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HEARINGS

BEFORE THE

COMMITTEE ON AGRICULTURE

HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

FIRST SESSION

ON

H.R. 1952

FOR THE RELIEF OF JAMES P. AND FLORENE A. DOYLE
MARCH 5, 1973

H.R. 2933

IMPROVE THE QUALITY OF SHELLED AND UNSHELLED FILBERTS
MAY 29, 1973

H.R. 9138

LEASE AND TRANSFER OF TOBACCO ALLOTMENTS IN
DISASTER AREAS
JULY 10, 1973

H.R. 4612

ACQUISITION OF LAND ADJACENT TO WHITE MOUNTAIN
NATIONAL FOREST, NEW HAMPSHIRE
JULY 10, 1973

H.R. 9295

CONVEYANCE OF LAND TO STATE OF LOUISIANA
JULY 17, 1973

S. 2491

REPEAL CERTAIN PROVISIONS OF THE AGRICULTURE AND
CONSUMER PROTECTION ACT OF 1973
DECEMBER 13, 1973

Serial 93-PP

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CONTENTS

H.R. 1952

	Page
H.R. 1952, a bill for the relief of James P. Doyle and Florene A. Doyle-----	2
Erwin, William, Assistant Secretary of Agriculture, letter of March 5, 1973, report on H.R. 1952-----	3
Statement of:	
Brotzman, Hon. Donald G., a Representative in Congress from the State of Colorado-----	6
Thornton, Philip L., Deputy Chief, Forest Service, U.S. Department Agriculture -----	4

H.R. 2933

H.R. 2933, a bill to improve the quality of unshelled filberts and shelled filberts for marketing in the United States-----	18
Campbell, J. Phil, Under Secretary of Agriculture, letter of May 29, 1973, report on H.R. 2933-----	18
Wyatt, Hon. Wendell, a Representative in Congress from the State of Oregon, statement of-----	19

H.R. 9138

H.R. 9138, a bill to amend the Agricultural Adjustment Act of 1938, as amended, to provide for emergency allotment lease and transfer of cer- tain tobacco allotments or quotas in disaster areas-----	24
Campbell, J. Phil, Under Secretary of Agriculture, letter of July 10, 1973, report on H.R. 9138-----	25
Statement of:	
Corbett, William K., North Carolina state president, National Farm- ers Union-----	32
Lanier, William L., director, Tobacco and Peanut Division, Agricul- tural Stabilization and Conservation Service, U.S. Department of Agriculture -----	29

H.R. 4612

H.R. 4612, a bill to authorize and direct the Secretary of Agriculture to acquire certain lands and interests therein adjacent to the exterior boundaries of the White Mountain National Forest in the State of New Hampshire for addition to the national forest system, and for other purposes -----	38
Long, Robert W., Assistant Secretary of Agriculture, letter of July 19, 1973, report on H.R. 4612-----	40
Statement of:	
Bofinger, Paul, executive director, Society for the Protection of New Hampshire Forests-----	57
Cleveland, Hon. James C., a Representative in Congress from the State of New Hampshire-----	41
Nelson, Thomas C., Deputy Chief for the National Forest System, Forest Service, U.S. Department of Agriculture-----	50
Wyman, Hon. Louis C., a Representative in Congress from the State of New Hampshire-----	47

IV

H.R. 9295

H.R. 9295, a bill to provide for the conveyance of certain lands of the United States to the State of Louisiana for the use of Louisiana State University -----	Page 66
Foltz, John C., Deputy Under Secretary for Legislative Affairs, letter of July 17, 1973, report on H.R. 9295-----	68
Statement of:	
Brooks, Howard J., staff scientist, National Program Staff, Agricultural Research Service, U.S. Department of Agriculture-----	70
Rarick, Hon. John R., a Representative in Congress from the State of Louisiana-----	70
Waggoner, Hon. Joe D., Jr., a Representative in Congress from the State of Louisiana-----	68

S. 2491

S. 2491, an act to repeal the provisions of the Agriculture and Consumer Protection Act of 1973 which provide for payments to farmers in the event of crop failures with respect to crops planted in lieu of wheat or feed grains-----	74
Weir, Glenn A., Associate Administrator, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, statement of----	75

FOR THE RELIEF OF JAMES P. AND FLORENE A. DOYLE

MONDAY, MARCH 5, 1973

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

The subcommittee met, pursuant to recess, at 10:05 a.m., in room 1301, Longworth House Office Building, Hon. John R. Rarick (chairman) presiding.

Present: Representatives Rarick, Vigorito, Gunter, Goodling, Baker, and Thone.

Also present: Christine S. Gallagher, chief clerk; and John Rainbolt, associate counsel.

Mr. RARICK. The committee will come to order. Today we will take up H.R. 1952, a bill for the relief of James P. Doyle and Florene A. Doyle, introduced by Congressman Brotzman.

[H.R. 1952, introduced by Mr. Brotzman, and the Department's report, follow:]

(1)

93^D CONGRESS
1ST SESSION

H. R. 1952

IN THE HOUSE OF REPRESENTATIVES

JANUARY 11, 1973

Mr. BROTZMAN introduced the following bill; which was referred to the Committee on Agriculture

A BILL

For the relief of James P. Doyle and Florene A. Doyle.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Secretary of Agriculture shall convey to James
4 P. Doyle and Florene A. Doyle, of Jefferson County,
5 Colorado, all right, title, and interest of the United States
6 in and to the real property described in section 2 upon pay-
7 ment to the United States by James and Florene Doyle of
8 the amount (as determined by the Secretary) which repre-
9 sents the fair market value of the real property without
10 regard to any development or improvement of the property
11 by the Doyles.

III

1 SEC. 2. The real property to be conveyed under the
2 first section of this Act comprises the east seven hundred
3 feet of the north one hundred fifty feet of the southwest
4 quarter of section 1, township 8 south, range 71 west in
5 Jefferson County, Colorado.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., March 5, 1973.

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

DEAR MR. CHAIRMAN: This is in reply to your request of January 22, 1973, for a report on H.R. 1952, a bill "For the relief of James P. Doyle and Florene A. Doyle."

This Department strongly recommends that the bill not be enacted.

H.R. 1952 would direct the Secretary of Agriculture to convey approximately two acres of National Forest lands located on the Pike National Forest in the State of Colorado, to James P. Doyle and Florene A. Doyle, upon their payment of fair market value.

The property which is the subject of H.R. 1952 has been the center of a long-running dispute between the Forest Service of this Department and the Doyles. On November 11, 1960, the Doyles purchased approximately four acres of land that was bounded on the north and east by National Forest lands. In 1964, a question arose as to the location of the common property lines. The Forest Service made a determination of the property lines and advised the Doyles of line locations on June 12, 1964, and on numerous occasions thereafter. The determination revealed that the site on which the Doyles planned to construct a house was on National Forest land.

The Doyles would not accept the property location as determined by the Forest Service. The Forest Service then requested the Bureau of Land Management to resurvey the line. That Agency is responsible for establishing official land records of the United States. The resurvey was completed in June 1965 and confirmed that the line was located as had initially been determined by the Forest Service. Despite the findings of the survey, the Doyles proceeded during the summer of 1967 to build a residence and other improvements on National Forest lands.

The Forest Service was unable to persuade the Doyles to remove their improvements, and the matter was referred to the Department of Justice. On September 30, 1968, the United States Attorney filed a complaint with the District Court, charging occupancy trespass and asking for removal of all improvements. About four months after being served notice of the pending court action, the Doyles added an additional room to the residence. The case was tried on July 15, 1970. The District Court issued a Memorandum Opinion and Order on August 31, 1970, which confirmed that the Doyles were in trespass on National Forest land and directed that they remove their improvements within 90 days. On October 2, 1970, the Doyles filed a Notice of Appeal with the Court of Appeals for the Tenth Circuit. The Court of Appeals, in its opinion of November 6, 1972, affirmed the District Court's ruling that the Bureau of Land Management had correctly surveyed the contested property line and that the land on which the improvements stand is owned by the United States.

We strongly recommend that the land involved in H.R. 1952 be retained as a part of the Pike National Forest. The land is within the Buffalo Creek Recreation Area and is needed for public use. Conveyance could prevent public use of stream frontage land in an area where it is in great demand.

Conveyance of the land would set a precedent that could severely complicate the administration of public lands. From management experience we know there

are thousands of persons who would like to acquire National Forest lands for homesites and other purposes. Many persons would be encouraged to construct improvements on public lands without authorization if it became general knowledge that the Government will ultimately resolve such unauthorized occupancies by conveying the land to the occupant. Such a procedure is inconsistent with the purposes for which the public lands were established and are managed, and would undermine efforts of the Federal agencies responsible for safeguarding the public lands in dealing with unauthorized uses.

A relief bill seems particularly inappropriate in this case where the claimants deliberately flaunted the representations and advice of Federal officials. The claimants appear to have no equities which would warrant special relief by Congress.

Section 2 of the bill contains an error in the description of the property. The description should read, "the east seven hundred feet of the south one hundred fifty feet of the southwest quarter of the southeast quarter of section 1, township 8 south, range 71 west, 6th Principal Meridian, in Jefferson County, Colorado."

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

Sincerely,

WILLIAM ERWIN,
Assistant Secretary.

Mr. RARICK. I understand there is a time factor on this bill and we want to expedite it as much as possible.

The first witness we have this morning is Mr. Philip L. Thornton, Deputy Chief of the Forest Service.

Mr. Thornton, we are glad to have you with us this morning. We will be happy to hear your testimony at this time.

STATEMENT OF PHILIP L. THORNTON, DEPUTY CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. THORNTON. Mr. Chairman, members of the committee, thank you for this opportunity to present the views of the Department of Agriculture on H.R. 1952.

H.R. 1952 would direct the Secretary of Agriculture to convey approximately 2 acres of the Pike National Forest in the State of Colorado to James P. Doyle and Florene A. Doyle upon their payment of fair market value.

The parcel of land involved in H.R. 1952 has been the center of a long-running boundary dispute between the Forest Service which administers the Pike National Forest, and Mr. and Mrs. Doyle.

In November 1960, the Doyles purchased a 4-acre parcel of land that bounded lands of the Pike National Forest on the north and east. In 1964 the Forest Service was developing plans to reconstruct the public road which traversed the Doyle parcel and adjacent national forest lands. While making related surveys it came to our attention that stakes indicating property corners of the Doyle parcel appeared to be located on national forest lands. Further surveys confirmed that the Doyle parcel overlapped onto the national forest.

The Doyles would not accept the property line location as determined by the Forest Service. We then requested the Bureau of Land Management to resurvey the line. That Agency is responsible for establishing official land records of the United States. The resurvey was completed in June 1965 and confirmed that the line was located as had initially been determined by the Forest Service. Despite the findings

of the survey, the Doyles proceeded during the summer of 1967 to build a residence and other improvements on national forest lands.

The Forest Service was unable to persuade the Doyles to remove their improvements, and the matter was referred to the Department of Justice. On September 30, 1968, the U.S. Attorney filed a complaint with the district court, charging occupancy trespass and asking for removal of all improvements. About 4 months after being served notice of the pending court action, the Doyles added an additional room to the residence. The case was tried on July 15, 1970. The district court issued a memorandum opinion and order on August 31, 1970, which confirmed that the Doyles were in trespass on national forest land and directed that they remove their improvements within 90 days. On October 2, 1970, the Doyles filed a notice of appeal with the Court of Appeals for the Tenth Circuit. The court of appeals, in its opinion of November 6, 1972, affirmed the district court's ruling that the Bureau of Land Management had correctly surveyed the contested property line and that the land on which the improvements stand is owned by the United States.

We strongly recommend that H.R. 1952 not be enacted for two reasons.

First, sale of the tract would transfer from public ownership and land and frontage needed for the proper development and management of the Buffalo Creek Recreation Area. The recreation area is close to Denver and is heavily used by the urban population for picnicking, camping, and fishing.

Second, H.R. 1952 would set an undesirable precedent that could seriously affect the administration of all public lands. We and other agencies frequently face the problems of boundary disputes and unauthorized occupancy. From management experience we know there are thousands of persons who would like to acquire national forest lands for homesites and other purposes. Over the years we have developed policies and approaches for dealing with these situations in an orderly, consistent manner. But persons would be encouraged to construct improvements on public lands without authorization if it became general knowledge that the Government will ultimately resolve such unauthorized occupancies by conveying the land to the occupant. Such a procedure is inconsistent with the purposes for which the public lands were established and are managed, and would undermine efforts of the Federal agencies responsible for safeguarding the public lands in dealing with unauthorized uses.

