of Eocene life displayed in its geologic setting. The fossils will be exposed and prepared for in-place exhibition and the complementing geologic story may be told through wayside exhibits and the interpretive program. Roads, trails, a visitor center and related facilities will be necessary to carry out these objectives.

Development costs are estimated to be approximately \$4,469,000 for the first 5 years following enactment. The foregoing development cost estimates are based on June 1971 cost indices.

Operating costs will be \$57,100 for the first year following enactment. Operating costs for the fifth year following enactment will be \$195,400. A man-year and cost data statement is enclosed.

The Advisory Board on National Parks, Historic Sites, Buildings and Monuments endorsed the proposed Fossil Butte National Monument in September 1961, October 1964, and October 1965.

If the committee wishes to insert a ceiling on development costs for the proposed national monument, we recommend that the bill contain language to relate the appropriation authorization to construction cost indices.

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

Sincerely yours,

NATHANIEL REED,  
*Secretary of the Interior.*

Enclosure.

U.S. DEPARTMENT OF THE INTERIOR, NATIONAL PARK SERVICE, FOSSIL BUTTE NATIONAL MONUMENT

(Proposed)

	19CY	19CY+1	19CY+2	19CY+3	19CY+4
<b>Estimated expenditures:</b>					
Personnel services.....	\$41,100	\$55,700	\$104,800	\$111,600	\$118,500
All other.....	156,100	1,471,800	1,739,200	790,000	364,000
<b>Totals.....</b>	<b>197,100</b>	<b>1,527,500</b>	<b>1,844,000</b>	<b>901,600</b>	<b>482,500</b>
<b>Estimated obligations:</b>					
Land and property acquisition.....	378,000				
Development.....	175,000	1,755,000	1,650,000	576,000	313,000
Operations (management, protection, and maintenance).....	57,100	88,500	173,000	183,500	195,400
<b>Totals.....</b>	<b>610,100</b>	<b>1,843,500</b>	<b>1,823,000</b>	<b>759,500</b>	<b>508,400</b>
<b>Total, estimated man-years of civilian employment.....</b>	<b>4.0</b>	<b>5.5</b>	<b>11.5</b>	<b>12.5</b>	<b>13.5</b>

Senator BIBLE. I would first recognize my distinguished colleague on the committee, Senator Hansen, and any comments, reports, or statements that he might make, and then Senator McGee.

**STATEMENT OF HON. CLIFFORD P. HANSEN, A U.S. SENATOR  
FROM THE STATE OF WYOMING**

Senator HANSEN. Thank you very much, Mr. Chairman.

Once again, I want to express my appreciation to you for scheduling hearings on this legislation that would establish the Fossil Butte National Monument in southwestern Wyoming.

This proposal has been a long time getting to the hearing stage. Many hours of work have gone into the final legislative proposal encompassed in S. 141. Local citizens, the State of Wyoming, as well as the National Park Service, itself, have combined their talents and efforts to develop legislation which reflects the important aspects of the fossil area as well as the varied interests of different groups. It is in the spirit of compromise and hard work that this legislation has finally progressed to the hearing stage.

Mr. Chairman, the proposed Fossil Butte National Monument would be located on 8,200 acres of land west of Kemmerer in southwestern Wyoming.

For years, this area has been the source of some truly significant fossil recoveries. As anyone knows who has toured the museum of Natural History right here in Washington, D.C., Wyoming has contributed many of the scientific specimens to the great fossil displays throughout the Nation and the world.

It is in recognition of the great scientific contributions which this area has made that this legislation is proposed; but, in a more significant sense, Fossil Butte, Wyoming, is famous as the site of the Eocene fish fossils—evidence of fresh water fossil fish which lived about 45 million years ago. At Fossil Butte there are thousands of rare specimens of the Eocene era. It is nationally recognized as the best and most significant fossil beds of this type in the United States—possibly the world.

Mr. Chairman, we have National Park Service personnel, as well as private individuals who are prepared to give scientific testimony as to why this area is so remarkably unique. I am anxious to listen to this testimony as I am sure you are.

While a major attraction by itself, the Fossil Butte National Monument would add an important link in the chain of opportunities for unique recreation. The proposed monument would help to meet the ever-increasing demands of the many visitors to that part of the State and would be a natural addition to those who are visiting Yellowstone and Grand Teton National Parks.

There was some question in the beginning concerning the conflict between setting aside this area as a national monument and existing driveway, water, and stock use. I understand the differences have been substantially resolved by language in the legislation.

Mr. Chairman, the proposed Fossil Butte National Monument has been the frequent nominee of the Secretary of Interior's Advisory Board on National Parks, Historic Sites, Buildings and Monuments. I am pleased to join with the Governor, the Wyoming Recreation Commission, and the other members of the Wyoming congressional delegation in supporting this proposal.

Senator BIBLE. Thank you very much. I have no questions. Senator Moss?

Senator Moss. Thank you, Mr. Chairman.

Noting the proximity of this monument to the State of Utah, I am sure that it is most worthwhile and, therefore, I am going to support it.

Senator BIBLE. I knew we would get Utah into this. Are you sure it doesn't get over into Utah?

Senator Moss. I am looking closely.

Senator BIBLE. Both Wyoming Senators should both be on their notice because I know the Senator from Utah pretty well.

Senator HANSEN. Mr. Chairman, if I could, may I submit for inclusion in the record the statement made by the Governor of Wyoming?

Senator BIBLE. The statement of Gov. Stan Hathaway, Governor of the State of Wyoming, in support of Fossil Butte National Monument will be made a part of the record.

Senator HANSEN. Also, I would like to ask that there be included a statement by Paul H. Westedt, Wyoming Recreation Commission and a statement by Tony Bevinetto, assistant director, Wyoming Travel Commission.

Senator BIBLE. These statements will be made a part of the record.

Senator HANSEN. Also, I would like to ask that a statement made on behalf of the Western Wyoming Resource Conservation and Development Project by Reed Gardner, chairman, be entered.

(The statements referred to follow:)

## STATEMENT OF HON. STAN HATHAWAY, GOVERNOR OF THE STATE OF WYOMING

I am pleased to have this opportunity to offer my endorsement to the establishment of The Fossil Butte National Monument proposed for southwestern Wyoming.

Addition of this new National Monument to the Nation's park and monument system will be of tremendous benefit to the visitors to the increasingly-popular West. I feel that the new area will offer an added attraction to this semi-arid portion of Wyoming that will also provide a buffer for the heavily-traveled Yellowstone and Teton National Parks. It undoubtedly will prove to be a popular stop for those traveling to and from the Parks.

We feel that with the increasing popularity of the Fossil Butte area to amateur and professional fossil hunters, there is need for protection of the area that can provide insight into the world of 50 million years ago.

Background of the area began about 50 million years ago when much of southwestern Wyoming was covered by large fresh-water lakes and their shores teemed with life. Conditions were similar to those of our Gulf Coast of today.

Over a period of millions of years, fish and plants died and settled to the bottom of the lakes. Layer upon layer of this debris was deposited in distinct strata. Eventually, the land was pushed higher, the water receded and the mountains and desert were born. As erosion began, nature cut into Fossil Butte and exposed millions of years of history.

It is said by many experts that Fossil Butte represents the evolution and modernization of fresh-water fishes better than those from any other known site in America. The richest fossil fish deposits are found in limestone layers about three feet thick which lie from 30 to 300 feet below the varying surfaces of the butte. The fossils represent several varieties of perch, as well as other fresh-water fishes, and several kinds of herring whose descendants now live in the sea. Other fish types, such as paddlefish, garpike, and stingray are also present.

The Green River formation also contains very well-preserved insect fossils in layers near the top of the butte; about a dozen species of such other invertebrate animals as snails, clams and ostracods; fragments of a few birds and bats; and many kinds of plant remains ranging from fossil palm and fern leaves to pollen. Although the Fossil Butte area is only a small part of a vast area in which the fine-bedded layers of the Green River formation make up much of the landscape, it is particularly well situated since, in addition to the rich fossil deposits located here, there are also outstanding examples of lake, shoreline and tributary river flood plain deposits.

The bill's recommended area of 8,200 acres would provide adequate area to protect and display the features of primary significance as well as those which tie the geologic story together.

C. J. Hesse, a well-known paleontologist and explorer, saw the significance of the butte, and noted in a 1939 report: "Few museums in the world, certainly none of the larger ones, are without specimens of the fossil fishes from the Green River shales of southwestern Wyoming. These are prize exhibition specimens and no other fossil-bearing formation in North America has produced so many and such characteristic fossils as this great series of lake beds."

For nearly 100 years, amateur and professional searchers have been collecting from the Fossil Butte area for museums and private collections the world over. Known locations of fossil fish of any age are relatively rare, yet at Fossil Butte there are literally thousands of specimens. They are estimated to be as much as 50 million years old and they are believed to be the best and most significant fish fossils in the United States—possibly in the world.

The site has great desirability in being a classic location known to many scientists. It is of significance to the geologist the paleontologist, the ichthyologist, and the botanist, as the source of numerous fossil fishes exhibited in the halls and research rooms of their institutions of learning.

The Fossil Butte site is highly suitable for national monument purposes. Although fossil fishes have been quarried here for almost a century, the potential has barely been touched. Past activity has taken place primarily at one small quarry on the south face of the Butte. Fossil deposits worked at this site are only a minute fraction of those remaining within the mountain. An excellent opportunity for further exploration and in-place exhibition of fossils exists here.

Wyoming is proud of this unusual geologic find—we feel certain it should be protected and explored for the enjoyment of all.

Thank you.

## STATEMENT OF PAUL H. WESTEDT, DIRECTOR, WYOMING RECREATION COMMISSION

I will be in Washington on February 28-29 with Commission Historian Ned Frost to attend a meeting of State Liaison Officers for the National Historic Preservation Act. I am not yet sure if my schedule will allow me to attend the committee hearing on Fossil Butte. I will contact your office on arrival to explore the possibility of including both functions in my itinerary.

On the chance that I will not be able to make the hearing, let me now state this Commission's full support for the Fossil Butte National Monument as detailed in S-141. We are convinced that the Butte possesses unique natural, archaeological and geological wonders worthy of national recognition, preservation and presentation. We have, in fact, been awaiting federal action on the area before making any attempt at state-level efforts to preserve and develop the site.

Fossil Butte National Monument will recognize and call attention to yet another wonder of Wyoming—a treasure that this state is anxious to share with visitors throughout the nation. Interest in the region extends far beyond Wyoming's borders and efforts to present it to the public deserve national attention. Fossil Butte's proximity to major transcontinental and national park travel routes further points the need for national-scale development.

I am sure the members of the Senate Parks and Recreation Subcommittee are already well versed in the many natural marvels present in the Fossil Butte region, and I will not again enumerate them. Rather, I will simply say again that the Wyoming Recreation Commission will greatly appreciate early and favorable consideration of S-141.

## STATEMENT OF TONY BEVINETTO, ASSISTANT DIRECTOR, WYOMING TRAVEL COMMISSION

The Wyoming Travel Commission, a state agency charged with promoting travel to the State of Wyoming, would like to reaffirm its position in favor of establishing the proposed Fossil Buttes National Monument for the following reasons:

1. *Protection of the area or a part of the area.* Despite the seeming abundance of fossil material in the buttes there is danger of depleting the valuable fossils in those areas most accessible and which are not at all protected at the present time.

2. The National Park Service Interpretive program, put into effect in this area, would add enormously to the cultural benefits of the traveler, thereby giving a much better reputation to this particular part of Wyoming.