In conclusion, we believe we have dealt fairly with the Doyles. We have tried every lawful and reasonable approach to reach a solution that would have avoided the need to resort to court action. The Doyles were aware of the Bureau of Land Management resurvey which proved conclusively that lands they claimed were national forest lands. In spite of this, they proceeded thereafter to construct a residence on the national forest. We strongly urge the tract not be transferred to them now by enactment of H.R. 1952.

Thank you.

Mr. RARICK. Thank you very much, Mr. Thornton. We have one other witness. Do you have sufficient time to remain until we hear the next witness? Then, I am sure the members of the committee will have several questions we would like to ask you.

Mr. THORNTON. I would be pleased to stay.

Mr. RARICK. Thank you so much.

Our next witness was to be Congressman Donald Brotzman. He told me that he is tied up in testimony before the Ways and Means Committee, and I have authorized his administrative assistant Mr. David Delcour to deliver his testimony. Mr. Delcour, as I understand, is a member of the bar.

Mr. Delcour, we will be happy to have you deliver Congressman Brotzman's statement.

**STATEMENT OF HON. DONALD G. BROTZMAN, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF COLORADO, AS READ BY
DAVID DELCOUR, ADMINISTRATIVE ASSISTANT TO HON.
DONALD G. BROTZMAN**

Mr. DELCOUR. Thank you, Mr. Chairman.

Before I begin, I would like to submit some photographs for the committee file which portray the property in question.

Mr. RARICK. Without objection, let the photographs be received and filed.

[The above referred to photographs will be found in the files of the committee.]

Mr. DELCOUR. Mr. Chairman, would it be your wish to have me proceed to read Mr. Brotzman's statement at this point?

Mr. RARICK. Whatever would please you. I am sure you represent the Doyles' interest in this matter, and we would like to hear you.

Mr. DELCOUR. Mr. Chairman, I appreciate this opportunity to testify in support of H.R. 1952, a bill I have introduced for the relief of Mr. and Mrs. James P. Doyle.

The purpose of H.R. 1952 is to authorize the sale of a tract of land in the Pike National Forest to Mr. and Mrs. Doyle. This is land on which the Doyles have built a home. The land was the subject of a boundary dispute between the Forest Service and the Doyles. The U.S. District Court for the District of Colorado ruled that the land on which the home is located does, in fact, belong to the Forest Service; and that decision has been affirmed by the U.S. Court of Appeals for the Tenth Circuit.

The Government owns land in the Pike National Forest including the SW1/4SE1/4 sec. 1, T. 8 S., R. 71 W. of the sixth principal meridian in Jefferson County, Colo. The Doyles are the owners of the north 250 feet of the east 700 feet of the NW1/4NE1/4 sec. 12, adjoining to the south. The dispute which was adjudicated centered about the north boundary of the Doyles' property, which is formed by the section line between sections 1 and 12. The Doyles claimed the true line to be about 124 feet north on one end and 147 feet north on the other end of the section line the Government claimed and the court found to be correct.

The Doyles based their claim on information they received at the time they purchased their land in 1960. This information consisted of a 1955 survey and stakes in the ground pursuant to that survey, and a new survey commissioned by the Doyles. Thereafter the Forest Service advised the Doyles that their survey was inaccurate and re-

quested the Bureau of Land Management to make another. This was done in 1965 and served as the basis for the Government's successful boundary assertion. The effect was to place the only usable portion of the Doyles' tract of land within the national forest.

Following the commencement of the boundary dispute between the Doyles and the Forest Service, the Doyles constructed a two-bedroom home which now serves as their residence. Meanwhile the boundary dispute continued despite efforts to reach a solution satisfactory to the parties involved. Eventually, the Government brought the quiet title action which resulted in the earlier referenced judgment. The judgment has been stayed by the district court until May 27, 1973, at the request of the Doyles' attorney in the hope that H.R. 1952 might be enacted prior to that date.

Mr. Chairman, I have had correspondence with the Forest Service and Mr. and Mrs. Doyle on this situation for a number of years. I know that a case can be made for the proposition that the Doyles ought to have to suffer since they proceeded to build their home with full knowledge that the Government was contesting their boundary. It is my view, however, that equity demands another result. The tract of land on which the house sits is relatively small, approximately 2.4 acres. The Doyles, who now concede Government ownership of the land, have sufficient funds to purchase the land at its appraised value without improvements. H.R. 1952 would direct that result. It would not propose to give the Doyles any land. It would permit them to buy the land on which their home sits.

The alternative, at this point in time, is unnecessary and harsh. Simply stated, the alternative would be for the Doyles to vacate their home, to which they have devoted considerable resources, and permit the Forest Service to raze all improvements on the land. At that point, the Doyles would be without a home and without adequate resources to purchase another one. I urge the committee to see that this does not happen, Mr. Chairman, and I ask that you report H.R. 1952 to the full Committee on Agriculture at an early date so that the Doyles might receive assurances that they will be permitted to continue to live in their home.

If I may, Mr. Chairman, just respond to the suggestion that enactment of this bill would be a bad precedent. This is not a typical case of a person occupying Government land illegally. The Doyles certainly have color of title based on two surveys, and I think it is a well-established proposition that enactment of a private bill is not the sort of precedent on which people can expect to rely.

Mr. RARICK. Thank you very much, Mr. Delcour.

Will you be able to remain for a few minutes?

Mr. DELCOUR. Certainly.

Mr. RARICK. Before I proceed, is there anyone else in the room who desires to testify on H.R. 1952, a private bill for the relief of James P. Doyle and Florene A. Doyle?

[No response.]

Mr. RARICK. There being no one answering at present—

Mr. GUNTER. Mr. Chairman, who is Harold Neufeld, listed on our agenda sheet?

Mr. RARICK. Mr. Harold Neufeld had indicated that he desired to be present. I assume he was attorney for the Doyles.

Mr. DELCOUR. If I may, Mr. Chairman, he is attorney for the Doyles. The Doyles unfortunately were unable to provide Mr. Neufeld with transportation to Washington at the last minute and we were advised this morning that he would not be able to attend.

Mr. RARICK. Do you know, Mr. Delcour, whether or not Mr. Neufeld supplied you with a statement for the record?

Mr. DELCOUR. He has not. However, he has, Mr. Chairman, provided us with extensive correspondence which has been made part of the committee file, I believe. Mr. Brotzman has included that matter and referred it to the committee.

Mr. RARICK. Mr. Thornton, would you come back to the table, please?

We have heard in the testimony this morning that the matter in controversy has been the subject of several Federal lawsuits. Can you identify the case number in the courts in these matters? Do you have the case number so we can have it in the record?

Mr. THORNTON. Civil action No. C-1103, in the U.S. District Court for the District of Colorado.

The appeal case number is 710-70. In the court of appeals, U.S. Court of Appeals, Tenth Circuit.

Mr. RARICK. Do either of you gentlemen know the size of the testimony in the district case?

Mr. THORNTON. The backlog of correspondence and so forth?

Mr. RARICK. No; the amount of evidence that was introduced. I imagine there were certain surveys and letters and notices which were made part of the record in that case.

Mr. DELCOUR. I am sure that is true, Mr. Chairman. I do not know how large the trial record is. The only court document we have been provided is the decision of the court of appeals, which is relatively brief.

Mr. RARICK. Is it of record so it will be available should any member of the committee desire it.

Mr. DELCOUR. Yes; I will be happy to reproduce however many copies are wished and provide them.

Mr. RARICK. Mrs. Gallagher, is it possible we can have a copy of the court of appeals decision for the hearing?

Mrs. GALLAGHER. Yes.

Mr. RARICK. Mr. Thornton, does the Government have a map or survey which would be of assistance to the committee?

Mr. THORNTON. Yes, sir, we have a map which illustrates the various lines or portrays just what happened and why.

The red line is the inaccurate survey lines and the blue lines are what proved to be accurate after the BLM reestablished the line. The top blue line is the section line that is in controversy. To the north of that, above that line, is national forest land; below it is private land.

Mr. RARICK. How many acres are in the Pike National Forest?

Mr. THORNTON. The gross area within the national forest boundary is 1,283,307 acres. Actual national forest ownership (net) is 1,104,793 acres.

Mr. RARICK. Yes.

Mr. GUNTER. Mr. Chairman, is all of the home located within the boundaries of the national forest?

Mr. RARICK. I was going to ask him.

Mr. THORNTON. Yes; if you can see from there, this little corner is where the home is built. It is within the national forest property line. There are about 144 feet between the true property line and this red line which is the incorrectly surveyed line. So there were about 2 acres north of the true property line and 2 acres below the line that had been claimed by the Doyles.

Mr. GUNTER. So these people actually own that land within the boundaries of the blue?

Mr. THORNTON. That is right. They own this piece here. They thought, of course, that they owned the area within the boundaries of the red.

Mr. GOODLING. I should like to ask at this point, Mr. Chairman, who made the original error?

Mr. THORNTON. I would have to answer that this way, that back in 1960, the survey line was in error. It was a sort of wandering line that went through the woods. There are blaze markings there that the Forest Service had used to delineate a timber sale area.

You see, we have many thousands of miles of unmarked boundary on the national forest system. So when the exact location of the line is not known, we sometimes delineate timber sale areas back from that approximate location so we do not cut timber on somebody else's land. So apparently, the surveyor back in 1960 picked that up and thought that was the true line and did not tie his survey to established section corners and get it right.

Mr. GOODLING. Who made that survey? Did the Forest Service make it?

Mr. THORNTON. A private company.

Mr. GOODLING. Did not the Forest Service know that this was occurring?

Mr. THORNTON. No; we had no knowledge of it until 1964, when we got into the survey of the right-of-way for the road location. At that time, we put our survey crew in there and discovered that the line was in error.

Mr. GOODLING. Would not the Forest Service know that a deed was recorded?

Mr. THORNTON. No; the state of the line location status is such that we do not know exactly where all the lines are. We have not had them established.

Mr. GOODLING. From whom did the Doyles acquire the original property?

Mr. DELCOUR. It was from another private individual.

Mr. THORNTON. I believe it was a realty company, the Acaua Realty Co., in 1960.

Mr. GOODLING. Well, does not the Forest Service concern itself with this sort of thing?

Mr. THORNTON. We certainly do. Let me give you, if I may, just a few statistics on that problem.

We have some 272,000 miles of property lines in the national forest system and 1.2 million corners to locate. Many of them have vanished

since the original General Land Office surveys were established about 100 years ago. We are in the process now of relocating and remonumenting the corners. About 10 percent of that job is all we have done up until now. Each year with BLM help, we survey about 3,000 miles of property lines and reestablish about 8,000 of these lost corners but it is just a small part of the backlog of line location work to be done.

Mr. GOODLING. Is this an inholding or is it on the edge of the Forest Service land?

Mr. THORNTON. It is an inholding. It is bounded on two sides by the national forest.

Mr. GOODLING. What would happen if the Forest Service did not acquire this land?

Mr. THORNTON. Pardon me?

Mr. GOODLING. What would happen if the Forest Service did not acquire the several hundred feet?

Mr. THORNTON. We own it now, sir. That is not the issue. It is not a matter of acquiring it, it is a matter of correct location of the line. This is the essence of the court finding, that it is national forest land.

Mr. GOODLING. That is all.

Mr. RARICK. Mr. Vigorito?

Mr. VIGORITO. Yes.

Mr. Thornton, if I understand correctly, after there was a resurvey and after the court ruled against the Doyles, they still then proceeded to build their home?

Mr. THORNTON. They built the home 2 years after the BLM established the line. Then is when the home was constructed. Prior to that, it was a trailer house.

Mr. VIGORITO. If we let this stand, then the Doyles are going to have a whole national forest for their backyard, are they not?

Mr. THORNTON. That is true.

Mr. VIGORITO. Are there other homes in the area?

Mr. THORNTON. There are other homes in the area. It is a public recreation area. There is a stream there with good fishing and so forth. There are 16 homes in that general area. Ten of them are private, on private land, and 16 are on public land—26 homes altogether.

Mr. VIGORITO. Sixteen are on public lands?

Mr. THORNTON. Yes.

Mr. VIGORITO. How did they get there?

Mr. THORNTON. Under a permit, special use permit. We have about 19,000 such permits in the national forest system.

Some years ago when recreation pressures were not so heavy, it was possible to make vacation homesites available to the public in certain areas.

Mr. VIGORITO. But the land always remained with the Government?

Mr. THORNTON. That is true, it is a permit.

Mr. VIGORITO. Now, the owners of real estate that own their own homes on Government land, do they have a right to sell their homes to someone else?

Mr. THORNTON. Yes; they may sell the improvements constructed on the land.

Mr. VIGORITO. When they vacate their homes, that would be the end of it?

Mr. THORNTON. That is right, unless they could move the improvements off the land.

Mr. VIGORITO. They could move or detach their home from the land and move it somewhere else?

Mr. THORNTON. If that was feasible.

Mr. VIGORITO. If they wanted to. But why should 19,000 property owners have exclusive use of Government lands?

Mr. THORNTON. As I said, some of these permits date back many years, some to 40 or 50 years. Back in those days the pressure for the use of these lands was not great and this was a good, logical use. It still is in some areas which are not needed today for public recreation. But overall, we are in a different situation now. We are not making any more such permits available.

Mr. VIGORITO. I am very concerned about this situation, because 2 years ago, I was near Fresno, Calif., attending a luncheon meeting, and several people there thought it was awful that the Government would not give them the land because they have had their homes on the Government land for 20 or 30 years or so. One guy especially was worried because he could not give it to his grandchildren. Why he thought that he should have that right is beyond me. But I think this is an important subject matter that we should give very, very careful consideration. Once you open the floodgates, why, then, if you permit one, you have to permit all 19,000 to have title to their land. So I admit that this case is on the borderline and not within the confines of the Government land.

That is all the questions I have, Mr. Chairman.

Mr. RARICK. Mr. Baker?

Mr. BAKER. Mr. Chairman, this appears to be well-kept property so far as the Doyles are concerned. Is there a basic objection so far as the Forest Service is concerned? Do you have a particular use? I apologize for coming in late. You might have already stated precisely what I am asking.

Mr. THORNTON. This is a heavily used public recreation area, Mr. Baker, and this tract is an isolated piece within that, on the edge of the stream, the trout stream. We feel the best use of that land is for public recreation.

Mr. BAKER. How much land is actually involved?

Mr. THORNTON. Actually, $2\frac{4}{10}$ acres.

Mr. BAKER. And how long have they had the use of it?

Mr. THORNTON. Since 1960. If I could, Mr. Chairman, take 1 minute just to go through the sequence here.

In 1960, the Doyles purchased a 4-acre piece, 2 acres of which, because of an incorrect survey overlapped into the national forest lands. They still have 4 acres of land, but it is not all located where they thought it was at the time they purchased it. It was a line location problem.

Mr. BAKER. What kind of deed did they have?

Mr. DELCOUR. Warranty deed.

Mr. THORNTON. Warranty deed.

So subsequently—they had not built the house at that point in time. When we went to survey the road for access, to improve the road that went through the property, we discovered that the line was in error

and the true line was farther south and therefore, the building site was on national forest land.

The Doyles were informed of this in 1964 and 2 years later, they built the house that we have pictures of there.

Then they appealed—the court decided that the line was actually established correctly, that the building site was on Federal property and the appeal court sustained that view.

Mr. BAKER. Their deed is warranted by a title company or by an individual or what?

Mr. DELCOUR. As far as I can tell from the information we have been provided, it must be by an individual. There is legal action, I understand, involving that also. But I have been advised that there are going to be some recovery problems should a judgment be rendered.

Mr. RARICK. What kind of problem?

Mr. DELCOUR. A problem in collecting on the judgment is anticipated by the Doyles, which is why I assume it was warranted by an individual.

Mr. BAKER. The Forest Service, as I understand it, moved in 1964, after their purchase had been consummated in 1960?

Mr. THORNTON. That is correct.

Mr. BAKER. This was the result of a routine survey?

Mr. THORNTON. Yes; to improve the road location, get the access and right-of-way for the road. At that time, we discovered the true location of the line.

Mr. BAKER. Is there any value which has been established on the land if they want to purchase?

Mr. THORNTON. The Doyles paid \$1,100 for the 4 acres in 1960. We would estimate on current transactions that the $2\frac{2}{5}$ acres is worth roughly \$6,000 now.

Mr. BAKER. As a result of the improvements which have been made around it?

Mr. THORNTON. This is just the land value, because of the strategic location, near the river, and so forth.

Mr. BAKER. Thank you, Mr. Chairman.

Mr. RARICK. Mr. Thone?

Mr. THONE. Most of my questions have already been answered one way or the other here.

Just to clarify the record, Mr. Thornton, Mr. Vigorito asked you whether or not the Doyles had built on after the court action, and you said yes. Now, this is not the fact, is it?

Mr. THORNTON. If I said yes, I misunderstood the question.

Mr. THONE. I thought maybe you did. I just wanted to clarify the record.

Mr. THORNTON. They did add an addition on it.

Mr. THONE. After the suit was filed but before the court rendered the decision?

Mr. THORNTON. That is correct. The point is they did build the house after the BLM established the line location.

Mr. THONE. Just to get the record straight on it, you advised them or the Bureau did in 1964 that there was a question on the property line?

Mr. THORNTON. That is true.

Mr. THONE. And they built in 1967?

Mr. THORNTON. That is right.

Mr. THONE. So that was 3 years after they had that advice. The suit was filed in 1968—no—

Mr. THORNTON. That is true.

Mr. THONE. The suit was filed, yes, on September 30, 1968, and the court rendered its decision in July of 1970?

Mr. THORNTON. That is correct.

Mr. THONE. Now, this place is used as a full-time residence by the Doyles?

Mr. THORNTON. I believe it started out as a summer home, but I understand now they are living there full-time.

Mr. DELCOUR. That is correct.

Mr. THONE. Mr. Goodling touched on it and I think you responded, too, partially. Can this happen again under the procedures that the Forest Service has now because of the tremendous volume you have, or have you taken steps to see that these innocent purchasers do not get caught in a snarl like this?

Mr. THORNTON. I would like to provide some data for the record. I have in front of me some statistics from 1970 to 1971. We had 887 cases something like this. Sixty-one percent of them voluntarily removed the improvements after we notified them. Each case is unique.

Mr. THONE. You mean you had 800 some cases where purchasers had bought property on the border of the forest and half the property or a portion of it was in the forest preserve and half of it was not as later determined by survey?

Mr. THORNTON. Each case is unique.

Mr. THONE. I would imagine you would not find very many like this, would you?

Mr. THORNTON. There are all shades of problems in this area, but we have had in the last 5 years, 887 cases where line locations and this sort of problem arose. And as I have said, in most of these, after it is discovered, we can get voluntary removal of the improvements.

Mr. THONE. In other words, the Doyles were terribly bullheaded on this. Were they not?

Well, maybe that is an unfair question of you. But they had been advised in 1964 and then went ahead and built in 1967. We have this happen in Nebraska frequently on school lands. I was the attorney for some of those people for several years and I can understand your situation and I can almost understand the Doyles' on this thing.

Excuse me. I interrupted you.

Mr. THORNTON. I might just conclude that part by saying we know of 1,047 more cases now that are still pending a solution. So there is tremendous mileage of lines and so many people trying to get near or onto the national forest, it just generates a tremendous problem and this is where the precedent aspect comes in.

Mr. THONE. I think my time is up. One more question.

Mr. Thornton, in all of your investigation with your people and everyone else, is there any question whatsoever in your mind of the good faith of the Doyles on November 11, 1960, when they purchased what they thought was 4 acres not on the forest preserves?

Mr. THORNTON. We would not question that, no.

Mr. THONE. That is all, Mr. Chairman.

Mr. BAKER. Mr. Chairman, one quick question.

Mr. RARICK. Yes.

Mr. BAKER. What are the ages of the Doyles?

Mr. THORNTON. They are retired. We do not really know, but we think in the neighborhood of 60.

Mr. THONE. Would the gentleman yield?

Mr. BAKER. Yes.

Mr. THONE. Could you not work out a permit for them which would legalize this situation for the rest of their lives?

Mr. THORNTON. Yes, sir, we have tried twice to develop just such a solution to the problem. As I said in my opening statement, we tried to be as fair as we can on this. When we first located the correct lines, we offered them a permit to stay until they found another site, another location.

Mr. THONE. What was that reservation? While they found another site?

Mr. THORNTON. We gave them time to look for another location. Remember, at this time, they had no house built. They could move the trailer. We offered them a special use permit for that time to——

Mr. THONE. Have you offered them a special use permit since they built to legitimize their situation?

Mr. THORNTON. Yes; we did. After the court case was filed, we made an effort to develop such a permit for life tenancy to avoid the court suit and they rejected that.

Mr. DELCOUR. That was all before the court action, though, I think.

Mr. VIGORITO. May I, Mr. Chairman, one more question?

Mr. RARICK. Yes.

Mr. VIGORITO. Mr. Thornton, there are several other homes in the area you mentioned. Are any others being contested in similar fashion as the Doyle home?

Mr. THORNTON. No; not in a similar fashion, although this is an area where public use is increasing. It is only 35 miles from Denver and as we have opportunities, we would like to phaseout these other special use permits to make it available for public use. Each case, as I say, is unique.

Mr. VIGORITO. Thank you.

That is all, Mr. Chairman.

Mr. BAKER. Mr. Chairman, if you would indulge me for one more question.

In these cases where permits have been issued and permanent structures have been built—I assume permanent structures are on some of these other lands—what sort of arrangement is present with the holders of the permits? Can they convey this permit to their heirs or what is the situation?

Mr. THORNTON. They can be inherited, they can also be sold. The permit itself is not transferable. It is issued to a new owner at the judgment of the Forest Service. Typically, as I have said, for 40 years it has moved on through the family.

Mr. BAKER. This permit is for 4 years at a time?

Mr. THORNTON. They are renewed annually.

Mr. BAKER. And they could be terminated at the end of any year?

Mr. THORNTON. That is right, although if we get into a termination situation, we give 10 years notice, long advance notice.

Mr. THONE. Mr. Chairman, I have one more question.

Is this offer of a life tenancy to the Doyles still available to them since the court has adjudicated this matter?

Mr. THORNTON. No; I do not believe so.

Mr. THONE. It is not?

Mr. DELCOUR. Mr. Thone, it is not. The Forest Service, since the judgment of the district court, has shown no inclination to negotiate further with the Doyles. Had they, perhaps we would not be here holding a hearing on this bill.

Mr. RARICK. Are there any other questions?

[No response.]

Mr. RARICK. We thank both you gentlemen for coming here this morning.

Counsel, did you have a question?

Mr. RAINBOLT. Assuming the subcommittee chooses not to act, what timetable would the Forest Service proceed on?

Mr. THORNTON. The time is up in May.

Mr. DELCOUR. The judgment has been stayed until May 27 by the district court. That was on motion of the Doyles' attorney. The Justice Department, I presume at the request of the Forest Service, opposed that motion and I suspect would oppose similar motions.

Mr. RAINBOLT. Is the house portable? Is it the sort of thing that can be moved?

Mr. DELCOUR. No, it is not.

Mr. RARICK. If there are no other questions, if the witnesses and the other parties would leave, the subcommittee will go into executive session.

Thank you very much for being with us.

Mr. GOODLING. With your permission, Mr. Chairman, I wonder if they could remain just a bit for something I have in mind that sooner or later is going to affect all of us. I mean just the Forest Service and off the record.

[Whereupon at 10:40, the subcommittee proceeded in executive session.]

IMPROVE THE QUALITY OF SHELLED AND UNSHELLED FILBERTS

TUESDAY, MAY 29, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DOMESTIC MARKETING AND
CONSUMER RELATIONS OF THE COMMITTEE ON AGRICULTURE,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:15 a.m., in room 1301, Longworth House Office Building, Hon. Joseph P. Vigorito (chairman of the subcommittee) presiding.

Present: Representatives Vigorito, Sisk, Johnson of Colorado, and Symms.

Also present: Hyde H. Murray, associate counsel; and Betty Prezioso, clerk.

Mr. VIGORITO. The Subcommittee on Domestic Marketing and Consumer Relations will now hear Congressman Wyatt on bill H.R. 2933 to improve the quality of unshelled filberts and shelled filberts for marketing in the United States.

[H.R. 2933, introduced by Mr. Wyatt, and the Department's report, follow:]

93^D CONGRESS
1ST SESSION

H. R. 2933

IN THE HOUSE OF REPRESENTATIVES

JANUARY 24, 1973

Mr. WYATT introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To improve the quality of unshelled filberts and shelled filberts for marketing in the United States.