3. The proposed monument is on a major highway, U.S. 30N and for this reason will attract, and actually stop, a large number of first-time National Park visitors as well as all those who make a national parks and monuments en route a must.

4. Visitation will be large as indicated by other National Monuments of approximately the same attraction, size, and seasonal similarities. The location of the proposed monument is especially good as there is nothing in the way of established recreation facilities to compete with it in the immediate vicinity. There is every reason to believe that the visitations at Fossil Buttes will be considerably greater than some of the above monuments because of the location (on a main highway) and also because of the attractions of like kind in the area of Colorado, Utah and Wyoming. Colorado has nine national parks and monuments, Utah 11 and Wyoming four.

5. With the addition of Kemmerer to the Canyon-Yellowstone route there is additional reason to believe that Fossil Buttes, if established, will draw a still greater number of visitors. It is in a first-rate location for stopover between major vacation destinations—the Colorado-Utah park system and the Yellowstone-Grand Teton-Glacier Areas.

6. The enormous increase in travel in the United States has called for additional new areas of development. The establishment of Fossil Buttes gives us a chance to establish more variety in recreation also.

7. Considerable increase in business in the area could be expected. This statement is made on the basis of known facts concerning increase in business to an area because of having parks and monuments in the vicinity. Yellowstone and Teton National Parks create business for enormously wide areas; Fort Laramie and Devils Tower to lesser but significantly large regions. Exact figures are not known but it is certainly many millions in

new business, brought about by the existence of national parks and monuments. We believe that the development of a good national monument, Fossil Buttes could do more for the immediate economic good of southwest Wyoming and adjoining states (Utah and Idaho, as well as Colorado) than any other remedy immediately available.

8. We believe that the area, if made a national monument would get a relatively great visitation in good part because it is currently known the world over as an outstanding, easily accessible natural repository of valuable and interesting fossils. In addition, there is considerable scenic beauty in its rugged desert type of terrain along with its native living flora and fauna, which under the national park system, currently so effective in its interpretive program would be preserved, described and studied. As a natural laboratory this area is unsurpassed because it is unique.

9. Since Fossil Buttes was first considered as a national monument, other potential monuments in the same general area and of much the same type have been pushed for inclusion in the National Park System. One that has been established Florissant Fossil Beds, Colorado.

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STATEMENT OF REED GARDNER, CHAIRMAN, PROGRAM COMMITTEE, WESTERN  
WYOMING R.C. & D. PROJECT

We, the program committee, were extremely pleased to hear of the consideration given the Fossil-Butte bill. Since we are not able to appear at the hearings personally, we hope this letter will express our interest. As you know, we have supported this effort since it first became an R.C. & D. proposal. You are also aware of our concern for the ranching interests being considered in this bill.

The economic benefit is self-evident, not only to the community of Kemmerer, but also to the State of Wyoming. With the inclusion of Fossil Butte in the National Park System, people will have a continual chain of varied phenomena to enjoy from southern Utah through Wyoming and Montana.

It would be especially gratifying to see a National Park monumented in Wyoming on the 100th anniversary of our first park.

We feel one of the most important aspects of this monument is the preservation of the fossils. At present, no one is allowed to mine the area but under this program, no one can study or enjoy them.

Good luck at this important hearing.

Senator BIBLE. And now Senator McGee.

STATEMENT OF HON. GALE MCGEE, A U.S. SENATOR  
FROM THE STATE OF WYOMING

Senator MCGEE. Thank you, Mr. Chairman. We are always interested when Utah perks up its ears at developments in our State of Wyoming. We note that when they need to hunt and fish, it is always over on our side of the line. We welcome them there even under those circumstances.

Senator BIBLE. You charge them accordingly, don't you?

Senator MCGEE. Well, we tax them appropriately, but we don't cast them off, and then the Fossil Butte area, I suppose, because they have so many fossils in Utah they don't have to come over and look in our fields.

Senator BIBLE. One could make a statement there, but probably better not.

Senator MCGEE. While you are ahead, you ought to quit, Mr. Chairman, on that one.

Senator BIBLE. You may proceed.

Senator McGEE. Mr. Chairman, I want to salute my colleague, the member of your committee, Senator Hansen, for his initiative in getting this to the hearing stage.

This has been, indeed, a long-enduring process, very largely at the local level. That is, we have tried to hear everybody. We had, at the beginning, many voices of doubt or uncertainty raised and in the many meetings that we have all been involved in, we have tried to resolve those or accommodate them and work out compromises that were reasonable. That's what this business is all about.

As a result of that, you find here today, literally, one voice that is Republican and Democrat, liberal and conservative, Wyoming and non-Wyoming, because of the very large interest in this question. I think that that is a tribute to the thoroughness of the efforts that were engineered and initiated locally in an attempt to arrive at some reasonable understanding here.

I think this is reflected in the delegation that is present here to carry the case to you this morning.

Ed Herschler is here. He is one of our distinguished members of the legislature in our State. He has been a leader in many of the civic activities in behalf of the State of Wyoming.

Tom Johnson, a local manager of the Mountain Bell Telephone Co., and President of the Kemmerer Boosters. Wally Ulrich; Wally's parents were, for many years, deeply concerned in this and he is carrying on the torch.

They illustrate the spread and the scope. I tried to keep them on as high a level as possible; I didn't want to incriminate Ed Herschler as a former student of mine, so he will have to speak for himself in that regard.

Senator BIBLE. We will make an allowance for that.

You can clean up the record any way you want.

Senator McGEE. I think the chairman will probably find that it will be a little more refreshing to leave it as is, than to have the rigid statements that are formally prepared. I have one here.

Senator BIBLE. Which we have already incorporated into the record.

Senator McGEE. It's in the record and I am not going to read it. But I did want to express the unanimity of opinion, all sectors, in the State that this is long overdue and we have finally arrived at what can be fairly called a consensus in behalf of this proposal.

We would urge favorable consideration by the committee.

Senator BIBLE. How much actual development work has been done on this? Or will some of your archaeologists testify on that?

Senator McGEE. There will be others who will testify on that Mr. Chairman. I don't want to invade their text.

Senator BIBLE. There is no use in duplicating testimony in that respect.

A few years ago we created a similar type of fossil bed over in the area just out of Colorado Springs. This had some great geological history. I assume this is somewhat in the same nature.

Was this all a part of an inland sea at one time?

Senator McGEE. That's right.

Senator BIBLE. I don't know if it is part of the same sea or not, but there are a lot of fossils there.

Can you locate a lot of these right on the ground today?

Senator MCGEE. They are virtually surface, many of them. In fact, that is part of the problem. Some of them are being raided by well-wishers who would like to have a specimen of fossil fish. That is the reason we think it is important that we preserve this.

Senator BIBLE. Where is the title of this land at the present time? Is it general public domain?

Senator MCGEE. Ask the pros that question.

Senator BIBLE. We can ask them. I am just wondering how much desecration there has been in this area.

Senator MCGEE. There has been some. That is what surfaced the original concern, but you had to be a high specialist or a nut on fishing to be in there in the first place. But because of the sharpness of the fossils, it is said to be, as Senator Hansen mentioned, in the finest preserved state of any area like it.

Senator BIBLE. Does it attract many visitors?

Senator MCGEE. Yes; it attracts a steady stream of visitors now. But, there again, the rock hounds and fossil collectors that know about it, we think that by opening this up in this way we will make it available to many thousands of others. Located as it is between the Flaming Gorge on the one extreme, that the chairman has had great acquaintance with, and Yellowstone and Grand Teton, that it is a natural bridge or way station between the two for visitors coming to the Rock Mountain West.

Senator BIBLE. Very well. Senator Moss.

Senator Moss. Are there any roads in there at all now, or do you just have to pack in?

Senator MCGEE. No; there are trails and trails in there, but this is now being zoned out. Highway No. 30 goes through a portion of it. That is, Highway No. 30 north, which is one of the main arteries to a new interstate.

Senator Moss. It appears on that map that the south boundary is right on a road. Is that 30?

Senator MCGEE. Right. That is Highway No. 30.

Senator Moss. Thank you. I have no further questions.

Senator BIBLE. Senator Hatfield.

Senator HATFIELD. Thank you, Mr. Chairman.

Senator McGee, have you seen the proposed amendments offered by Assistant Secretary of the Interior, Mr. Reed, as concerning the water—

Senator MCGEE. Yes; my staff has those amendments right now.

Senator HATFIELD. I am just wondering about two things. Basically, they have proposed that your 30-year period relating to water and grazing activity be reduced to 10 years. If that is acceptable to you and your constituents and, secondly, I wanted to ask you about the over 400 and some mining claims that exist in this area. As to the amounts of money that are proposed to buy these or to eliminate these, there are problems because I can't conceive that mining activity in this area would be compatible to the objectives of this bill.

Senator MCGEE. That's right.

Your first question, Senator Hatfield, we feel that the 30-year period is not unreasonable in this instance because of the nature of the area. It would do no violence to the principle suggested by tradition, the 10-year period that the Assistant Secretary is referring to. Because of the peculiar quality of this proposed area, due to the fossils and all,

it would not do violence to the monument to extend these grazing areas for 30 years.

Now, I might add that this has been one of the sticklers and the difficulties we have had in resolving it all. If we can hold this 30-year proposal in this very limited area, a bit over 8,000, we will come closer to maintaining the unanimity that we think is important here.

Senator HATFIELD. If the committee, by some chance, as I interpret your comments, saw fit to maintain the precedent set by the 1964 legislation which established the canyon lands as National Parks in Utah for 10 years, you would have problems and difficulties arising then?

Senator MCGEE. Yes. In terms of the give and take that has gone into this, it would be something of a problem of course.

Senator HATFIELD. What about the 417 or so—

Senator MCGEE. Bob advises me on this one that we did not get this one until this morning's mail. So I would just as soon not respond to that until we have had a chance to look at that. Cliff might have had a chance to look at it.

Senator HANSEN. Senator McGee, if you would permit an interruption, I would like to point out that the action of the Senate committee, I think, was with respect to the length of the grazing permits on canyon lands and capitol reef, both. We endorsed a 25-year proposal, as I remember.

I think it was the House side that put the 10-year limitation on and when those pieces of legislation went to Congress, the House prevailed.

I would point out, in this instance, our colleague on the House side, Mr. Roncalio, has a bill in which, I believe, proposes that the grazing period of time continue for 30 years.

So to that extent, it might be noted that, insofar as the precedent goes, the Senate did not set the 10-year precedent. I should also point out, appropriately I think at this point, that, with respect to the establishment of the extended Grand Teton National Park, there were exceptions made then that, I think, are rather significant.

As the Director knows, those grazing privileges which were involved in the expansion of the park to include areas earlier grazed, had the grazing privilege continued for 25 years from the date of the enactment of the bill, as I recall, provided the base lands continued in ownership and were attached to the grazing permit. By that, I mean that a landowner and a permittee could transfer his base land and his grazing permit and the permit would continue for 25 years from the enactment of the bill.

In addition to that, if the base lands are owned by members of the immediate family of him who then held a permit, they will continue beyond the 25 years for the lifetime of any member—any immediate member of the family, as I recall.

I think that is essentially the situation. Thank you for letting me interrupt.

Senator MCGEE. Yes. I would try to state this in another way in regard to the difference on that first bill. I think we would have to go back and negotiate a bit if the committee thought that the 10-year interval would have to be abided by. We see no dangerous precedent setting in this case because of the configuration of the land in this area and the uses to which it would still be put.

As a matter of fact, grazing might even enhance it as an attraction.