- 1 *Be it enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 That section 8e of the Agricultural Adjustment Act, as reen-
- 4 acted and amended by the Agricultural Marketing Agree-
- 5 ment Act of 1937, is amended by inserting after "oranges,
- 6 onions, walnuts, dates," the following: "filberts,".

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DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., May 29, 1973.

HON. W. R. POAGE,
Chairman, Committee on Agriculture.

DEAR MR. CHAIRMAN: This is a report on H.R. 2933, a bill to amend Section 8e of the Agricultural Adjustment Act, as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, to provide that the importation of unshelled and shelled filberts for marketing in the United States shall be regulated by grades, size, quality, or maturity when domestic filberts are so regulated.

The Department sees no need for the proposed legislation at this time.

Grade and size regulations for unshelled filberts are in effect under a Federal marketing order for filberts grown in Oregon and Washington. Almost all the filberts imported are in shelled form. Since total domestic consumption of filberts exceeds domestic production, imports are needed to satisfy demand. We have no information that there is any problem with the quality of imported filberts. In the absence of any complaints, it is assumed that such quality has been satisfactory. Inclusion of filberts under Section 8e would not materially

affect imports of filberts because almost no unshelled filberts are imported and currently there are no grade and size regulations under the marketing order on shelled filberts. However, the marketing order contains authority for issuance of regulations on shelled filberts.

During the last five seasons, 1967-68 through 1971-72, and through March of the current 1972-73 season, only 38 tons of unshelled filberts were imported into the United States, all in the 1968-69 season. During that same 5-year period, an average of about 3,100 tons of shelled filberts (the equivalent of about 6,900 tons of unshelled filberts) have been imported annually. Domestic production of filberts has been averaging about 9,200 tons, unshelled basis, annually.

Enactment of H.R. 2933 would have no significant impact on the environment.

It is estimated that enactment of the proposed legislation would result in an annual cost to the Department of about \$4,000 for each of the next five years.

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

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

STATEMENT OF HON. WENDELL WYATT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. WYATT. Thank you, Mr. Chairman, members of the committee. I would ask that my statement be printed in the record as prepared and if I may I would ask to supplement it and briefly to summarize it.

Mr. VIGORITO. Unless there is objection that will be done.

[The statement referred to follows:]

STATEMENT OF HON. WENDELL WYATT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OREGON

Mr. Chairman, I appreciate this opportunity to submit testimony in support of this bill to protect domestic filbert growers. For many years, buyers of filberts have maintained that they would like to buy Oregon and Washington filberts, both inshell and shelled, but that imports were cheaper. This is primarily because of the superior quality of the domestic product.

Proper storage is important and should be a part of any quality control, yet in past years, importers have sold two and three year old lots of filberts to the detriment of future sales. The world supply of filberts is at an all time high and large tonnages are being carried over by the producing countries. If any quality is to be maintained in the U.S. Market, something must be done, and soon. Section 8e of the Agricultural Marketing Agreement Act of 1937 would provide a means of establishing quality controls on both domestic and imported filberts. It would also make it easier for the buyer to define what grade he was buying, whether it be domestic or imported and should help stabilize the market which has been steadily declining.

The future of the filbert industry in Oregon and Washington is dependent on the acceptance of filberts, both shelled and inshell, by the manufacturer and consumer. Both imports and domestic filberts can only obtain that acceptance by furnishing the buyer a product which has a uniform quality from one year to the next.

I urge favorable action on this legislation.

Mr. WYATT. Mr. Chairman, essentially this bill, although there is some change, essentially this bill was passed by the subcommittee and by the full committee a couple of years ago and for various reasons we did not seek to press it for floor action. We think that the objections that were present at that time have now been circumvented and we are asking for the bill to be passed out at the present time. The real problem with the filbert industry, which is more or less centered in my district, is that the foreign imports are not required to be graded. The age

of the nut and the other quality factors involved in the nut are such that the domestic graded varieties being required to be graded are more costly than the imports which are not graded at all, and so the average of the imports produce a lower price and makes it difficult for the domestic nut to compete. We are asking simply that the imports be put on an equal basis with the domestic crop. If this is done, our producers feel they can compete. All we are asking is that the importers be required to have their product graded exactly the same as the domestic nuts are graded. If this is done then our growers feel they can compete. If it is not done, if they have to compete and on an unequal basis, they will soon be out of business.

That is the long and short of the dilemma that the domestic growers find themselves in.

Mr. VIGORITO. Thank you. Congressman Sisk.

Mr. SISK. Mr. Chairman, I want to express my appreciation to our colleague, Mr. Wyatt, for bringing this bill here. As I understand, this actually would place filberts in exactly the same position with a number of other commodities such as oranges, onions, walnuts, and dates, which we are very much concerned with in California, so that the imported commodity would have to meet the same standards of quality and so forth as domestically produced commodities of the same kind, right?

Mr. WYATT. Yes, sir, and this would put these commodities on the same basis as others listed in section 8(e) of the Marketing Act.

Mr. SISK. As I understood the bill, all it does more or less, is simply add filberts to a number of other items where we do require certain standards.

Let me just say, Mr. Chairman, it happens to be a bill that I am very strongly in favor of for any commodity. I just think it is a shame and disgrace that we have commodities produced in this country and we permit competitive commodities of a like kind to come in here without any kind of inspection or standards of quality and yet our growers are required to meet these standards of quality. I have dealt with this problem over the years with the State Department. Invariably I found the State Department opposed but I for one feel very strongly it is the only fair treatment to our own growers to require the same thing of those commodities which come in as a competitive commodity.

Mr. WYATT. That is exactly the case. In other words, we have quality controls on the domestic product and none on the imports.

Thank you.

Mr. VIGORITO. Congressman Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman; it sounds so logical, Mr. Wyatt, I wonder why it hasn't been done before.

Mr. WYATT. Well, there were some international problems, a good part of our imports come from Turkey and there were some problems in connection with our relations with Turkey that made it inappropriate to move a couple of years ago but it is my feeling and the feeling of others that had knowledge of this that those problems are no longer existent, or at least not to the extent that they were a couple of years ago, and that we can now proceed without any damage as far as our domestic economy is concerned.

Mr. JOHNSON. I am not familiar with the act but section 8(e) that you are referring to, does it specify these other crops that Mr. Sisk was talking about, and this was one that was left out of the statute?

Mr. WYATT. Yes, sir, it specifies certain commodities. Mr. Sisk would know a lot more than I would which ones they are. I know oranges are one of those commodities but there are a number of them that have been added from time to time and it doesn't certainly cover the entire spectrum, but we are just asking that filberts be added as one of the commodities in that section.

Mr. JOHNSON. Thank you.

Mr. VIGORITO. Mr. Symms.

Mr. SYMMS. I don't have any questions, I don't think, Mr. Chairman. I would like to associate myself with the remarks Mr. Sisk just made. As a farmer I feel this is the only fair way to have it.

I am just wondering if I could ask a question. Does this cover dairy products?

Mr. MURRAY. No; it does not.

Mr. SYMMS. Or meat products?

Mr. MURRAY. No.

Mr. SISK. Let me just make a comment. We are dealing basically with the Agricultural Marketing Agreement Act and various requirements under that. Section 8 deals with standards of quality and some of the commodities, such commodities as you have mentioned, are not necessarily dealt with. Meat is not dealt with under the Agricultural Marketing Agreement Act. We do have under other provisions, I am sure counsel would correct me on this, quality requirements on imports, do we not? This is just as a matter of explanation.

Mr. MURRAY. Yes; under the food and drug laws and under customs and agriculture health requirements farm products as they come in have to meet certain health and sanitary standards, but their preparation and their handling in the foreign country isn't the same as it is in the United States. That is one thing that the dairy groups, for example, would like to have, import standards for foreign production comparable to that high standard in effect in the United States.

Mr. SISK. When we put these requirements on it does create problems of international relations as far as the State Department is concerned. For example, I recall in connection with some cases, we have had some problems with Spain, Portugal, Turkey, and Greece. They just simply do not wish to meet the same standards. It is more expensive to have to meet the same standards of purity quality as we are required, under the law, to meet. I take the position it is the only fair and equitable way. Further, it protects the American consumer from poor quality merchandise; and sometimes really very bad merchandise comes in. But on the other hand, in fairness to the opposition, what we generally get from downtown on this is one of pure and simple diplomatic relations which the diplomats have to deal with in other levels in connection with air bases. In the case of Turkey I think it dealt with the opium agreement, and they don't want to disturb the Turks because they didn't want to upset that agreement.

I can sympathize with the diplomatic problem but in fairness to the American consumer and certainly to the American producer to go along with that kind of rationale I don't agree.

Mr. SYMMS. Thank you. I certainly agree with you on that. Another one of my pet peeves, a little off of the subject, is the fact that we get subsidized foreign products that come in here. In the case of apples we have subsidized apples coming in from Europe. We are subsidizing a dollar a bushel and all the apple wine is French green apples and our producers can compete with them but they can't compete with the dollar a bushel subsidy. It makes it unfair.

Mr. SISK. Here you are dealing in an area that actually is a violation of the GATT agreements. In fact, they are shipping in a subsidized commodity. There is action that can be taken. I had a few cases where we have stopped imports under the GATT agreements. There are certain requirements that preclude a commodity from coming in, No. 1, as dumping the commodity, if in fact it is considered a practice of dumping, and No. 2, if it is a government subsidized commodity. So I think you might have a remedy there. We would be glad to inquire in my office. I am sure the staff can give you some information on that because there are some other remedies.

Mr. SYMMS. Thank you. I have no more questions.

Mr. VIGORITO. I would like to state at this time that I am very much in agreement with Congressman Wyatt's bill. I believe that the rules of the game should be the same for domestic and for imported filberts.

Would you know, Congressman, how large an industry this is now, the filberts, how many tons do we consume?

Mr. WYATT. Frankly, I can't answer that question without digging into my files. I would be happy to furnish that information for the files.

Mr. VIGORITO. Of our consumption, how much is produced in the United States and how much is imported?

Mr. WYATT. I will furnish that for the record, if I may.

Mr. VIGORITO. I think that is very important to know.

I don't expect that we will have the departmental reports from the Agriculture Department and from the State Department today but as soon as we get those reports the committee will reconvene to go over the reports and the testimony and take action on your bill.

Mr. WYATT. Fine, thank you, sir.

Mr. VIGORITO. Does counsel have any questions?

Mr. MURRAY. No, Mr. Chairman, thank you.

Mr. VIGORITO. Then that concludes the meeting for today. The committee is adjourned subject to the call of the Chair.

[Whereupon, at 10:30 a.m., the committee was adjourned, subject to the call of the Chair.]

LEASE AND TRANSFER OF TOBACCO ALLOTMENTS IN DISASTER AREAS

TUESDAY, JULY 10, 1973

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

The subcommittee met, pursuant to call, at 10:08 a.m., in room 1302, Longworth House Office Building, Hon. Frank A. Stubblefield (chairman) presiding.

Present: Representatives Stubblefield, Jones, Mathis, Rose, Litton, Mizell, Madigan, and Young.

Also present: Hyde H. Murray, associate counsel; Perry Shaw, clerk; and Anita Brown, staff assistant.

Mr. STUBBLEFIELD. We do not have the hammer, so the committee will please come to order, get underway. They keep the hammer in the other room.

The committee is meeting this morning, gentlemen, to consider H.R. 9138, which Mr. Young of South Carolina recommended to the Committee on Agriculture to amend the Agricultural Adjustment Act of 1938, as amended, to provide for emergency allotment lease and transfer of certain tobacco allotments or quotas in disaster areas.

[H.R. 9138, introduced by Mr. Young of South Carolina, and the Department's report, follow:]

93^d CONGRESS
1st Session

H. R. 9138

IN THE HOUSE OF REPRESENTATIVES

JUNE 29, 1973

Mr. YOUNG of South Carolina introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend the Agricultural Adjustment Act of 1938, as amended, to provide for emergency allotment lease and transfer of certain tobacco allotments or quotas in disaster areas.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 316 (a) of the Agricultural Adjustment Act of
4 1938, as amended, is amended by adding at the end thereof
5 the following: "Notwithstanding any other provision of this
6 Act, when as a result of flood, hail, wind, tornado, or other
7 natural disaster the Secretary determines (1) that a county
8 has suffered a loss of 10 per centum or more in the number
9 of acres of tobacco (other than a Burley, dark air-cured, fire-
10 cured, Virginia sun-cured and cigar-binder, type 54 or 55

1 tobacco acreage allotment) planted to such crop, and (2)
2 that a lease of such tobacco allotment or quota will not impair
3 the effective operation of the tobacco marketing quota or
4 price support program, he may permit the owner and oper-
5 ator of any farm within such a county which has suffered a
6 loss of 30 per centum or more in the number of acres of
7 tobacco planted of such crop to lease all or any part of such
8 allotment or quota to any other owners or operators in the
9 same county, or nearby counties within the same State, for
10 use in such counties on a farm or farms having a current
11 tobacco allotment or quota of the same kind."