On the mining claims, I would like, Mr. Chairman, if I might have the privilege of submitting a statement on Senator Hatfield's question as soon as I have a chance to look at that. This came in this morning and I was not aware of it.

Senator BIBLE. Certainly. The record will be kept open for, I imagine, 10 days.

(Material referred to, as submitted by National Park Service follows:)

PROCEDURE RELATING TO EXAMINATION OF UPDATED MINING CLAIMS, PROPOSED  
FOSSIL BUTTE NATIONAL MONUMENT, WYO.

The Fossil Butte area proposed for inclusion in the National Park System is encumbered with approximately 417 unpatented mining claims. These claims were located over a possible deposit of oil shale. The claim locations predate the passage of the Mineral Leasing Act in 1920 which removed oil, gas, oil shale, and some other mineral products from location under the 1872 Mining Law. The following procedures are proposed to eliminate these outstanding interests:

1. A field examination of the mining claims will be made by a National Park Service mining engineer. His report will recommend either that the claim, or any number of them, is a valid subsisting mining claim, or that a contest be issued based upon the engineer's opinion that the land is non-mineral in character, and that there has been no discovery of mineral of sufficient quality and quantity to be presently valuable in an economic sense for mining purposes. A further charge against these claims could be failure to substantially comply with the requirement of an annual expenditure of \$100 in labor or improvements on any individual mining claim which may render that claim subject to cancellation by the Government.

2. Assuming that contests will be recommended, as anticipated in the Fossil Butte proposal, then the mining engineer's report will be forwarded to the Field Solicitor who will prepare the contest proceedings which will be sent to the Bureau of Land Management's State Land Office for filing. That office will secure service on the mining claim locators. After service, by publication, if necessary, and the mining claim locators DO NOT answer within the specified 30 days, then the Land Office will issue a Null and Void Decision and the case will be closed as to this class of claims. When a contestee makes an answer within the 30-day period, the Land Office will send the case to the appropriate Hearings Examiner of the Office of Hearings and Appeals. A hearing date will then be set by the examiner where testimony will be taken of the witnesses. The decision of the Hearing Examiner is subject to appeal, and after exhausting all administrative procedures, the matter may be raised to the U.S. District Court.

Senator HATFIELD. I appreciate the Senators comments and I want to assure Senator McGee and Senator Hansen, both, that I am not wedded to any particular precedent here. But I do think that when a certain criteria is established in a previous case, it constitutes a precedent and there should be some supporting data or evidence when we digress from that precedent. Consequently, I only raised the question because it would be very helpful to me, at least, as a member of this committee to make judgments on whether we should except this particular program from the precedent that has been set in previous cases.

I certainly am open to that possibility, but I just wanted to make sure that we had all the data with which to make these judgments because, even if the Senate should decide to go with the 30 years and we find ourselves in the same situation as before where the House insisted on 10 and we yielded to that, we are parties to the establishment of that precedent you set.

Senator McGEE. Senator Hansen and I will make sure that all of the relevant material on that is in the record. Likewise, we will continue to be on the ready in the event that it becomes important to negotiate any other modifications that the committee deems necessary.

Senator HATFIELD. I have one final question in a general policy area.

This amount of money that is being suggested here for the validation of these mining claims, would imply that if there is a valid mining claim, we have to deal with that in some other way.

Would it be your opinion that mining of any kind would be incompatible within this area?

Senator McGEE. I would think so, yes. I think it would be incompatible.

Senator HATFIELD. Thank you.

Senator McGEE. You ought to ask Cliff his view on that point.

The question was just put to me, Cliff, on whether it was thought that mining of any sort in the area, once it was set up, would be incompatible. My judgment is that it would be. One of the reasons for setting it up is—

Senator HANSEN. That would be my feeling, too, Gale. I think that the basic law by which the service was established certainly would preclude mining in my judgment.

Senator HATFIELD. Senator Hansen, I only raise that question again because, referring to Assistant Secretary Reed's comments, where a proposed \$378,000 would be needed to determine the validity to 417 mining claims within the proposed monument.

If I understand this right, the implication is that if it is a valid mining claim, we would have to deal with it in some other way because it would not be compatible with the objectives of this bill, but would continue to be held by some party and possibly executed at some later date.

Is that a correct understanding?

Senator HANSEN. I am probably going to have to call on the director for some guidance in this respect. I do recognize that if a valid existing claim is present—

Senator BIBLE. A valid existing mining claim, in existence and valid, then you would have to pay for it.

Senator HANSEN. That would be my guess.

Senator BIBLE. If you can't negotiate it, then you have to go to court.

Senator HATFIELD. Why I raise that question, and it is not just in a theoretical sense, is that Senator Moss, in chairing his subcommittee, is very much aware of a problem we are facing in Oregon with the wilderness area where there has been a valid mining claim and a proposal to go in there and mine pumice, which really would be a great violation to the whole character of the area. I would like to make sure that, somehow, we don't get caught in that situation and I am only doing this in an effort to forestall that happening to Wyoming, as Senator Moss knows the situation in Oregon.

I now have introduced legislation to help buy off that mining claim, but I am not so sure we are going to be able to do that either.

Senator McGEE. I was just counseling with Ed Herschler here and he knows of no mining claims that have been pursued there at all. Even though there was a flurry in locating oil and, more recently, in

the uranium splurge that spread through the area, there has been no follow-up on any one of them up to this time.

Senator BIBLE. I would assume that the Director will develop the nature of these mining claims, whether they are working claims or whether they are just located claims, whether they are oil or gas, gold or uranium, or whatever.

Senator McGEE. We know of no working claims.

Senator BIBLE. Yes, that is my understanding.

On the grazing, I think it is interesting to note that you may have 20 permits for cattle use of UMA 414 and sheep use in 515. So I can't see that that particular problem causes you any great amount of difficulty in this bill.

You are our expert in these areas and we will defer to you.

Senator HANSEN. I am glad we recognize an expert back here; I am not so regarded at home.

Senator BIBLE. I wouldn't say that. I have heard otherwise.

I have no further questions, Senator McGee. Any questions?

Thank you very much.

Senator McGEE. Thank you, Mr. Chairman.

(The prepared statement of Senator McGee follows:)

STATEMENT OF HON. GALE MCGEE, A U.S. SENATOR FROM  
THE STATE OF WYOMING

Mr. Chairman, first I want to take this opportunity to thank the committee for setting time aside this morning for the purpose of considering his bill to establish the Fossil Butte National Monument in Southwest Wyoming. I also want to thank my colleague, Senator Hansen, as a member of your Committee, for the efforts which he has made toward obtaining these hearings and the assistance which he has given in our efforts to resolve some of the problems which have been encountered since we first introduced this legislation early in the 90th Congress.

At this time I would like to welcome our Wyoming delegation, who, as civic leaders, will testify this morning in support of the Fossil Butte National Monument. They are: Mr. Ed Herschler, a practicing attorney, rancher, and a former distinguished member of the Wyoming State Legislature. He is accompanied by a former Mayor of the City of Kemmerer, and a businessman in that community, Mr. Richard D. Fagnant; and Mr. Thomas Johnson, local manager of Mountain Bell Telephone Company, and President of the Kemmerer Boosters, a civic club which has been active over the years in supporting the establishment of the Fossil Butte National Monument near Kemmerer, Wyoming. Mr. Wally Ulrich, from Diamondville, Wyoming, will also testify. He and his parents, Mr. and Mrs. Carl J. Ulrich, for many years have shared a great concern and the desire to conserve this most unique area for scientific, educational, recreational, and artistic purposes for future generations. These people have all traveled a long distance to be here this morning, and we are most grateful to have the benefit of their testimony.

Mr. Chairman, the proposed area for the Fossil Butte National Monument is located a short distance west of Kemmerer, Wyoming, on U.S. Highway No. 30 north, a main artery of Interstate Highway No. 80, 30 miles to the south. As you know, Mr. Chairman, Wyoming is a vacation wonderland. Millions of tourists from all parts of the Nation visit western Wyoming every year. Fossil Butte is located on crossroads between Grand Teton National Park and Yellowstone National Park to the north, and Flaming Gorge National Recreation Area, which is located only 135 miles to the south.

Excellent highways and other modes of transportation make this area readily accessible from all directions. The investment which we propose to make in this area will therefore be repaid many times by providing the general public with an added attraction and recreational facilities, not to mention the preservation of a unique scientific and educational treasure.

Mr. Chairman, it is difficult in words to describe the beauty of this area and the geological formations which have evolved from a metamorphosis of the

earth's surface over a period of 500 million years. No other site in America has a more abundant supply of fossil fish deposits. As only one example of the fossilized marine life, Eocene fish fossils at Fossil Butte are believed to be the best and most significant in the United States and probably in the world. It is truly a paleontologist's paradise and has attracted the attention of the academic community and laymen alike for many years.

Since introducing this bill 5 years ago, I have received letters and expressions of support from as far away as Slippery Rock State College in Pennsylvania and as nearby as the University of Wyoming. There is understandably broad support for the conservation of the natural, historical, and recreational heritage which the Fossil Butte area contains. On the other hand, there is evidence of willful destruction and serious depletion of the public treasures to be found there. It is, therefore, imperative, I believe, that Congress act now to establish the Fossil Butte National Monument and preserve in perpetuity this national asset.

The proposed boundary of the Fossil Butte National Monument encompasses an area of 8,180 acres. The bill authorizes the Secretary of the Interior to adjust the boundary from time to time should that become necessary and advisable. The total acreage, however, is limited by the terms of the bill to no more than 8,200 acres. Ninety-six percent of this land is already in Federal ownership; 380 acres are privately owned; and the remainder is owned by the State of Wyoming. The Secretary is authorized to acquire the State lands by donation and to purchase, exchange, or receive by donation the private lands and interests therein.

Mr. Chairman, I want to draw special attention to the southern boundary of the proposed area. Initially, the recommended boundary was established along the right-of-way of U.S. Highway No. 30 north. It is my understanding that a new section of this highway is either proposed or under construction several miles to the south of the existing highway. This new section of highway will pass through private lands owned by the Lewis Ranch Co. The owners of this ranch have expressed concern to me that the boundary of the national monument may therefore someday be moved south as far as the new section of highway and, as a result, encompass part of their ranch lands and ranch house. Their concern is certainly understandable, and I have assured the owners, Mrs. Gertrude Lewis and her daughter, Mrs. Betty Des Rosiers, that it is not the intent of the sponsors of this legislation to so extend the southern boundary of the proposed area. It should, therefore, be made abundantly clear that the southern boundary of the Fossil Butte National Monument shall not be extended beyond the old section of U.S. Highway No. 30 north which now is situated north of the Union Pacific Railroad right-of-way, as set forth in our original proposal.

Mr. Chairman, the Federal lands within the monument area currently provide grazing for cattle and sheep, and there are in effect and applicable to these lands approximately twenty grazing permits renewable annually. When this legislation was initially proposed, we encountered substantial opposition from those ranchers who held the grazing permits. They feared the loss of these important grazing privileges. Consequently, the many people who share a common interest in the Fossil Butte National Monument area, including members of the Kemmerer Boosters Club, the Western Wyoming Resource Conservation and Development Project, individual ranchers, and civic leaders, worked diligently to resolve this problem. As a result of these efforts, and with the unanimous approval of the entire Wyoming congressional delegation, section 4(a) of the bill was amended to provide for a 30-year period after the enactment of this bill during which the Secretary of the Interior shall permit grazing and stock watering within the monument area. Furthermore, this use may be continued after the 30-year period in instances where grazing and stock watering will not be in conflict with public use and administration of the area. The provisions of section 4(a) represent a reasonable compromise of divergent points of view and have my complete support. Typically in the past, legislation has limited to ten years the period during which the Secretary of the Interior could exercise control of grazing and stock watering in conjunction with his administration and management of areas set aside as national monuments or national parks. I believe, however, that this area is not typical in this respect and the uniqueness of the area justifies the 30-year provision contained in section 4(a). In fact, the public interest and the attractions of the area will be enhanced by cattle and sheep grazing in the area under proper management and control by the Secretary. Therefore, I sincerely urge the committee to adopt the provisions contained in section 4(a). Such action will certainly improve the chances of early congressional approval.

This proposal to establish the Fossil Butte National Monument has been endorsed by the Advisory Board on National Parks, Historic Sites, Buildings and Monuments on three different occasions since 1961. The National Park Service has made a thorough study of the proposal and the land area to be included, and, as a result of this study, the Secretary of the Interior has approved our proposal. Most importantly, it has broad and virtually unanimous endorsement among the people of Southwest Wyoming and the State government. Therefore, I respectfully request your committee, Mr. Chairman, to favorably report this bill to the floor of the Senate.

Again, I want to express my appreciation to the chairman and members of the Committee on Interior and Insular Affairs for the consideration which you have given this legislation and for the time which you have made available to us this morning.

Senator BIBLE. Our next witness will be the Director of the Parks Service, Mr. Hartzog.

Mr. HARTZOG. Thank you very much, Mr. Chairman. With your permission, I would like to ask Mr. Kit Wing, who is a planner in our legislative support division to join me at the witness table.

Senator BIBLE. Yes, indeed.

#### STATEMENT OF GEORGE B. HARTZOG, JR., DIRECTOR, NATIONAL PARK SERVICE

Mr. HARTZOG. Mr. Chairman and members of the subcommittee, it is a great privilege and pleasure to appear before you to testify in favor of S. 141, a bill to establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes.

You have heard the distinguished Senators from Wyoming summarize the significance of this area, and with your permission I would like to request that my statement be incorporated in full in the record.

Senator BIBLE. No objection.

Mr. HARTZOG. I would deal with the description of this area and what we propose to do with it.

The bill would authorize an area of 8,200 acres, the configuration of which is outlined in red on this landownership map, the yellow in there being lands in the public domain administered by the Bureau of Land Management, the land in blue being in private ownership, and the land in green being land owned by the State of Wyoming.

The area is about 10 miles from Kemmerer and the development proposal for this area would involve an access road off of Highway No. 30, which borders the area on the south, into a park headquarters entrance station, and a loop road that would permit the visitor access into the area to an overlook at this point. An interpretative shelter here, and an exhibit building in place at this point.

The department does propose four amendments to the legislation. Those amendments appear in section 3, at line 17, to provide for the donation of the lands owned by the State of Wyoming; at section 4, line 24, to insert the words "continuation of existing uses of Federal lands."

Continuing in that same section on page 3, at line 3, the change of 30 years to 10 years for the phaseout of grazing and the elimination of the proviso for extension beyond that period.

Also, we would propose the escalator clause, as we previously recommend on all of this legislation in connection with the development costs.

The total land acquisition cost is estimated at \$378,000, a major

portion of which is to determine the validity of 417 mining claims. Development claims estimated at \$4,469,000 and annual operating costs at \$195,400.

The Advisory Board has considered this area on three occasions and has approved it and recommended it.

That is a summary of my statement. I will be pleased to answer any questions that you or the members of the committee might have, Mr. Chairman.

Thank you.

Senator BIBLE. Now, tell us about the nature of these mining claims. What kind of claims are they?

Mr. HARTZOG. I am advised that most of them relate to oil shale and our preliminary information is that probably a contest against them will be successful. None of them are now active or being worked.

Senator BIBLE. Has this area that you have pointed to ever had any mineral production of any kind whatever?

Mr. HARTZOG. I know of none, no, sir.

Senator BIBLE. Is there any problem about the State of Wyoming donating their land to the Federal Government?

Mr. HARTZOG. I suspect there is because the historic position of Wyoming, as well as Utah and a number of the other Western States, has been that they will transfer this land only by exchange.

Senator BIBLE. I should think this is primarily for the benefit of Wyoming, and I should think as a condition precedent to establishing this, they should get some legislation through their legislature.

Are you in session right now, or not?

Mr. HARTZOG. No.

Senator BIBLE. But there should be some type of provision that they make a donation of this, the primary recipient and the primary beneficiary of this Fossil Butte National Monument, as I see it, is the State of Wyoming. It is going to attract tourists and tourists presumably spend a few dollars.

We have found in most of the States where we have taken this position, even though they have been dragging their feet for a while, they ultimately come along and make the donation to the Federal Government.

Mr. HARTZOG. I would suggest for your consideration, Mr. Chairman, that the scientific values are national and international in their significance.

While it may be that the State of Wyoming is going to benefit economically from the tourist expenditures there, we estimate that after the end of the 5th year the visitation would probably amount to 30,700 visitors. The great value is to preserve a part of our national inheritance there, which is of tremendous significance.

Senator BIBLE. I should think the State of Wyoming would be interested in that, too.

Senator HANSEN. If I could be permitted an interruption, Mr. Chairman, let me say that I am pleased that the Director made the almost precise response that occurred to me.

Actually, while there is no doubt at all that national recognition for this most unique, scientific area will be to the monetary benefit of the community of Kemmerer and southwestern Wyoming generally, I do think that the overriding interest and great value will be reflected in

Fossil Butte's scientific availability and focusing, as the Director has so aptly put it.

Now, I don't mean to minimize for one moment what it will mean to Kemmerer, but I would point out that we might run into some other problems if we were to suggest that the State of Wyoming deed these lands to the Park Service.

I would just point out, parenthetically, that there are still remaining some State-owned lands, are there not, within Grand Teton National Park. Is not that right?

MR. HARTZOG. Yes.

Senator HANSEN. This park is wholly contained within Teton County, more than 97 percent of Teton County is already within Federal ownership. There is, in addition to that, some other State-owned lands and, within Grand Teton National Park. I think there might be 1,400 acres of land, that does have a rather high value. There have been negotiations in progress, I believe, that look to an exchange. We are trying to approach it on an actual value basis, rather than an acre-for-acre basis.

I am sure the Federal Government would be delighted to trade us some lands in the Red Desert, or other places, acre-for-acre, for that which is contained in Jackson Hole. But because of our tax situation in Teton County and because of the relative insignificant amount of taxable property there, I can anticipate some difficulties.

I simply say this in support of the observation you made, Mr. Hartzog.

Senator BIBLE. What is the value of this land?

Senator HANSEN. I am not competent to answer that.

MR. HARTZOG. We think it has a pretty minimal value.

Senator BIBLE. A dollar an acre?

Senator HANSEN. The State can't sell any land for less than \$10 an acre, according to an old statute. Isn't that right?

Senator MOSS. Well, the statement was already made that the mineral claims there are based primarily on oil shale. Now, there is a vast amount of oil shale land in Wyoming and I would favor the exchange principle in that the Federal Government has lands that probably are very similar to this on which an exchange could be made out in the BLM area, and I know a lot of Wyoming is federally owned.

In the Utah situation we had exchange provisions because 70 percent of our whole State area is federally owned. Naturally, we try to get into State ownership and private ownership as much as we can for taxation purposes.

I don't think it would be unreasonable here. There is a section, probably, and another half or a quarter of a section, about one and a quarter sections that are State-owned lands and it shouldn't be any great problem for Wyoming to make a selection somewhere else, perhaps in the same proximity, of a section outside which would be desirable for them to have State-owned land.

Although I recognize that in some instances we have had States donate lands simply because they wanted to attract the park, I think the problem is a little bit different out in the West where so much of our land is federally owned.

Senator BIBLE. That might be true, but then I don't know what the percentage is in Wyoming. The percentage in our State is 87 percent and I think yours is about 83 or 84 percent.

Senator HANSEN. No; we are just a little over 49 percent federally owned.

Senator MOSS. That is still half.

Senator HANSEN. Yes. We were a little more than that but there has been a slight change.

I would think this. If we could work it out so as to incorporate the exchange idea in the bill, it would certainly assure that we could take conclusive action now to establish this Fossil Butte National Monument, which I think is most important.

Of course, it could be established now; I retract that somewhat. But I would hope that we might incorporate the idea of an exchange. It really isn't a significant amount and it just occurs to me that it would be a far more acceptable way of proceeding than to predicate the Federal ownership on the basis of a gift from the State of Wyoming.

Senator BIBLE. I think that is a departure from a good many of these other parks that we have had, but I will take a close look at it. There might be a distinguishable area.

I always thought that the State of Utah donated it. I didn't realize we were exchanging. I must have fallen asleep that day.

Senator HANSEN. It is very seldom that you are asleep, Mr. Chairman.

Senator BIBLE. How many acres are involved here? What is the State ownership?

Mr. HARTZOG. 760 I think it is. I'll get it in just a moment; 760 in State ownership, 380 in private ownership, 7,038 in Federal ownership.

Senator BIBLE. How about the mining claims again?

Mr. HARTZOG. 417 of them.

Senator BIBLE. Yes; and they are oil shale?

Mr. HARTZOG. The majority of them, Mr. Chairman. We don't have a specific breakdown among the various categories, but the majority of them are oil shale.

Senator BIBLE. Your statement is that none of them are operating.

Mr. HARTZOG. None of them are operating and we think all of them will be washed out under challenge.

Senator BIBLE. And this area has never produced anything in the way of mineral wealth, either oil, gas—

Mr. HARTZOG. We know of nothing, no, sir.

Senator BIBLE. Your cost of development seems very high. Why is it that high?

Mr. HARTZOG. The majority of that cost is in connection with providing access. There is a very rough, 4-wheel trail through the area now and this, of course, is not acceptable for visitor use. There are \$2,500,060 of that for road and trail work, which only \$253,000 is for trails. So about two and a quarter millions are for visitors access road.

Senator BIBLE. Will this serve anybody except those going into the Fossil Butte Monument?

Mr. HARTZOG. No, sir; it will not. It will be a spur off U.S. No. 30.

Senator BIBLE. Then your development map can be filed for the purposes of the record.

Mr. HARTZOG. Thank you, sir.

Senator BIBLE. What type of road will you construct within the monument?

Mr. HARTZOG. We propose it would be a fairly low-grade road. As a matter of fact, Mr. Chairman, before we actually build that road, under the requirements of the Environmental Policy Act, we will have to study alternatives to it and it may actually be that here would be an alternative visitor access rather than just simply a road.

Senator BIBLE. What is the total length of the road?

Mr. HARTZOG. It will be about 13 miles.

Senator BIBLE. It would be a loop road.

Mr. HARTZOG. Yes.

Senator BIBLE. Senator Moss.

Senator Moss. What is the private land? Is it being farmed now?

Mr. HARTZOG. Grazing. There are 1,000 animal units of grazing in this area.

Senator Moss. I see.

I don't suppose you would know, but I assume it would be acquired by homestead, if it has been taken from the public domain, anyway.

Mr. HARTZOG. I would imagine that would be the way it was initially disposed of, yes, sir.

There are 17 grazing permittees who operate through this area, no one of which has an involvement of more than 5 to 10 percent of his total operation in this area, all of which can be phased out, in our judgment, in the 10-year period without any economical detriment to the permittees.

This is not an assigned acreage; it is a floating acreage, so there are opportunities of working out other acreage with BLM.