12 SEC. 2. Section 316 (c) of such Act is amended by strik-
13 ing the period at the end of the first sentence thereof and
14 inserting the following: "and in the case of a lease and trans-
15 fer to an owner or operator in another county pursuant to
16 the last sentence of section 316 (a) of this Act, the lease and
17 transfer shall not be effective until a copy of the lease is filed
18 with and determined by the county committee of the county
19 to which the transfer is made to be in compliance with the
20 provisions of this section."

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 10, 1973.

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

DEAR MR. CHAIRMAN: This is in reply to your request for a report on H.R. 9138, a bill to amend the Agricultural Adjustment Act of 1938, as amended, to provide for emergency allotment lease and transfer of certain tobacco allotments or quotas in disaster areas.

This Department recommends that the bill be approved, but that it be amended as hereafter provided.

The bill provides for the lease and transfer of farm acreage allotments and marketing quotas for all kinds of tobacco, except burley, dark air-cured, fire-cured, Virginia sun-cured and cigar-binder (types 54 & 55), to other farms in the same or nearby counties within the same State if (1) the county has suffered a loss of 10 percent or more in the number of acres of tobacco planted, and (2) the farm has suffered a loss of 30 percent or more in the number of acres of tobacco planted as a result of flood, hail, wind, tornado, or other natural disaster, and the Secretary determines that such lease and transfer will not impair the effective operation of the tobacco marketing quota or price support program.

Present legislation authorizes the lease of farm acreage allotments and marketing quotas for all kinds of tobacco except cigar-binder (types 54 & 55) and transfer to other farms in the same county if the Secretary determines that such lease and transfer will not impair the effective operation of the marketing quota or price support program. Legislation provides also for the sale and permanent transfer of farm acreage allotments and marketing quotas for fire-cured, dark air-cured and Virginia sun-cured to other farms in the same county. Public Law 92-144, approved October 23, 1971, provides for the sale, lease and transfer of Virginia fire-cured (type 21) tobacco and Virginia sun-cured (type 37) tobacco allotments across county lines in the same State. In its report to the committee on H.R. 6915, the Department recommended that the bill be amended to authorize the sale, lease and transfer of acreage allotments and marketing quotas for all kinds of tobacco across county lines in the same State rather than limiting such authority to Virginia fire-cured and Virginia sun-cured tobacco. The report of the committee states that the committee did not adopt the Department's suggested amendment since growers of other types of tobacco had not expressed their support for such a change at that time.

The Department feels that more flexibility is needed in the tobacco marketing quota program to enable those farmers who have the land, labor and equipment for producing larger acreages to increase their operations to more economic units. Larger and more economic production units will stimulate the mechanization of planting, harvesting, curing, and marketing of tobacco. At the same time, it would enable those farmers who may not wish to continue the production of tobacco, or who lose their crops as a result of a natural disaster, to transfer their resources to other operations and still receive some income from the lease or sale of their farm acreage allotments and marketing quotas. In order to provide more flexibility in the event of natural disaster, the Department recommends that H.R. 9138 be amended to authorize the lease and transfer of acreage allotments and marketing quotas across State lines.

The Department recommends that legislation be enacted to provide for the sale, lease and transfer of acreage allotments and marketing quotas for all kinds of tobacco across State lines. Such additional flexibility is needed to maintain the position of the United States as the world's largest producer and the world's largest exporter of tobacco. Representatives of the Department will be pleased to assist the committee in drafting the necessary legislation to provide for the needed flexibility.

The quality of the environment will not be affected by the adoption of this proposal or with the amendment.

The enactment of the proposed legislation will not result in any additional expenditure of administrative or CCC capital funds.

Sincerely,

J. PHIL CAMPBELL,
Under Secretary.

Mr. STUBBLEFIELD. How do you want to proceed, Ed?

Mr. YOUNG. I will just go ahead and go to the witness chair, Mr. Chairman.

Mr. STUBBLEFIELD. You are number one on this list.

Mr. YOUNG. Let me just pass this statement out to the committee so that they will be familiar with it.

Mr. Chairman, we have had some severe flood damage in our areas in South Carolina. The folks in Clarendon and Williamsburg County in particular and Sumter and Lee partially had the tobacco destroyed

by a 17- to 24-inch rain, part of it washed away. During the holidays that we have just had, I went into this area and looked at some of this tobacco. Many of these farmers stated that they had made crops of tobacco on that land as long as they lived, and this is the first year they had a complete failure. Many of these small farmers not only have their farms, but they rent tobacco from other farms. They asked that they be allowed to do one thing, and that is, since so much damage has been done in one county, they wanted to transfer these allotments across county lines because there were not enough people left in the tobacco in counties that they grew it in to sell it to. So, they asked under an emergency type situation for this particular year, 1973, that they be allowed to do this.

Now, Mr. Chairman, that is basically what we are asking for here, and these people do not have much money. If they are not allowed this, this could bankrupt some of them, and it is a rather pathetic situation in this area. These farmers need the help very badly.

That is the only statement that I have to make, sir.

Mr. STUBBLEFIELD. Thank you, Mr. Young.

Mr. MIZELL. Could I ask my colleague a couple of questions?

Mr. STUBBLEFIELD. Sure.

Mr. MIZELL. I think that we understand completely what the gentleman from South Carolina seeks to accomplish with the legislation, but the bill, H.R. 9138, which you introduced, does it direct itself to this specific case in mind?

I just wanted to ask the gentleman if he would have any objections to specifying the counties that need this relief because of the disaster, and if he would have any objections to just making this for 1 year.

Mr. YOUNG. That is absolutely right, Congressman Mizell.

What we would like to do, if possible, is to make this a Tobacco Subcommittee bill, and designate the year and designate the counties that we are talking about here. I have no pride in authorship. Where these people need help in any way, we will be glad to work in any way, and this is what we would like to recommend, that this be put in there, the counties and the year.

Mr. MIZELL. I thank you for your comment which clarifies the situation as far as I am concerned, and it is a measure that I can support. I cannot support the language that is in the bill here, and I think all the members of the committee are aware of what my position has been in the past and the reasons for it.

Mr. YOUNG. I appreciate the comments.

We are rather new in drawing these bills, and we make some mistakes and we want to rectify them.

Mr. STUBBLEFIELD. I am in favor a 1-year bill.

Mr. YOUNG. It should have been, Mr. Chairman, and this is what we intended. It did not work out that way and we are preparing an amendment to put to it right now.

Mr. STUBBLEFIELD. Mr. Jones.

Mr. JONES. Mr. Young, I am one who is satisfied with the bill as it is. I will not be a party to legislation to accommodate one segment of our economy or one section just in a given year, but this legislation is needed now for you. It might well be needed next year for Mr. Mizell, or Mr. Mathis, or anybody else who produces tobacco, and I

personally think that it is a good, wholesome legislation which is a remedial type thing.

Mr. MIZELL. Will the gentleman yield?

Mr. JONES. Not at this moment.

I commend you for the setup of the machinery, the mechanics, where, if this situation would arise next year in my district or Mr. Mizell's district, it is already on the books. It is particularly true that it is tied to emergency situations, certain conditions, and certain emergencies.

I guess that you will have to offer your amendment, but I cannot support your amendment.

Now, I yield to Mr. Mizell.

Mr. MIZELL. I would say to my colleague from North Carolina that I think every area was explored in order to alleviate the situation without resorting to special legislation such as this, and that I would be the first one to join with him to try to help the farmers in the disaster areas, but under this bill, we give great discretion to the Secretary of Agriculture, and I might say that even though I know the gentleman supports cross-county lines within the State, we also know that the Secretary in the past has been on record as favoring even across State lines. So, I do not think he would agree with the Secretary in all cases in this area.

So, I want to say to him that I would be the first to try to help these citizens in a disaster that he might have, but I just cannot support giving the discretion that this bill does to the Secretary in this particular case.

Mr. JONES. Well, I would say to the gentleman that I would be somewhat reluctant to impose on his time to come back up here each year with this type legislation, and I see nothing to upset the present plan contained in Mr. Young's bill, but once it is on the books, we have the mechanics to solve these problems without coming before this committee and other committees each year should this situation arise. It might well be that the terms of this legislation will never be used again for another 10 or 12 years. I think that it is an insurance proposition and I do appreciate my colleague's offer to assist.

Thank you, Mr. Chairman.

Mr. STUBBLEFIELD. Thank you.

Mr. Madigan.

Mr. MADIGAN. No questions.

Mr. STUBBLEFIELD. Mr. Mathis.

Mr. MATHIS. No questions, Mr. Chairman.

Mr. STUBBLEFIELD. Mr. Rose.

Mr. ROSE. No thank you.

Mr. STUBBLEFIELD. Mr. Litton.

Mr. LITTON. I am going to have to express my ignorance in not knowing that much about tobacco and ask—my colleague tells me to just be quiet and he will tell me all I need to know—but, obviously, there is more to it than meets the eye.

What is behind the idea of the transfer of leases at the present time?

Mr. YOUNG. At the present time, it is impossible to transfer tobacco poundage across county lines. Many people object to this because this would drop the fertilizers and warehouse interest and these other things. This thing that we are proposing here would just be a temporary stopgap measure to help these people who have been so badly damaged. Many of these people are poor and need this help.

I hate to be caught in this bill between the forces that are moving around us, and I think it is a force that is very strong and very viable in these other areas, and the people who will testify after me will point this out. Specifically, we want to try to help these people in this particular case, in this particular year. They have been damaged. We feel that they need this help, and this is all the help that they ask for. It will not cost the Government any money. It will simply be a matter of trading these pounds that they rented to grow on their farms and they have made no crop on. So, they want to transfer it across county lines to somebody who did make a tobacco crop.

Mr. STUBBLEFIELD. Are there any other questions?

Mr. LITTON. Thank you.

Mr. YOUNG. Mr. Chairman, I want to thank you for this opportunity to testify.

Mr. STUBBLEFIELD. The next witness is Mr. William L. Lanier, director, tobacco division, ASCS, USDA.

Mr. Lanier, glad to have you with us this morning.

STATEMENT OF WILLIAM L. LANIER, DIRECTOR, TOBACCO AND PEANUT DIVISION, AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE, U.S. DEPARTMENT OF AGRICULTURE; ACCOMPANIED BY ROBERT M. BOR, GENERAL COUNSEL'S STAFF; AND JOSEPH J. TODD, DEPUTY DIRECTOR, TOBACCO AND PEANUT DIVISION

Mr. LANIER. Mr. Chairman and members of the committee, my name is William L. Lanier, director, Tobacco and Peanut Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture. I have with me Mr. Robert M. Bor of our general counsel's staff, and Mr. Joseph J. Todd, deputy director, tobacco and peanut division.

We are pleased to give the Department's views on H.R. 9138, a bill to amend the Agricultural Adjustment Act of 1938, as amended, to provide for emergency allotment lease and transfer of certain tobacco allotments or quotas in disaster areas.

The bill provides for the lease and transfer of farm acreage allotments and marketing quotas for all kinds of tobacco, except burley, dark air-cured, Fire-cured, Virginia sun-cured and cigar-binder—types 54 and 55—to other farms in the same or nearby counties within the same State if, (1) the county has suffered a loss of 10 percent or more in the number of acre of tobacco planted and (2) the farm has suffered a loss of 30 percent or more in the number of acres of tobacco planted as a result of flood, hail, wind, tornado, or other natural disaster, and the Secretary determines that such lease and transfer will not impair the effective operation of the tobacco marketing quota or price support programs.

Present legislation authorizes the lease of farm acreage allotments and marketing quotas for all kinds of tobacco except cigar-binder—types 54 and 55—and transfer to other farms in the same county if the Secretary determines that such lease and transfer will not impair the effective operation of the marketing quota or price support program. Legislation provides also for the sale and permanent transfer of farm acreage allotments and marketing quotas for Fire-cured, dark air-

cured, and Virginia sun-cured tobacco to other farms in the same county. Public Law 92-144, approved October 23, 1971, provides for the sale, lease, and transfer of Virginia Fire-cured (type 21) tobacco and Virginia sun-cured (type 37) tobacco allotments across county lines in the same State. In its report to the committee on H.R. 6915, the Department recommended that the bill be amended to authorize the sale, lease, and transfer of acreage allotments and marketing quotas for all kinds of tobacco across county lines in the same State rather than limiting such authority to Virginia Fire-cured and Virginia sun-cured tobacco. The report of the committee states that the committee did not adopt the Department's suggested amendment since growers of other types of tobacco had not expressed their support for such a change at that time.