Senator Moss. I think the last bill we had on grazing, at least one that involved the areas in Utah, provided that each permittee could have one additional extension of his permit so that some would be as short as 9 or 11 years, and some could go further.

Is that preferable than to just put a flat 10 year—

Mr. HARTZOG. As a matter of fact, Senator, in Utah, when we got into it, it was developed that all of them had a 1-year permit. We checked this year and all of them do have a 1-year permit.

So what actually happened is that the House-passed bill and the bill that was accepted in conference, provided for the existing term plus one renewal, which meant that we could have phased out the grazing lands, the canyon lands in 2 years. But that was not in accord with the sense of the report of the conferees. So I made the administrative decision to give them the 10 years that the conferees discussed in that report, even though under the technical, legal interpretation of the statute, we only had to give them a renewal for 1 year. These were all 1-year permits and this is why we recommend the specific term of 10 years to avoid the ambiguity that we got into down in canyon lands.

Senator Moss. There obviously are no patented mining claims if there hasn't been any production so it would mostly be a challenge to a claim that had been filed and left dormant for such a period of time that it could be eliminated; is that your understanding?

Mr. HARTZOG. That is the result of our inquiries into it; yes, sir.

Senator Moss. And you say there is just a very rough, 4-wheel trail on there now. The people that go in there have to be pretty well equipped with a 4-wheel drive or else pack in; is that right?

Mr. HARTZOG. Yes, sir.

Senator Moss. Thank you, that's all.

Senator BIBLE. Senator Hansen.

Senator HANSEN. I don't think I have any further questions. I would just make this observation to the Director.

It has been a difficult thing to try to resolve the many interests in southwestern Wyoming. I commend you for having done a great job, you and your fine crew, in understanding, first of all, and then trying to work out what you feel are fair and equitable arrangements.

I would hope, though, that we can resolve the grazing permit in a different fashion than that which you just now suggested because there are people out there that, while actually the number of animal unit days or months within the area is very insignificant, I am told that in order to get most expeditiously from their base lands to other grazing land areas, this is the way that they must approach those other areas.

With that observation in mind, I will be trying my best to persuade the members of the committee, and I say this to the Director, that a longer period of time is indicated. I think it can be done in a fashion so as not to detract in any permanent way at all from the uniqueness of the area.

I think we all recognize that in the not too distant future in terms of our country that there won't be grazing there, but I would hope that we can recognize and accommodate those persons whose operation now, as I understand, is rather significantly dependent upon access to this area as they move from one park and range to another.

Mr. HARTZOG. On that point, Senator, we have acquiesced in your proposal in recognizing that local need. So this legislation would provide for stock driveways in perpetuity across here. It is simply the generalized grazing throughout the area that we suggest should be phased out in 10 years. We have no intention of closing the stock driveways through here.

Senator HANSEN. I appreciate that. I think that there are witnesses here from the town of Kemmerer and I suspect that when they testify we may be able to elicit information that will clarify my thinking.

Senator BIBLE. Senator Hatfield.

Senator HATFIELD. Mr. Chairman, I am sorry. I had to respond to a telephone call so I didn't get your immediate past comments, but I have two questions, Mr. Hartzog.

One is, whether it is 10 or 30 years, what is the direct impact of grazing within this area? In other words, my question is, what is the relationship of grazing to the establishment of this national monument? What is the possible damage, or why stop it at all?

Mr. HARTZOG. It is a conflict with the visitor use, Senator. When you have visitors throughout this area, and that is what we hope to have, that is what we are designing the area for, we feel that visitor use and livestock use in that confined area are just simply incompatible uses.

Senator HATFIELD. It is a changing of a basic use from one type use to another.

Mr. HARTZOG. Yes, sir.

Senator HATFIELD. The presence of sheep or other animals in that area does not present any problem for the preservation of the fossil, or the character which we want to establish in this national monument; does it?

Mr. HARTZOG. I am not advised of any grazing abuse here at all. It is simply a conflict between visitor use and grazing use.

Senator HATFIELD. And 10 years is the precedent primarily and, from an administrative point of view, this is the basic rationale for reducing the 30 to 10.

Mr. HARTZOG. Well, we defer to the policy that Congress has set in the past on these because we recognize the Congress as a public policy-making authority with respect to these public lands.

We recommend no grazing—that is what we recommended at the time this policy was—

Senator HATFIELD. Your policy would be, at the moment it is established, to eliminate grazing.

Mr. HARTZOG. Yes; because we don't feel that cows and recreational use constitute a recreational experience. It is one thing to have them as part of a farm situation, but it is a different thing when you have them in a confined recreational area.

Senator HATFIELD. The passing through to other areas adjoining this particular monument area would be quite compatible.

Mr. HARTZOG. Yes, sir.

Senator HATFIELD. The second thing is, on the mining claims, give me a brief outline of what happens when you validate a mining claim and the sequence of events that occur.

Mr. HARTZOG. I am not sure and I would like to have the opportunity, if I may, to fill out the record on this. This is a legal process that we go through.

Senator HATFIELD. Is there a money matter involved? When you say \$370,000, is this to buy from those who hold the claim?

Mr. HARTZOG. No, sir; this is administrative expense. We have to reimburse the Bureau of Land Management, who appoint examiners, but prior to that we have to have the mining engineers who go in the field to determine the boundaries, the extent of the claim, the lawyers who assess the requirements of that particular act, and the administrative costs of serving the notice, conducting the hearings and making decisions and taking appeals.

Senator HATFIELD. So, even in this kind of project, as is so often the case in other projects, it is the lawyers who make the money; is that right?

Mr. HARTZOG. And the engineers.

Senator HATFIELD. Let me ask you, if a person has been established as holding a valid mining claim through this process, how do you relieve him of that valid mining claim?

Mr. HARTZOG. There is no way to do it except to buy it or let him go ahead and extract whatever it is. I agree with what the distinguished Senators from Wyoming said—we feel that an extractive mineral operation would be disastrous in this area. We would be back to the Congress for a solution if we find one of them to be valid.

Senator HATFIELD. Well, to buy off those valid mining claims, that comes out of the \$4,469,000, rather than the \$378,000?

Mr. HARTZOG. No; we would be back to you for more money for land acquisition because that would be a land acquisition matter.

Senator HATFIELD. Over and above the \$4.4 million.

Mr. HARTZOG. Over the \$4.4 million and over the \$378,000. You see, the \$4.4 million are development costs only. The mining claim that we would have to buy—

Senator HATFIELD. Mr. Hartzog, it would almost be a matter of odds that out of 417 existing claims, we are going to have a certain percentage of valid mining claims; aren't we?

Mr. HARTZOG. We don't think so, not in the particular circumstances that relate to this area.

Senator HATFIELD. Because of nonuse?

Mr. HARTZOG. And the very nature of the area.

In other words, they just plastered it. It is not as though there were minerals there that they knew about and they were filing on a known resource.

Senator HATFIELD. So, out of 417 claims, you don't anticipate that there will be any valid ones?

Mr. HARTZOG. No, sir; we don't.

Senator HATFIELD. Well, that's a neat trick if you can do it.

Senator BIBLE. It's unusual; I doubt if it is correct.

Mr. HARTZOG. If we don't do it, we will be back to you because we don't have enough money here to buy.

Senator BIBLE. Well, you will be back to us, that's what worries us, I think. If you come back to us, you might have the greatest oil shale deposits in the world here and maybe we are talking about a hundred million dollars. That would be pretty expensive for fossil.

Mr. HARTZOG. Then you have to make a policy decision whether you are going to buy it or let them take it up.

Senator BIBLE. Well, if there is \$100 million in oil shale there, I guess it would be a question of whether we wanted the fish fossils or whether we wanted the oil.

Senator HANSEN. That would be better than having a gambling casino.

Senator BIBLE. Well, even they have problems. Sometimes they can't find their principal owner.

Senator HATFIELD. Mr. Chairman, I don't want to belabor this point, but, very frankly, this thing bothers me.

Just again, to reiterate the experience we have had in our own State, while I am in no position to make judgments on how much money has been expended by the U.S. Pumice Co., but I can tell you this. I imagine their lawyers are going to have a pretty fancy figure before we get into a negotiation position, if we get into one, in order to stop them from taking this pumice.

I am not so sure again that they have any intent of doing it. Maybe they are just trying to establish a certain validity to this claim and trying to get the Government to make a contribution; I don't know.

Senator HANSEN. Would my colleague yield at that point?

I might observe that I have a letter from the then Director of the U.S. Geological Survey, Dr. Pecora, who now, as we know, is the Undersecretary. I would ask that I be given the unanimous consent to include the full letter in the record. Let me read only the first paragraph: "Your letter of January 12, 1971, to Dr. J. D. Love requested information concerning mineral resource potential within the area proposed as the Fossil Butte National Monument, Wyoming.

"Geological research in recent years in that area indicates that the foreseeable potential for economic exploitation of coal, oil, oil shale or other minerals is slight."

I will include the full letter.

(The letter referred to follows:)

U.S. DEPARTMENT OF THE INTERIOR,  
 GEOLOGICAL SURVEY,  
 WASHINGTON, D.C., February 2, 1971.

HON. CLIFFORD P. HANSEN,  
 U.S. Senate, Washington, D.C.

DEAR SENATOR HANSEN: Your letter of January 12, 1971, to Dr. J. D. Love requested information concerning mineral resource potential within the area proposed as the Fossil Butte National Monument, Wyo. Geological research in recent years in that area indicates that the foreseeable potential for economic exploitation of coal, oil, oil shale, or other minerals is slight.

Geologic maps covering the area were made available to the public through open-file release several years ago. A comprehensive report on the rocks exposed at and near the butte, including the strata which contain the fossil fish, was published within the past year. Remaining work is concerned with the geology at depth and with regional relationships.

One borehole has been drilled in exploring for petroleum within the proposed site. The hole, drilled to a depth of 8,000 feet by the Amerada Petroleum Corporation in the SW  $\frac{1}{4}$  SW  $\frac{1}{4}$  sec. 30, T. 22 N., R. 117 W., was dry and abandoned. Although the possibility for hydrocarbons at greater depths is not precluded, data are lacking to suggest their presence. Information from the hole, however, helps support the following conclusions.

Two of the three principal coal-bearing formations (the Frontier and the Adaville) are probably absent at the proposed site; if they are present they are at depths exceeding 16,000 feet. The third formation (Evanston) that has produced coal in the region was drilled by the Amerada test and does not contain coal beds here.

The formation that produces phosphate in southeastern Idaho is present at depths of 2,140, 3,944, 5,652, and also below 13,000 feet. The formation is repeated by numerous faults in the rocks at depth, which diminish the economic potential for exploitation here. The fact that the formation is not exposed at the surface here for possible stripping as in other parts of the region, and the known eastward decrease in phosphate content from parts of Idaho, also reduce the possible value of these strata.

Another formation is known to contain salt within the region, but these beds lie at depths exceeding 15,000 feet in the proposed site, and it is quite doubtful that they could ever be considered a possible source of sodium and potash.

Detailed mapping by the U.S. Geological Survey indicates that only part of the lands previously withdrawn for oil shale (probably about 25 percent of the site) contains the formation with the shale Fossil Butte itself, however, does contain several thin layers of oil shale, parts of which have yielded more than 35 gallons per ton in laboratory tests. The rich layers are only a few feet thick and separated by numerous thicker barren layers (see page 44 of enclosed Professional Paper 635). The deposits in this part of Lincoln County, therefore, are far less likely a potential source of shale oil than the strata farther east, in the Green River Basin of Wyoming, and south, in nearby parts of Colorado and Utah, where far thicker layers of richer oil shale are present.