The Department feels that more flexibility is needed in the tobacco marketing quota program to enable those farmers who have the land, labor, and equipment for producing larger acreages to increase their operations to more economic units. Larger and more economic production units will stimulate the mechanization of planting, harvesting, curing, and marketing of tobacco. At the same time, it would enable those farmers who may not wish to continue the production of tobacco, or who lose their crops as a result of a natural disaster, to transfer their resources to other operations and still receive some income from the lease or sale of their farm acreage allotments and marketing quotas.

The Department recommends that H.R. 9138 be approved, but that it be amended to authorize the lease and transfer of acreage allotments and marketing quotas across State lines as well as across county lines in the event of natural disaster in order to provide more flexibility.

The Department recommends further that legislation be enacted to provide for the sale, lease, and transfer of acreage allotments and marketing quotas for all kinds of tobacco across State lines. Such additional flexibility is needed to maintain the position of the United States as the world's largest producer and the world's largest exporter of tobacco. Representatives of the Department will be pleased to assist the committee in drafting the necessary legislation to provide for the needed flexibility.

Mr. Chairman, after this testimony and report were written and signed by the Under Secretary, the Office of Management and Budget gave the necessary clearance. Because of the time element involved, they both carry a nonclearance paragraph that is now incorrect and should not be included in the record. Mr. Chairman, I have completed my testimony.

Mr. STUBBLEFIELD. Thank you.

Mr. Mizell.

Mr. MIZELL. Thank you, Mr. Chairman.

Mr. Lanier. I also appreciate you taking the time to come up and testify, and I think that you have stated your position or the position of the Department very clearly in your statement.

Now, you said that you recommend the approval of H.R. 9138. Now, my question is this specifically, would you still recommend approval of the legislation if it just specified the permitting of transfer for this year and if it specified the counties involved in the disaster? Could you still support it?

Mr. LANIER. Mr. Mizell, of course, we did not have the benefit in the Department that this suggestion would come up.

I think that you would find the Department has compassion for those folks who have been providentially hindered and would want to assist them in any way that they could. However, at the same time, I think that I need to restate the position of the Department of Agriculture, that we also would favor the transfer across State lines for the same reason that we would across county lines, because it is possible that the entire tobacco-producing area of South Carolina, North Carolina, Virginia, Georgia, or Florida could suffer this kind of disaster, and it would give them an opportunity to cross State lines for relief for a period of time.

Mr. MIZELL. It is also true that the Department tried to find other means of helping these people that were involved in the disaster, other than asking for legislation, did they not?

Mr. LANIER. That is correct, and we came up empty-handed. Yes, sir.

Mr. MIZELL. Well, I thank you, and I thank you, Mr. Chairman.

Mr. STUBBLEFIELD. Thank you, Mr. Mizell.

Mr. Jones.

Mr. JONES. I have no questions.

Mr. STUBBLEFIELD. Mr. Madigan.

Mr. MADIGAN. No questions.

Mr. STUBBLEFIELD. Mr. Mathis.

Mr. MATHIS. Mr. Chairman, I really do not have a question to ask Mr. Lanier who knows full well my feelings about the transfer of tobacco across county lines in the State, and I certainly have been opposed and will be opposed to transferring tobacco across State lines.

I feel that he may have done an injustice to this bill, designed as emergency legislation, by bringing up the question of leases across State lines, and I do not feel that it can be permitted at this time.

I just want that in the record.

Mr. LANIER. In response to Mr. Mathis' statement, Mr. Chairman, I would say this.

Of course, his position is crystal-clear and in keeping with the sentiments of his constituents within his district. We say in here that we do favor this bill, but in addition to that, other positions that the Department has relative to this commodity.

Mr. MATHIS. Thank you, Mr. Chairman.

Mr. STUBBLEFIELD. Mr. Young.

Mr. YOUNG. I have no questions.

Mr. STUBBLEFIELD. Mr. Rose.

Mr. ROSE. No questions.

Mr. STUBBLEFIELD. Thank you, Mr. Lanier.

Mr. MURRAY. May I ask a question?

Mr. STUBBLEFIELD. Sure.

Counsel would like to ask a question.

Mr. MURRAY. Mr. Lanier, did you bring your report with you this morning from the Department, the official departmental report? Have you submitted that to the committee?

Mr. LANIER. My testimony?

Mr. MURRAY. No; not your testimony.

Mr. LANIER. The report to the Chairman of the House Agriculture Committee?

Mr. MURRAY. Right.

Mr. TODD. No; but I think it will be here in a few minutes.

Mr. MURRAY. The second question is do you anticipate any costs to be involved with this bill during the current or any of the subsequent 5 fiscal years?

Mr. LANIER. None, sir.

Mr. MURRAY. None.

Then the last thing to clarify what Mr. Mizell said is if the committee would proceed with the bill without the State transfer authority, would the Department still favor the bill? Is it just that you prefer to have an amendment tacked onto it?

Mr. LANIER. In my testimony I tried to make it crystal clear that we were endorsing Mr. Young's bill, but in addition to that, if the committee did not care to go that far, we would still support the bill.

Mr. MIZELL. One further point.

I think that we also have on the record that although they stated the position of the Department, but even if we made this bill 1 year, and if we specified the counties in which the disaster occurred, that it would apply, that they would not oppose it. Rather, this is a means of getting some relief for some farmers that have been hard hit.

Mr. LANIER. I would say, Mr. Mizell, that that assumption is correct.

Mr. MIZELL. Thank you.

Mr. MURRAY. Thank you.

Mr. STUBBLEFIELD. Mr. Jones.

Mr. JONES. Mr. Lanier, I am sure that you are aware of the reluctance of many members of this committee to take any type tobacco legislation to the House floor.

Mr. LANIER. Yes, sir.

Mr. JONES. That is all.

Thank you.

Mr. STUBBLEFIELD. The next witness is Mr. William K. (Bill) Corbett, tobacco farmer of Middlesex, N.C., and North Carolina state president, National Farmers Organization.

Mr. Corbett, glad to hear from you, sir.

Mr. ROSE. Before we entertain Mr. Corbett's testimony, could I formally welcome him as president of the very fine farm organization in our State?

Mr. STUBBLEFIELD. Certainly.

Mr. ROSE. Mr. Corbett has been active in the National Farmers Organization in the State of North Carolina for some time now, and I am sure all North Carolina members on this subcommittee are personally acquainted with him from his long, fine experience.

Mr. Corbett, I would like to welcome you here this morning.

STATEMENT OF WILLIAM K. CORBETT, NORTH CAROLINA STATE PRESIDENT, NATIONAL FARMERS ORGANIZATION

Mr. CORBETT. Thank you, Congressman.

Mr. Chairman, I appreciate the opportunity to testify on this particular bill. I think the organization's position is quite clear from last

year's record, and I will not go into a long dissertation of the whole thing again.

Our specific interest here is Congressman Young's bill. Having met with him and I think having an understanding, I would like to mention the position; in other words, restate the position of the organization specifically on moving across county lines and so forth.

I think even the fact of the need of this bill points out the value of the county line within the tobacco industry. In other words, it has its merit simply by the fact that this bill is necessary in his case. I do not oppose a special bill drafted for a single year for two particular counties that the Congressman has specified who have had a high percentage of damage. Therefore, it would devalue the lease value of the tobacco that these people have. So, they do have a specific hardship need, and we would not want to oppose this. So, if it is contained to a specific year and a specific county that Congressman Young has stated, then we would gladly endorse this.

The county lines, of course, we feel very strongly about because they protect the values of the land of the lease, and this can be quite a wide break from one county to another. It is very important to these people within the counties that this be maintained.

I would like to say that I regret that the Department of Agriculture, who has had a known position on county lines and even State lines for a number of years, would take the opportunity of hardship legislation to try to make input into the entire bill. I notice that the bill is even splitting the Tobacco belt itself, is trying to get into a very unique situation. I hope this was not input from the Department of Agriculture.

So, basically, I would simply like to oppose crossing county lines, and I would like to state that the language of the bill should be specific to the two counties and restricted to a single year.

Mr. STUBBLEFIELD. Thank you, Mr. Corbett.

Mr. Mizell.

Mr. MIZELL. Mr. Chairman, I do not have a question, but I do want to say this to Mr. Corbett. As I recall, last year when we were discussing the licensing and transferring sale, he took the time to come in to testify before the committee as he has today. He stated the position of the NFO members, but more than that, he has expressed before this committee some of the real problems that we run into as far as the economic impact on much of the tobacco program if we should happen to move toward a lease and transferring sale of allotments. Of course, he knows what my position has been on this before, and I think it is clear, but, Mr. Corbett, I appreciate your taking the time to come on behalf of your members and the farmers that would be affected by this legislation.

Mr. CORBETT. Thank you, Congressman Mizell.

Mr. STUBBLEFIELD. Mr. Jones.

Mr. JONES. No questions.

Mr. STUBBLEFIELD. Mr. Madigan.

Mr. MADIGAN. No questions.

Mr. STUBBLEFIELD. Mr. Mathis.

Mr. MATHIS. Thank you, Mr. Chairman.

In reference to what Congressman Rose had to say about Mr. Corbett being active in NFO in North Carolina, he has also been fairly active in the NFO in Georgia.

Mr. CORBETT. We are a total organization, Congressman. We are interested in all agriculture. Yes, sir.

Mr. MATHIS. Mr. Corbett has visited my district a number of times. We shared the same platform a couple of nights ago. We hope that you will come back and see us again, even though we differ sometimes.

Do you really foresee a problem in making this permanent legislation? Do you feel that the Secretary might abuse his prerogative to transfer these leases in emergency situations?

It seems to me that he is pretty well bound by the requirements of the legislation. It must be a 10-percent loss in the county and a 30-percent loss on the farm.

Mr. CORBETT. Congressman, the history of the lease and hardship legislation through the years has been very bad. After legislation is implemented, within a couple of years, it seems as though the farmer and everything else—in this case, I may have very strong reservations about the Department, particularly on this legislation for their own—let's say input. I do not want to say it too frankly, but I am afraid that they are having a little too much interest in a simple piece of hardship legislation. They have previously stated their attitude toward this kind of thing. I think that they have taken this opportunity to use it, to be quite frank. I am very disappointed in them.

Like I said, hardship legislation has been abused in the past. Now, this particular piece, I do not know where the abuse might come from, the farmer or the Department.

Mr. MATHIS. Well, I appreciate your clarification.

Thank you very much, Mr. Chairman.

Mr. STUBBLEFIELD. Mr. Young.

Mr. YOUNG. No questions.

Mr. STUBBLEFIELD. Mr. Jones.

Mr. JONES. Well, since everyone is speaking so kindly about Mr. Corbett, I would like to add my remarks.

He certainly has been a dedicated friend of the farmer through his own personal life and his professional life. I might add that he was particularly active in my district in the 1970 election. Notwithstanding, Mr. Corbett, we are happy to have you here.

Mr. CORBETT. We have had another one since then, I believe. Sometimes leadership gets astray also.

Mr. STUBBLEFIELD. Mr. Young.

Mr. YOUNG. Mr. Chairman, I would like to thank Mr. Corbett for his testimony this morning, and I would also like to express my appreciation to him for allowing these people in our district, who have had a problem, and agreeing to this bill for this particular 1973 crop year.

The bill, I know, it was hard for you to swallow, but I appreciate you helping our farmers in our area.

While I still have the floor, I have two distinguished gentlemen from our district that have meant a lot to me down through the years. Incidentally, Congressman Jones, they were for me, but I would like to introduce them. We have Tom Cunningham and Roy McCall. I

think that Tom is in the dairy business, and Roy is in the tobacco- and cotton-growing business in our district.

Mr. STUBBLEFIELD. They have all kinds of trouble, don't they?

Mr. YOUNG. Well, they were not in the hard-hit area.

Mr. STUBBLEFIELD. We are delighted to have you with us.

Ed, is there anything else?

Mr. YOUNG. No, sir, that is all that I have to say.

I have no questions.

Mr. STUBBLEFIELD. Well, gentlemen, we appreciate your testimony this morning, and the committee will go into executive session to consider the bill.