Please let me know if we may be of further help in this matter.

Sincerely yours,

WILLIAM T. PECORA, *Director*.

Senator HATFIELD. Mr. Chairman, may I just make one last request of Mr. Hartzog. Maybe the rest of the committee does not need this, but would you provide me with a brief on what the exact legal process is that we go through in eliminating mining claims. I am not certain in my own mind that I understand.

Mr. HARTZOG. I will be pleased to do that, sir.

Senator BIBLE. That should be furnished for the record, too. I think that is a valuable contribution.

Senator Moss. Well, just to volunteer part of this, a mining claim can be established by simply locating the corners and making the filing in the county courthouse. But in order to maintain its validity, there must be an amount of development work done on the claim annually. That is where most of these will break down and, perhaps, every one of them because oftentimes people go through an area and just file

blanket claims across it speculatively and then do nothing about it. They just let it sit there 5 or 6 or 10 years. They all become invalid for reason of not having done the development work. That is what BLM will look at to see whether there has been any development work. If not, they will declare them invalid.

Senator HATFIELD. Then no money is exchanged.

Senator MOSS. Yes, that's right. They may have to have a hearing in order to establish that fact, but having established it they then just declare the claim invalid.

Senator HATFIELD. Thank you. Thank you, Mr. Chairman.

Senator BIBLE. Any further questions of the Director?

I have no further questions of you, Mr. Director. I would hope that you would leave some member of your staff here. I understand you have another commitment.

Mr. HARTZOG. I am going to leave Mr. Wing, with your permission, Mr. Chairman. Thank you very much.

Senator BIBLE. Then you are excused unless the other members of the committee have questions of you.

Mr. HARTZOG. Thank you very much.

(The prepared statement of Mr. Hartzog follows:)

--STATEMENT OF GEORGE B. HARTZOG, JR., DIRECTOR, NATIONAL PARK SERVICE

Mr. Chairman, I am happy to have this opportunity to appear before you to testify in favor of S. 141, a bill To establish the Fossil Butte National Monument in the State of Wyoming, and for other purposes.

Fossil Butte, world famous for its fossil fishes, is located about 10 miles west of Kemmerer, Wyoming. Fossils have been collected at this locality for almost a century, and specimens from this site are exhibited in museums throughout the world. Fossil Butte is unquestionably of national significance from a scientific viewpoint, according to paleontologists who have studied it. The site is of major importance because of its unusual concentration of aquatic vertebrate remains. This is even more significant because known locations of fossil fish of any age are relatively rare, and yet at Fossil Butte literally thousands of fish fossils are present.

These fish fossils date from the Paleocene-Eocene epochs, which occurred between 40 and 65 million years ago in the geologic time scale. They represent the evolution and modernization of fresh-water fishes better than those from any other known site in America.

S. 141 would establish the Fossil Butte National Monument to consist of not more than 8,200 acres. Within the boundaries of the area, the Secretary is authorized to acquire lands and interests therein by donation, purchase with donated or appropriated funds, or exchange.

Section 4(a) provides that, for a period of 30 years from enactment, the Secretary permit grazing and stock watering within the area. This use is limited to instances where it will not be in conflict with public use, interpretation, or administration of the national monument. Section 4(b) provides that, upon the termination of the uses authorized in subsection (a), the Secretary may provide for the disposition of water, surplus to the needs of the monument, outside the area for watering stock.

While we believe that the limiting language in section 4(a) provides the Secretary with the control over grazing and stock watering which is requisite to park administration and management, we note that the period of time allowed exceeds that authorized in earlier park legislation. Under the Act, which established Canyonlands National Park in Utah, grazing under then existing Federal grazing permits has been permitted to continue for a period of 10 years. We believe that this precedent is sound, and we know of no reason to depart from it at Fossil Butte. In addition, section 4(a) of the bill is not clear as to whether it is intended to permit new uses on lands that may be acquired for the monument. We believe the bill should only recognize existing uses. We recommend, therefore, that the bill be amended accordingly, as set forth in this Department's report to the committee.

The Federal lands within the monument provide roughly 444 animal-unit-months of cattle grazing and 515 animal-unit-months of sheep grazing use each year. There are in effect and applicable to these lands approximately 20 grazing permits, renewable annually.

The total acquisition cost is \$378,000, the major portion of this being to determine the validity of over 400 existing mining claims in the area. Development costs are estimated at \$4,469,000, with annual operating expenses of \$195,400 anticipated after the fifth year.

Mr. Chairman, the Secretary's Advisory Board on National Parks, Historic Sites, Buildings, and Monuments, first recommended the authorization and establishment of Fossil Butte National Monument in September 1961, again in October 1964, and a third time in October 1965.

This concludes my prepared statement, Mr. Chairman. I shall be pleased to answer any question you may have at this time.

Senator BIBLE. Our next witness is Mr. Wallace L. Ulrich, Environmental Action Committee of Laramie, Wyo.

Senator HANSEN. Mr. Chairman, if I could, I would like to take this occasion to say just a word about the delegation from Wyoming who are here today.

As you have already noted, Mr. Ulrich is a junior at the University of Wyoming. He is president of the University of Wyoming Environmental Action Committee.

His father and mother have done more work in this area than any two persons that I know of. I think, running in third place now, is our present witness.

With Mr. Ulrich from the town of Kemmerer, Wyo., is Tom Johnson. Would you just stand Tom and let the committee recognize you? Mr. Johnson is president of the Kemmerer Boosters Club. He is local manager of the Mountain Bell Telephone Co., in Kemmerer.

Mr. Richard Fagnant, a merchant, former mayor of Kemmerer, former president of the school board, past president of the Kemmerer Boosters Club, member of the Lions Club and the Kemmerer Merchants Association, is here. My good friend Ed Herschler is also here. Ed and I agree on all things except politics and I hope I can continue to persuade the Honorable Ed Herschler that the air is better in Wyoming than it is in Washington so as not to give him any incentive to want to move back here.

Ed is a very distinguished former member of the State legislature. He is a livestock man, a lawyer, and he is also a member of the State Board of Pardons and Paroles.

I am sure these four persons will be able to answer any reasonable question that might be asked of them by the members of the committee. I am pleased indeed that they could attend these hearings.

Just before you do begin, Mr. Ulrich, I would like to ask how it was made possible that you could all be here today. Would someone be good enough to give us a word on that.

Mr. HERSCHLER. Senator Hansen, we have our expenses paid by local contributions. I assume that will take care of our expenses back here and, of course, we are very happy to appear before the committee, sir.

Senator HATFIELD. Mr. Chairman?

Senator BIBLE. Certainly.

Senator HATFIELD. I would like to ask your indulgence to be excused at this point because of another session I have. But I would like to indicate to the good folk from Wyoming that I will carefully study the record of their testimony and the contribution they make on this matter and to assure them that they have an outstanding spokesman

in Senator Hansen, who looks after the affairs of Wyoming on this committee. I look to him for counsel on these matters most frequently and appreciate the opportunity to be a participant in this committee hearing up to this point.

I am sorry, but I must move now to another meeting at 11 o'clock, but I will study the record, Mr. Chairman.

Senator BIBLE. Certainly.

Senator MOSS. Mr. Chairman, Senator McGee accused the people of Utah of going to Wyoming to catch their fish. We have now been furnished with a picture of the fish.

I do welcome our good neighbors from Wyoming and I probably won't be able to stay the whole time either. But I am most interested in this and I am sure we will make a good record here for the committee. Thank you.

Senator BIBLE. Mr. Ulrich, the microphone is yours.

#### STATEMENT OF WALLACE L. ULRICH, ENVIRONMENT ACTION COMMITTEE

Mr. ULRICH. Senator Bible, Senators Moss and Hansen, on behalf of the University of Wyoming, the Environmental Action Committee, my family, and many others in the local area and across the State of Wyoming, I would like to express our full support for the proposed national monument.

As time goes on and pressures build for economic and industrial expenses, it is even more urgent that this rare display of fossil remains be given adequate protection under our National Park System.

Eighty million years ago, a large inland sea, known as the Upper Cretaceous Seaway, occupied a trough in Western North America. This seaway extended from the Gulf of Mexico to Alaska at a width that separated the continent by almost 1,000 miles.

This vast strait was bordered on the east by swampy lowlands while on the west, mountains were forming in what is now Utah. During the regional uplift known as the Laramide Disturbance, the trough along this vast seaway underwent a series of transgressions and regressions by the sea and finally was uplifted somewhat uniformly, creating the Rocky Mountains. Lakes were forming in the basins occupied by the slow massive uplift and mountain building. The lakes were scattered over an area that now covers parts of the present States of Wyoming, Colorado, and Utah. The final disappearance of the lakes was probably brought about by unusual intermittent precipitation and deposition of carbonates along with the deposition of volcanic ash and amorphous materials. In addition, the uplift continued and rejuvenated streams which carried still more sediment out over the lake beds covering the lacustrine, or lake, deposits.

During the some 50 million years following the extinction of the lakes, lithification, consisting of cementation and compaction of these deposits together with weathering and erosion, continued. After the rejuvenated streams had reduced the upland areas they began wearing down through the deposited lake sediments. At present this process is still taking place and slowly exposing the formation.

Within the formation can be found the remains of a unique ancient lake of the intermontane lake system. Due to its great depth, a char-

acteristic the other lakes lacked, this lake has produced the most perfect of fossil specimens in the world and is known for the delicate preservation of all parts of specimens found. Though the fish, animal, insect, bird, and plant fossils are well preserved, preparation of the specimens takes skill, patience, and dedication.

Gentlemen, I have brought along three examples of the specimens that we find. The first example is an unprepared one, completely unprepared, and you can see there is not very much there.

Senator BIBLE. How deep did you have to go to get that?

Mr. ULRICH. This is found in an 18-inch thick layer, that I will discuss a little bit later, that houses most of the fossil features. The fish within here is buried about the same as the others that are shown.

This is a tool that is used in the preparation of these specimens. It is a delicate handwork, just slowly and simply scratching away at the sediment, or the shale, on top of this fish. That is the method of removal.

This is one that is partially prepared. It has had a portion taken away and you can see the natural dark coloration of the fish that makes it so famous, the delicate part preservation. This is what the area is so famous for, all parts preserved. You can even count the scales and tell how old this fish is.

If you will look on the side, you will see, as if paper deposits, many, many layers. This piece of rock represents almost 1,000 years of time, layered semiannually. So in this layer of rock, we can almost tell day-by-day what happened at the lake.

Senator BIBLE. How old is that fish?

Mr. ULRICH. This one is about 55 million years old.

Senator BIBLE. I'll take your word for it.

Mr. ULRICH. These were freshwater lakes and were created by an unusual north-south syncline with mountainous barriers to the north and south. Some of these mountains are still in evidence. Its size is estimated to have been 15 miles wide and 60 miles long. At times it dwindled to only 10 miles wide and 30 miles long.

The record of the lake as exposed today is near 300-feet thick, and is composed mainly of calcareous shale. Although fossil specimens can be found throughout the formation, most of the collecting is done in an 18-inch thick unit of shale. The unit contains approximately 50,000 microscopic layers which represent 25,000 of the 5-million year span of the ancient lake.

The proposed Fossil Butte National Monument is situated in the center portion of the ancient lake. Within its boundaries can be found the entire sequences of environment alteration of early and middle Eocene times. Fifteen million years of precise records can be found at this locale.