[Whereupon, the committee went into executive session at 10:40 a.m.]

ACQUISITION OF LAND ADJACENT TO WHITE MOUNTAIN NATIONAL FOREST, N.H.

TUESDAY, JULY 10, 1973

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

The subcommittee met, pursuant to notice, at 10:08 a.m., in room 1301 Longworth House Office Building, the Honorable John Rarick (chairman) presiding.

Present: Representatives Rarick, Vigorito, Goodling, and Thone.

Also present: Representative Teague, Betty Prezioso, staff assistant; and Steven Allen, staff consultant.

Mr. RARICK. The subcommittee will come to order.

The legislation before us this morning is H.R. 4612. This is authored by our colleagues from New Hampshire and proposes to acquire the lands and interests therein adjacent to the exterior boundaries of the White Mountain National Forest in New Hampshire for addition to the National Forest System.

[H.R. 4612, introduced by Mr. Cleveland and Mr. Wyman, and the Department's report follow:]

(37)

93^d CONGRESS
1ST SESSION

H. R. 4612

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 22, 1973

Mr. CLEVELAND (for himself and Mr. WYMAN) introduced the following bill;
which was referred to the Committee on Agriculture

A BILL

To authorize and direct the Secretary of Agriculture to acquire certain lands and interests therein adjacent to the exterior boundaries of the White Mountain National Forest in the State of New Hampshire for addition to the national forest system, and for other purposes.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That in order to maintain and conserve the scenic beauty,
4 wildlife habitat, water quality, recreation, and other natural
5 environmental values of the lands in the Sandwich Notch
6 area adjacent to the White Mountain National Forest, New

I—O

1 Hampshire, and to provide for their protection, management,
2 and public use under principles of multiple-use and sustained
3 yield, the boundaries of the White Mountain National Forest
4 are extended to include the area described in section 2 hereof
5 and the Secretary of Agriculture is hereby authorized and
6 directed to acquire such lands and interests therein as he
7 deems necessary to accomplish the purposes of this Act.

8 SEC. 2. The Secretary of Agriculture is hereby author-
9 ized to purchase the approximately seven thousand acres
10 of lands in the Sandwich Notch area of New Hampshire
11 as shown on a map and description entitled "Proposed
12 Boundary Extension and Acquisition, White Mountain Na-
13 tional Forest—August 25, 1972" filed in the Office of the
14 Chief, Forest Service, United States Department of Agri-
15 culture.

16 SEC. 3. Funds appropriated and available for acquisi-
17 tion of lands, waters, and interests therein, in the national
18 forest system pursuant to section 6 of the Act of Septem-
19 ber 3, 1964 (78 Stat. 903), shall be available for the acquisi-
20 tion of any lands, waters, and interests therein, within the
21 area described in section 2 of this Act.

22 SEC. 4. The lands, waters, and interests therein ac-
23 quired pursuant to this Act shall, immediately upon acquisi-
24 tion or transfer thereof, be included in the White Mountain

- 1 National Forest and shall be subject to the laws and regula-
- 2 tions applicable to the national forests.

- 3 SEC. 5. There are hereby authorized to be appropriated
- 4 such sums as are necessary for the acquisition of lands and
- 5 the interests therein for the purposes of this Act.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 19, 1973.

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

DEAR MR. CHAIRMAN: This is in response to your request for a report on H.R. 4612, a bill "To authorize and direct the Secretary of Agriculture to acquire certain lands and interests therein adjacent to the exterior boundaries of the White Mountain National Forest in the State of New Hampshire for addition to the national forest system, and for other purposes."

The Department of Agriculture recommends that H.R. 4612 not be enacted. H.R. 4612 would authorize and direct the Secretary of Agriculture to acquire for National Forest purposes, approximately 7,000 acres of land in the Sandwich Notch area of New Hampshire. The subject land is located outside and contiguous to the exterior boundary of the White Mountain National Forest. Funds appropriated and available for acquisition of lands in the National Forest System pursuant to section 6 of the Act of September 3, 1964 (78 Stat. 903), would be available for payment of land purchased under the authority provided by this bill.

Almost all of the area which would be acquired and added to the White Mountain National Forest is owned by a single corporation. The land is forested and has been managed for timber production. Under this form of management it has remained essentially undeveloped.

In 1936, the Forest Service of this Department initiated steps to acquire the area for addition to the National Forest. The Forest Service filed a request with the New Hampshire State Land Use Board for approval to establish the Sandwich Notch area as a new purchase unit wherein land could be acquired under the Weeks Law (36 Stat. 961, as amended). The State approved the request in 1937. Forest Service plans to establish the purchase unit were never finalized, probably for reasons that funds were not available at that time or that the land was not for sale. We are presently informed that the principal landowner in the area would consider selling its lands.

While we recognize that these lands could be added to the White Mountain National Forest, we believe that any such acquisition should follow established authorities to the extent available rather than by way of specific legislation.

The Weeks Law provides broad authority for acquiring land of this type and has been used extensively in the acquisition of lands for the White Mountain National Forest and other National Forests in the Eastern United States. Although the authority and appropriations for land acquisitions under the Weeks Law were the principal means for building the National Forests in the East, we have for many years been in an era of relative stability in the growth of these National Forests. Present appropriations for acquisitions under the Weeks Law are primarily needed for improving the manageability of these Forests through the purchase of key private lands located within areas of concentrated Federal ownership.

The Land and Water Conservation Fund has been the main Federal effort to support public acquisition and development of recreation land in recent years. Its main emphasis has been on grants to States, and lesser emphasis has been placed on acquisition of recreation land for Federal administration mainly by

the National Park Service and the Forest Service. Even with the greatly increased level of funding in the last several years, the commitments against the fund for Federal acquisitions are large and priority has accordingly been given in the budgets to areas especially authorized such as: wilderness areas, National Recreation Areas, Wild and Scenic Rivers, and lands for endangered wildlife species. Consequently budget priorities have not been extended to other general purpose recreation lands for Federal administration.

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

Sincerely,

ROBERT W. LONG, *Assistant Secretary.*

Mr. RARICK. The subcommittee will be interested, I am sure, in determining the need for this legislation and what, if any, benefits will accrue to the people through enactment of the bill.

Our first witness this morning is our colleague from the great State of New Hampshire, Hon. James Cleveland.

Congressman Cleveland, we are happy you could be with us this morning. We will hear your statement at this time.

STATEMENT OF HON. JAMES C. CLEVELAND, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW HAMPSHIRE

Mr. CLEVELAND. Thank you, Mr. Chairman. I am speaking on behalf of myself and Congressman Wyman. I am not sure if Congressman Wyman will be here. He has a representative here, and I know that we both speak with one voice on this matter.

I would like to express my gratitude to this subcommittee for scheduling this hearing so promptly after our request. I know the heavy work schedule of your committee, and so we are most gratified that you could oblige us with this hearing. In response to that, we will try to be brief.

This legislation presents an opportunity to preserve one of our last unspoiled scenic areas of unique historic distinction and make a most worthwhile addition to the forest. There has been a good deal written about this, and we are going to see that members of the committee get some of the essays and some of the magazine articles that have been written about it, and I won't bore you with too many details at this time.

For a long time this has been an objective shared by the Federal, State and local governments, landowners, private organizations and interested citizens. In fact, this has gone on for quite some decades.

The bill's approach is simply to make this acquisition of 7,000 acres possible by waiving the provisions of section 6 of the Land and Water Conservation Act which now limits use of funds available to acquisitions no larger than 500 acres outside forest boundaries as of January 1, 1965. I recognize the limitations on Land and Water Conservation funds for fiscal year 1974, and I recognize that because of this the administration will probably take an adverse position on the bill. But in my view, fiscal constraints need not deter us from removing now the obstacles to the use of the funds when they become available.

I am confident that the case for acquisition can be made on the merits in future fiscal years. This committee's favorable action in this session would be most helpful in clearing the way and in helping preserve this tract from irrevocable loss to threatened development in the meantime.

And let me please point out to this committee parenthetically that our problem is not one of getting this money and getting this authorization right now. Our problem is that the owners of this land can't sit around waiting forever for the Federal Government to act, and sooner or later this land will have to be sold to other buyers if we don't take action, and that really is the note of urgency that Congressman Wyman and I are trying to express to this committee.

I have handed each of you a map of New Hampshire and you have a map on the easel here, and Interstate routes connect New Hampshire with the metropolitan area of New York City, the metropolitan area of Boston, and the use figures that I will give you a little later indicate that we in central New Hampshire are being inundated with an ever-increasing number of visitors, people seeking recreational opportunities. We are not complaining about this, but it is part of the picture and it is part of the problem. We are running out of space up there, and this is why there is a note of urgency about this legislation.

These opportunities to acquire tracts like this just don't come up every day in the week. They are very rare.

As the map indicates, the tract consists of some 7,000 acres bordering the existing forest on what could be described as two and a quarter sides. Incidentally, it adjoins a portion of 1,200 acres donated to the forest from private ownership. There have been many donations in New Hampshire. Private people up there have been very generous in making donations to the State park system and to the State forest system, and I will have a word about that later.

The main attraction of this is Sandwich Notch, the last unprotected Notch in the State, where a primitive road cut through in 1801 and traversed by horse and ox-drawn wagon is preserved today. It also contains the remains of a settlement of some 200 to 300 people, abandoned since 1910, ponds and backlands. Members of this subcommittee might be interested to know that a Notch native, John Wentworth, migrated to Chicago, edited a newspaper, and served several terms in Congress with time out for a term as mayor of Chicago.

Moreover, the land which at one time or another has been logged or farmed gives eloquent testimony to ability of lands in multiple use to restore themselves. And it is a tribute to the ownership of a majority of the acreage—Draper Corp., now a subsidiary of North American Rockwell—for its outstanding management practices. The corporation also merits public recognition for its willingness to withhold the land from development pending receipt of a formal acquisition proposal. That is that note of urgency that I called to your attention earlier. I don't think it is fair to expect them to wait forever.

The Notch has been given historical recognition since 1920—proposals currently are pending to register it as an historical landmark—and the area was proposed for addition to the Forest back in 1937 when action by the New Hampshire Governor and council fulfilled State requirements for acquisition.

The area is now threatened by pressure for second home and condominium development in the Pemigewassett Valley. That is the major north-south highway you see on the map running up through the White Mountain National Forest and Franconia Notch.

Indeed, the same scenic attractions which warrant its protection make it a prime target for development. One staggering statistic should serve to measure the pressure. There are 60 million people who

now live within a day's drive of our New England national forests; the number is expected to reach 100 million by the turn of the century.

The Forest Service's figures on use reflect an increase in visitor-days of from 1,914,800 in 1968 to 2,489,100 in 1972. This last represented a 12 percent increase over the 1971.

When I told this committee that there is an enormous amount of use pressure on this national forest, I really don't think I am stretching the truth. It is no chore to translate those figures into demand for use in the forest, and the amount of pressure on land immediately outside the forest.

The estimated costs for the acquisition are \$1¾ to \$2 million. To place this in perspective, the Forest Service reports that acquisitions within the forest since 1965 have totalled 3,000 acres at a cost of \$630,000, in comparison to the total system throughout the country where there have been acquisitions of 688,000 acres at a cost of \$128 million. Total acquisitions, in fact, exceed the acreage of the New Hampshire portion of the forest, which is 679,048 acres of the total 719,611. The rest of that forest is in the State of Maine.

These cost figures, of course, fail to reflect the high usage of the forest, which ranked second in region IX from the late 1960's until last year when it moved into first place. I have not seen the figures, but I understand that nationally, the White Mountain National Forest ranks among the top half dozen in usage, exceeded only by some in California adjacent to population concentrations like Los Angeles.

Testimony to follow I hope will emphasize the degree of public support underlying this proposal, which is merely a continuation of the tradition that brought the forest into being. Rather than anticipate what may be covered by others, I wish to emphasize another aspect of New Hampshire's commitment.

I told you earlier that there were many people in New Hampshire that had given land to the State or the National Government. Our State legislature has taken initiative, too, and I recount that in the following part of my testimony. The Pisgatt State Park, 13,000 acres, at a cost of over \$2 million. The Sunapee State Park area, 2,500 acres at \$300,000, and just last month very close to my home town of New London, we signed legislation to acquire 6,500 acres for a State forest. So this isn't an occasion of New Hampshire sitting on its rear end coming down here and saying we need help from you people. We do need help from you people, but we are also trying to help ourselves as these situations develop, and become available. But because of this particular area's proximity to the White Mountain National Forest, we feel that this is the acquisition route that this particular and unique type of plan should take.