The waxing slope and the very upper regions of the free face of the Butte has been designated as the upper member of the Green River Formation. It typically weathers out bluish white. Lens of calcareous shale, siltstone and siliceous limestone, laminated limestone, and algal limestone characterize the member. These are most unusual in a freshwater lake surface.

Most of the free face or cliff is the lower member of the formation, which is composed of buff laminated limestone and marlstone, brown oil shale, and grey siltstone. The fish bearing "eighteen inch unit." The

Green River Formation represents ancient freshwater lake environments similar to our Gulf Coast States at present.

Beneath this formation is the main body of the Wasatch Formation. This formation is characteristically composed of red, maroon, and grey variegated mudstone. Fine to coarse, brown, yellow, and grey sandstone with lens of conglomerates and mudstones are also found within this formation. It is within this formation that we find the earliest ancestor to our modern-day horse, a 2-foot high critter called *Hyracotherium*. The origin of most other mammals including man's earliest mammalian form can be found in these deposits. A vast and interlocking environment with many unusual phenomenon can be found in the Fossil Butte.

The proposed monument will protect and preserve the world's most perfect record of time and ancient environments. Within sight of the proposed monument is the continent's only major east-west mountain range, the toughest stretch of the Oregon trail, and countless historical and cultural aspects of America's thrust westward.

Where once temperate lakes were numerous, now rests a unique record high in Wyoming's Rocky Mountains. We men must learn to constructively utilize the knowledge and mysteries it possesses. We, as creatures with the capacity to destruct, should preserve and wisely use this secluded and unequaled area for the education and recreation of our cultures, without destroying the record of the past nor the ecology of the present and future.

Senator BIBLE. That is a very, very fine statement.

I wish for the record that you would qualify yourself in this area. What are your qualifications?

Mr. ULRICH. I think my parents found me on the Fossil Butte although I am not sure of that.

Senator BIBLE. Yes; but have you studied this? Are you a graduate of—

Mr. ULRICH. Yes; it is my major in college and I have worked with it all my life.

Senator BIBLE. That's what I wanted to get for the record. The mere fact that you were born there I don't think makes you an expert. But you have studied this and this is your major. What is that, in archaeology?

Mr. ULRICH. No, paleontology.

Senator BIBLE. It is in the area of paleontology and that is what you are studying. Where are you studying?

Mr. ULRICH. At the University of Wyoming.

Senator BIBLE. How far along are you as a student?

Mr. ULRICH. As a junior.

Senator BIBLE. Then you will get a degree in paleontology when you graduate. Very good. I have no further questions of you. Senator Hansen?

Senator HANSEN. I don't think I have any questions. I wish I were intelligent enough to ask some complicated scientific questions. That I cannot do.

I must say that what Wally and his parents have done there, I think, is to focus attention on the great scientific significance of this area. I just want to compliment you for your continuing interest, for your presence here today, and for your leadership at the University of Wyoming. Wally, we are mighty proud of you.

Senator BIBLE. Thank you very much.

Our next witness is Mr. Paul Westedt, director of the Wyoming Recreation Commission.

He is not here. His statement has been made a part of the record.

Now we have a panel as I understand it. Mr. Richard Fagnant, Mr. Ed Herschler, and Mr. Thomas Johnson. I understand that you are going to appear as a panel.

Mr. HERSCHLER. Yes; Mr. Chairman.

Senator BIBLE. Why don't you approach and make yourselves comfortable.

#### STATEMENT OF ED HERSCHLER, RICHARD FAGNANT, AND THOMAS JOHNSON

Mr. HERSCHLER. Mr. Chairman and members of the subcommittee, three of us are here today to present testimony in regard to the Fossil Butte National Monument as proposed in Senate bill 141, and introduced by Senator McGee and Senator Hansen. As you probably know, a similar bill has been introduced by Congressman Roncalio in the House of Representatives.

On my immediate left is Mr. Thomas Johnson, and on my immediate right is Mr. Richard Fagnant. I think we have all been introduced by Senator Hansen.

Senator BIBLE. Yes; you have.

Mr. HERSCHLER. Since none of us are geologists, archaeologists, or paleontologists, we would not presume or represent to you that we could intelligently describe to you the geological phenomenon that exists within the boundaries of this proposed national monument. However, we are certainly aware of the fossilized marine and plant life that can be found in the area, and we, along with overwhelming majority of the citizens of our community, are deeply disturbed by the exploitation of the land and environment by commercial "Fishermen" and others who are only interested in destroying this great area for their own commercial or personal gain. With the passage and approval of this legislation, and the creation of the monument, a significant contribution would be made for the preservation of this beautiful scenic area and the geological wonders that can be found therein for all future generations.

Senator BIBLE. Do you have any type of State laws that protect this area from desecration?

Mr. HERSCHLER. We have some rules and regulations that have been promulgated by the State Land Commission, Mr. Chairman, with regard to leasing. But so far as private land is concerned, there are none I think, Mr. Chairman.

On Federal lands, of course, we do have rules and regulations that have been promulgated. The State has been quite careful in these matters and Mr. and Mrs. Ulrich, of course, have a permit to the south of this particular area on a State lease. I don't think that the State would grant them a permit unless they were qualified.

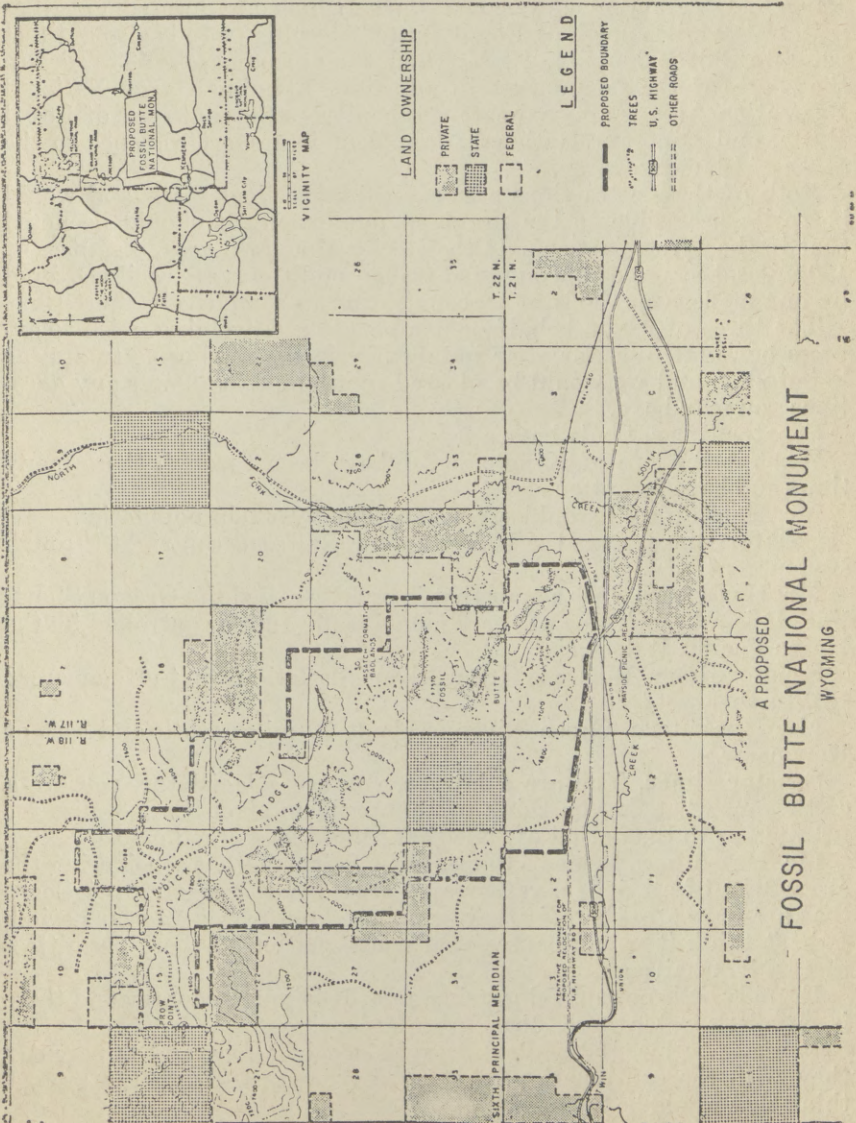
Senator BIBLE. Very well.

Mr. HERSCHLER. When this monument was first proposed several years ago, the area to be included within the boundaries of either a park or monument consisted of more than 30,000 acres. Because of the

very size of such an area, considerable opposition was generated by the livestock interests, who could foresee a great reduction of their grazing privileges for both their sheep and cattle.

However, many meetings have been held between the varied interests in the community, and inasmuch as it has been apparently determined that 8,180 acres of land would be ample for such monument, the opposition to its creation has largely subsided.

As you will note from the map that we have attached as an exhibit to our presentation, there is only 5 percent of the area that is owned privately, approximately 9 percent is State land, and the remaining 86 percent is Federal land administered by the Bureau of Land Management.



The monument would be located approximately 10 miles west of Kemmerer in Lincoln County, Wyo. The area is easily accessible to the visiting public as U.S. Highway No. 30 adjoins its southerly boundary. U.S. Highway No. 30 is an arterial highway to Interstate Highway I-80 and joins that highway approximately 50 miles to the east of the proposed monument. In addition, U.S. Highway No. 89 intersects U.S. Highway No. 30 at a point approximately 15 miles to the west of the monument.

Fossil Butte is located near some of the most scenic and most historical attractions, and the finest outdoor recreation areas found anywhere in the United States.

U.S. Highway No. 89 is a direct route to Grand Teton National Park and Yellowstone National Park, which are located approximately 150 miles north of Fossil Butte. That highway is also a direct route to Salt Lake City, Utah, which is approximately 135 miles to the south of the monument. In addition, Flaming Gorge National Recreation Area is approximately 150 miles to the southeast of Fossil Butte, and Dinosaur National Monument is a short distance to the south of Flaming Gorge.

Both of these attractions are served by excellent roads and would be easily accessible to the proposed monument. It should be noted that in the West, particularly the Rocky Mountain area, distances of 150 miles, because of uncongested traffic conditions, are easily covered by our modern methods of transportation in a relatively short time.

The three of us, on behalf of our people in Wyoming, wish to express our gratitude for your indulgency in permitting us to appear here today, and we would be pleased to attempt to answer any questions you may have.

Senator BIBLE. I only have a few.

What is the size of Kemmerer? I have been through there many times and have forgotten.

Mr. HERSCHLER. I would say we are about 2,500 in population.

Senator BIBLE. Does the Union Pacific Railroad run right through Kemmerer?

Mr. HERSCHLER. It is a spur that is usually called the Oregon Shortline. It is a branch line of the Union Pacific and is controlled by the Union Pacific. It does, sir.

Senator BIBLE. Where is Green River in relationship to Kemmerer? Is it further east?

Mr. HERSCHLER. Green River is about 70 miles south and east of Kemmerer.

Senator BIBLE. You are a lawyer, you are a legislator, you are a cattleman, what do you think of this problem about the permits for grazing, as to the period of time that should be worked out?

Mr. HERSCHLER. It seems to me, Mr. Chairman, that considering the area—first of all, it is a rather arid area and the grazing privileges that are presently there, if they are phased out over a 10-year period, I don't think it would cause great consternation to those permittees there, Mr. Chairman.

Frankly, it is not a good grazing area. It is rough country and there is very little water there. There are a few springs.

It seems to me, if the Park Service would allow, and apparently they will, the continuation of stock driveways through the area, I think that would be the principal problem.

Senator BIBLE. You think that would be the main problem?

Mr. HERSCHLER. Yes, sir; I do.

Senator BIBLE. I really can't see, in a dry, arid section such as this, why it is too incompatible to have a few cattle and sheep straying around. I forgot to ask the Director of the Park Service this question. He is making great ado in asking for money to have farms where he can show our younger people, particularly the people from the hearts of the big cities who have never seen cattle, what a cow looks like.

I can't see too much incompatibility in that. I would defer very largely to the Wyoming delegation as to the length and period of time. I come from Nevada and I know that there are areas there where a self-respecting cow wouldn't be found. I kind of have a hunch that maybe this might be that kind of area, without disrespect to your great State. But it is pretty dry. Do you have much stock watering permits through there?

Mr. HERSCHLER. There are a few springs, Senator, but usually, before the summer is over, they dry up and there is very little water in that particular area.

Senator BIBLE. How does a cow keep alive? Do you have to go out and feed it?

Mr. HERSCHLER. There is water to the north of this particular area, sir.

Senator BIBLE. Well, what does he use for feed? Does he just browse around?

Mr. HERSCHLER. We have a lot of snow in the country and in the winter it pretty well saturates the ground and we have a little rain in the summer. So what feed is generated there, comes from rain or the winter snows.

Senator BIBLE. It looks to me like the AUM's there are pretty small.

Mr. HERSCHLER. Yes; they are, sir.

Senator BIBLE. I don't think that poses any great problem. I would be more concerned about the mining claims because I have always found out that when the Federal Government starts to move in on someone who has a mining claim, it becomes the most valuable claim in the world and, whether he has kept it up or not, he thinks he has some title right there and he can make a nuisance right there. I think as a lawyer you would recognize that.

Mr. HERSCHLER. In that connection, Senator, I would assume that most of these claims are Petroleum Placer Mining claims that were filed on the record in the early 1900's, ordinarily around 1910 to 1915.

I might say for the record, Senator, that I personally represent a lady who has some land to the south of the proposed monument, probably 3 or 4 miles from it, and I am presently instituting quiet title action because of some other matters. But in the course of this action and in examining the abstract, I find that there are a number of these old petroleum placer mining claims on record. We are making those locaters the defendants to a quiet title.

I might say in the past 20 years I have probably handled 20 or 25 quiet title actions involving some of the types of claims in the area because in those days, apparently, there were a lot of people who decided they wanted to put petroleum placer mining claims on land.

I can say in every quiet title action that I have ever had, I have never had a defendant or an heir of a defendant appear and question the quiet title action.

Senator BIBLE. How do you locate an oil shale claim? Can you locate it as a placer?

Mr. HERSCHLER. You could in those days, sir. I don't think you can today.

Senator BIBLE. You have to go to the Department of Interior and get for oil shale—

Mr. HERSCHLER. These are from 1890, I think, sir.

Senator BIBLE. What about the statute of limitations? In the absence of work, how would you keep it alive?

Mr. HERSCHLER. Ordinarily, I would suppose, by some activity of some kind, Senator. Either that, or in some instances, I think, they have attempted to take them with patent. But I don't know of any that have been taken by patent in our area.

Senator BIBLE. Well, that can be easily determined. If they are not patented mining claims then, if they were located under the old oil shale placer mining location law, then I would think the chance of there being any real validity in those claims is rather remote.

Mr. HERSCHLER. I would agree with you, sir. In that particular area, I don't know of any lode mining claims, for example. Of course, if there are any lode mining claims, they would have to file proof of labor and assessments. I don't know of any lode mining claims in that area.

Senator BIBLE. Under that old oil shale placer claim, how do they keep them alive year to year?

Mr. HERSCHLER. I think they were required under the old law, Senator, to do some assessment work.

Senator BIBLE. They must have been required to do some annual work, I should think.

Mr. HERSCHLER. Yes, sir; but there certainly hasn't been anything done in there in, say, the last 40 years.

Senator BIBLE. In any event, that is a legal question and it is up to the Department of Interior if this bill goes forward. This wouldn't seem to be the stumbling block I originally thought it might be.

Most of the claims, I guess, are real stale claims.

Mr. HERSCHLER. I think they are, sir.

Senator BIBLE. I have no further questions. I do want to see the picture that this fine looking young man is holding up.

Oh, I see. That is Fossil Butte.

Mr. JOHNSON. Yes, Senator. I think this is probably the nicest picture of the area that we have available.

Mr. HERSCHLER. May I say, Mr. Chairman, that we would ask that the statement we have made would be part of the record.

Senator BIBLE. Yes, that has been done. It will be incorporated in full in the record. Do any of the other gentlemen have anything to add?

Mr. FAGNANT. Senator, I might add, perhaps scrutinizing that picture, I might point out why they have appropriated so much funds for roads. The accessibility, as you can see, is difficult. There is going to be a lot of grade work done so as not to spoil the scenic. They are going to have to take that into consideration. There was some concern over that, but I think that picture, showing that view, will show that is the reason for it.

Senator BIBLE. Did you have anything further you wanted to say?

Mr. JOHNSON. No, sir.

Senator BIBLE. And you, sir?

Mr. FAGNANT. No, sir.

Senator BIBLE. Senator Hansen.

Senator HANSEN. Thank you, Mr. Chairman. I appreciate very much these gentlemen being here today.

I would like to observe Senator McGee's bill, which I am proud to co-sponsor, and the bill that has likewise been introduced by Congressman Roncalio, of Wyoming, both call for a 30-year continuation, as I understand it, of the grazing privilege.

I think it would be fair to observe, and I would like to ask you, Mr. Herschler, was not the basis upon which substantial agreement was arrived at in the town of Kemmerer on the provisions of the bill with the 30-year time extensions for grazing?

Mr. HERSCHLER. Senator Hansen, I believe that the original premise was that, of course, they would prefer the 30 years. I frankly believe that the thing the livestock men were more concerned about was the driveways and the preservation of the driveways.

My personal opinion is that if this matter were reduced to the 10-year period, there would not be a great deal of opposition to it by those permittees in that area.

Senator HANSEN. I appreciate your observation. I just want to say that, insofar as my role is concerned, I have discussed, as you know, with a number of people the various provisions of the bill and I know some of the permittees who are involved. We talked about the 30-year deal and I didn't want the record to indicate that I talked about some other period of time.

If that is the consensus of those stockmen that were involved out there, whatever they agree to do is fine with me. But we talked with them, and I would suspect this would be equally true of Senator McGee and Congressman Roncalio, we all three spoke about the 30-year thing, and I think you have cleared up pretty well what you believe is the important consideration. That is that stock driveways are, perhaps, of greater significance and consequence to the livestock men than is the actual grazing within the proposed monument area.

Mr. HERSCHLER. That would be my personal observation, Senator, and I am certain that the people there in that particular area understand the situation as you and Senator McGee and Congressman Roncalio explained it to them.

Senator HANSEN. I might ask, Mr. Chairman, addressed both to Mr. Fagnant and Mr. Johnson.

As the record indicates, they have been very active in community affairs in Kemmerer. Does this proposed legislation have the support of nearly everyone in the town of Kemmerer insofar as you know?

Mr. FAGNANT. Senator Hansen, I would say it has the support of everyone. Being from a small community, I have talked to them and they have shown absolutely no favoritism whatsoever.

Senator HANSEN. Is that your experience, Mr. Johnson?

Mr. JOHNSON. Yes, sir.

Senator HANSEN. I might just conclude then, Mr. Chairman, by saying that I think much of the credit for having resolved a great many differences that occurred initially must go to these gentlemen here and to others in the town of Kemmerer who have worked very diligently with them.

I think they have met with great success and I am pleased indeed that they could be here, testifying to the unanimous support of the community out there.

Thank you, Mr. Chairman.

Senator BIBLE. I might tell your constituents from Wyoming, whatever their politics—I happen to be a Democrat and anybody who is a Democrat doesn't have to apologize—but aside from the political implications, and I am sure that there are none in areas of this kind, this is as close to a nonpartisanship committee as there is in the Congress of the United States.

I would ask one question of you and that is, when will you have your hearings in front of the House of Representatives?

Mr. HERSCHLER. It is my understanding probably sometime in March, or possibly the first week in April.

Senator BIBLE. I might, just by way of suggestion to my distinguished Wyoming colleagues, the record that is made shows that there are 20 permits. The testimony of Director Hartzog was that there were 17. I think it would be a very easy matter to just circularize 17 or 20, whichever the case might be, and say "The Administration recommends a 10-year permit. What are your ideas on that?" with the understanding that the driveway problems would be taken care of. That might be a good political thing to do.

Mr. HERSCHLER. I think we could do that, sir, particularly for the House hearings.

Senator BIBLE. Yes, you could do it in time. I have no further questions.

Senator HANSEN. May I say, Mr. Chairman, that we speak for all of us in Wyoming in expressing our appreciation to you, again in a nonpartisan vein, I would like to observe that this subcommittee is very fortunate in being chaired by Senator Alan Bible, a great friend of the West. A person who knows its problems, who understands and appreciates its possibilities and its potential and an ardent champion of all Western States, including Wyoming.

Senator BIBLE. I appreciate that and I will submit that statement to you in about 3 years and see if I can use it.

Thank you very much. The hearing is adjourned.

(Whereupon, the hearing was recessed at 11:40 a.m.)

## APPENDIX

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(Under authority previously granted, the following statements and communications were ordered printed:)

SIERRA CLUB,  
NORTHERN GREAT PLAINS OFFICE,  
DUBOIS, WYO., February 23, 1972.

Senator ALAN BIBLE,  
*Chairman, Subcommittee on Parks and Recreation, Committee on Interior and Insular Affairs, New Senate Office Building, Washington, D.C.*

DEAR SENATOR BIBLE: On behalf of the Sierra Club, I would like to express our full support for S. 141 to establish Fossil Butte National Monument.

As time goes on and pressures build for economic and industrial expansion, it is even more urgent that this rare display of fossil remains be given adequate protection under the National Park System. The 8,180 acres proposed in this bill for National Monument status represents only a very small but valuable fraction of the Fossil Syncline Lake located in Uinta and Lincoln Counties of Wyoming and would not unnecessarily burden anyone since existing uses are to continue for some time.

The uniqueness of the fossil story recorded in this area showing the modernization of fresh-water fishes is not represented so far in a public monument and we commend Senators Hansen and McGee for their sponsorship of this bill to protect this interesting portion of our geologic history represented in Wyoming.

Please make this letter part of the hearing record. Thank you.

Sincerely,

MISS LANEY HICKS,  
*Regional Representative.*

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ROCK SPRINGS, WYO., February 23, 1972.

Senator ALAN BIBLE,  
*Chairman, Subcommittee on Parks and Recreation, Committee on Interior and Insular Affairs, New Senate Office Building, Washington, D.C.*

DEAR SENATOR BIBLE: My wife Glenda and I would like to make a statement for the hearing record in support of S. 141 which would establish the Fossil Butte National Monument.

We are indeed pleased that our Senators, McGee and Hansen joined together in sponsoring this bill. This area is outstanding and being fossil hunters of sorts we have enjoyed one trip into the area. If the area isn't given protection it will only be a short time until nothing but landcars is left.

We hope that your committee will favorably report this bill out.

Sincerely,

MRS. JOHN C. BORZEA,  
JOHN C. BORZEA.

THE UNIVERSITY OF CHICAGO

PHILOSOPHY DEPARTMENT

1950-1951

PHILOSOPHY 101

PHILOSOPHY 102

PHILOSOPHY 103

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PHILOSOPHY 105

PHILOSOPHY 106

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