In conclusion, I wish to emphasize that the White Mountain National Forest is a splendid recreational, scenic, and economic resource. The Sandwich Notch tract lying adjacent to it will make a most worthwhile addition. The Forest Service management capabilities can assure the protection of historic areas within it while promoting balanced multiple use throughout. For the Notch and the rest of the forest, this offers the best prospects for balancing our economic and scenic objectives.

The acquisition will preserve a priceless piece of our heritage for future generations and maintain the faith in the responsiveness of Congress among those who have worked so long to save the Notch.

Time prohibits my listing them all. But I do want to mention the work of the Society for the Protection of New Hampshire Forests and the executive director of that organization will speak to you later, the Appalachian Mountain Club which is a private charitable organization that runs a series of trails on the high mountains of the White Mountain National Forest, and a team from New Hampshire, as well, of course, as the Forest Service.

I am not particularly known for exaggeration in this body, yet I must say I fear that this may well be a now or never opportunity. The people in New Hampshire and the New England region will appreciate your thoughtful consideration of this matter, and I thank you very much for your kind attention to my testimony.

I might say that there is one—I have a copy of the prepared testimony of the administration, and I think they neglect in their testimony to point out that in recent years the amount of money under the Weeks Act which has been spent in the White Mountain National Forest has been quite minimal. This is particularly ironic because the author of the Weeks Act, Senator Weeks, and his family for more than 2 centuries have lived in northern New Hampshire, and indeed it was Senator Weeks' association with New Hampshire that created his interest in creating the National Forest. His family lived in Lancaster, N.H., just to the north of the White Mountain National Forest, and the family is still there.

The other point about the testimony of the administration, they speak about the fact that they want to use Land and Water Conservation money for wilderness areas, national recreation areas, and scenic rivers and lands for endangered wildlife species. Actually, if that is what they want to use their money for, this particular area fills that ticket almost to a "T."

I understand they do have these pressures from OMB, but I think its testimony is extremely weak on this aspect of it.

Thank you, Mr. Chairman.

Mr. RARICK. Thank you very much, Mr. Cleveland, for a very thorough and enlightened statement on behalf of the legislation.

Mr. Goodling, do you have any questions?

Mr. GOODLING. I would like to ask this seriously. You intimate the Draper Corp. now owns most of this tract—is that correct?

Mr. CLEVELAND. No. The Draper Corp. makes bobbins, and they wanted to assure their supply of hardwood for making the bobbins. Bobbins are used in the textile industry. But they have now decided that rather than manage this forest themselves, they could do just as well if not better by securing their supply of hardwood elsewhere. They still are managing it and this is one of the reasons we are lucky because they are managing it. They are using it. And this is why they haven't returned it on to the market for a quick dollar.

But as I say, they were taken over by the North American Rockwell Co., and sometimes these big corporate decisions that are made in faraway places can't necessarily reflect the local situation.

Mr. GOODLING. By whom is the balance of the tract owned? Or is it all owned by the Draper Corp.?

Mr. CLEVELAND. No. I think it is—about 500 acres other than—there are a few other little spots in this tract, and the New Hampshire Society for the Preservation of Forests raised \$15,000 or \$20,000

last year in an effort to have some money available so that if this goes through, we can pick up some of the other little tracts.

Mr. GOODLING. Would this land all be purchased or would it have to be condemned?

Mr. CLEVELAND. It is a situation of a willing seller.

Mr. GOODLING. If this were to become a reality, would the Forest Service then have jurisdiction over the entire tract?

Mr. CLEVELAND. Yes, they would.

Mr. GOODLING. What is the present use of it? You said the Draper Corp. is using some. Is there any other logging done?

Mr. CLEVELAND. Well, right now, it could best be described that it is being well managed for timber and in New Hampshire at least, and I think this is true of other States, the companies that own timber have been very good about letting the public in for hunting, for fishing, for camping, and excepting only in certain times of the year when they are very concerned about forest fires, they even let them do some extensive camping.

I believe this to be the case. I know it is the case with the other large companies in New Hampshire that own tracts. They are letting the public use them, subject only to the forest fire threat.

Mr. GOODLING. That was the next question I was going to ask, but you have answered me.

There is wildlife, and public hunting and fishing is allowed—correct?

Mr. CLEVELAND. Correct. But our only message is that this can't last forever because of the enormous pressures. An hour and a half from the city of Boston up to the threshold of this area. An hour and a half on an Interstate isn't much of a trip anymore, and what we are concerned about is that if we can't get this into the White Mountain National Forest, and pretty quickly, here is an opportunity gone by the board.

Mr. GOODLING. That is all, Mr. Chairman.

Mr. RARICK. Mr. Vigorito?

Mr. VIGORITO. You say that about \$2 million is involved here?

Mr. CLEVELAND. The latest figures that were given to me were between \$1 $\frac{3}{4}$ million, and \$2 million for the acquisition.

Mr. VIGORITO. That is approximately \$300 per acre.

Mr. CLEVELAND. Yes. And this—if you could see what has happened to land prices in central New Hampshire, you wouldn't even blink at that. It is again an enormous pressure from people who want to build second homes, and they are building second homes. The Pemigawasset Valley, which is the chief north-south artery up through the White Mountains, most of it is in National Forests, but the little tracts of land that are not have been bid up to a point that one of our chief problems up here now is to find places for the people who live there to live because they are coming up here and paying what I consider to be outrageous prices, but the market is there.

Mr. VIGORITO. That is all, Mr. Chairman.

Mr. RARICK. Mr. Thone.

Mr. THONE. I want to be totally clear on this—we are talking about a 7,000-acre tract.

Mr. CLEVELAND. Right.

Mr. THONE. 6,500 acres owned by the Draper Corp.

Mr. CLEVELAND. Right.

Mr. THONE. The other 500 scattered?

Mr. CLEVELAND. I believe so.

Mr. BOFINGER. Approximately 20 owners.

Mr. THONE. Are those 20 owners all willing sellers?

Mr. BOFINGER. Most of them. We haven't contacted them all yet.

Mr. CLEVELAND. For your information, if you could see a detailed map of the entire White Mountain National Forest, on the map that I handed up—excuse me. You came in a little late.

Mr. THONE. I have one.

Mr. CLEVELAND. I am passing these maps out because if you fellows want to know what to do with your August recess, you can come up to New Hampshire and take a look at this situation. But if you were to see—on that map you have before you, you will see about 12 percent of New Hampshire is national forest, and it is in the green area in the north central part of the State. But if you were to see a breakdown of those green areas, you would find that there are quite a few private holdings within the White Mountain National Forest, and this accounts for some of the 3,000 acres of acquisitions that have taken place since 1965 which I referred to in my testimony, and there are still some tracts right in the middle of the forest that have not been acquired. So if we were to purchase—if you were to authorize us to purchase the Sandwich area, it would not be unusual to have the purchase not a solid block, but a block with maybe two or three little holdouts in it, or places where you couldn't check the title or something like that.

Mr. RARICK. Let me ask this: Is the National Forest System in possession of over 600,000 acres in an existing national forest in this area?

Mr. CLEVELAND. Right.

Mr. THONE. This would be additional.

Mr. CLEVELAND. This would be in addition to it. And in view of the pressure, Mr. Chairman, I think this acquisition is not only in order, but in the future, if these pressures continue to develop, I think we will be back in the future asking you for additional acquisitions, because the alternative is not having this land held by the private companies available to the public for hunting, fishing, and camping. The alternative is to chop it up, chop it up, and chop it up into developments, second home developments, that destroy its use as camping, recreational, and hunting areas. The big companies—I am just not sure how they can hold these big tracts.

Mr. THONE. Just one other question. Those 20 people that own the other 500 acres. Why is it necessary to take their property with the Draper property? Is it really necessary? Why are they included in this package?

Mr. CLEVELAND. Well, let me ask Mr. Bofinger, the head of it—he is here, the executive director of the New Hampshire Society for Protection of Forests. Paul, would you answer that question?

Mr. BOFINGER. Of the 20 other owners, only two tracts lie within the bounds of the Draper holdings. The balance, 18 or thereabouts, is at the very edge of the area. In other words, to make this—in other words, to draw the boundaries with some reason according to the phy-

sical area up there, the bounds—the proposed bounds for this national forest extension include some of these other private holdings at the very bottom edge of the tract near the Town of Sandwich. They are—with the exception of the two that are interior to the Draper lands—the balance of them are not crucial to this area.

Most of these landowners have already been contacted by the society and by officials of the town, Conservation Commission in the town of Sandwich, and they have expressed—everyone we have contacted so far has expressed a willingness to cooperate with this acquisition effort and to sell or give or some combination of the two to the national forest. And at the bottom extremity of it, it could either go to the town of Sandwich or to the national forest, and it would accomplish the same purpose. So that the landowners are very sympathetic.

Two landowners in the interior of the Draper piece specifically have been contacted and have expressed a willingness to cooperate.

Mr. THONE. Thank you very much.

Mr. RARICK. Thank you very much, Mr. Cleveland. We appreciate your appearance here.

The next witness is the other coauthor of the same legislation, the remaining portion of the New Hampshire delegation, the Honorable Louis Wyman. Louis, we are glad to see you this morning. We are prepared to hear your statement.

STATEMENT OF HON. LOUIS C. WYMAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW HAMPSHIRE

Mr. WYMAN. Thank you, Mr. Chairman. I am sending up to the committee at this point an excerpt from a magazine which shows some pictures of the notch and road and contains descriptive material that I thought might be useful in understanding why in response to the earlier question by, I think it was Mr. Vigorito, concerning the uniqueness of this property, why it is so unique.

Ordinarily speaking, if a section of a national forest in a small State has 600,000 acres and it is proposed to acquire 7,000 more, on a percentage basis, it would appear that where the area is already 12 to 13 percent of the State, maybe that is enough. Maybe it ought not to acquire additional federally owned land. But this is a unique mountain notch area leading from one of the most beautiful towns, not only in New Hampshire but in all America, Sandwich, north across a spine that extends down from Waterville Valley and from Mount Washington to Campton, which slopes toward Waterville Valley. It is a wild notch that has been privately owned ever since well before I was born, ever since the Indians were there. It has had but one house in its entire area on about 1 acre in the very center of the notch. It is a little old white house.

There isn't a better setup for development in terms of the commercial pressures that Congressman Cleveland spoke about, condominiums and otherwise, handy to a metropolitan area. There is water in this area, and brooks and waterfalls, Guinea Pond and Hall Pond and other areas I have trout fished ever since I was a youngster. There are scenic spots and an elevation factor and a virtually zero air pollution factor which is at the top of the line in the United States. This is about the cleanest air in all of the United States right where this

notch is, and it would be just a crime to let this area fall prey to commercial development.

I know that there will be testimony following that of the delegation from New Hampshire on this subject to the effect that OMB doesn't want to go along with this bill because they don't want to pay \$250 an acre for this property. I don't believe they will have to pay \$250 per acre for this property. Draper Corp. is managing this, but North American Rockwell owns it.

Now, even a large corporation like North American Rockwell isn't stone blind when it comes to recognizing public relations. It realizes as we all do that in reality this property belongs to the people of the State of New Hampshire and to the people of New England and the other people that come there and their children. It is a public responsibility to make this public use availability a permanent fact. I am sure there isn't any need to pay any \$250 an acre, stockholders notwithstanding. There is a PR factor in this situation, and I believe this property can be acquired at substantially less than \$250 an acre, perhaps at a nominal figure should North American Rockwell be willing and publicly minded.

I have a very brief formal statement, Mr. Chairman, that I won't read. I would like to give it to the reporter for the record in support of the testimony of Congressman Cleveland and make myself available if you have any additional questions. This piece of property is about half in Wyman's district and half in Cleveland's district, so we make common cause on this as well as both being conservation minded and nature lovers.

STATEMENT OF HON. LOUIS C. WYMAN, A REPRESENTATIVE IN CONGRESS FROM
THE STATE OF NEW HAMPSHIRE

Mr. Chairman, I appreciate this opportunity to briefly testify on behalf of H.R. 4612, introduced by Congressman Cleveland and myself, to include New Hampshire's Sandwich Notch area within the White Mountain National Forest.

At issue is the preservation of one of the East's most scenic and unique areas for the benefit of this and future generations. Sandwich Notch was first settled in the late 1700s, achieved a population peak of some 60 families, but by 1910 had reverted to its natural, uninhabited state except for a single house. Today the Notch remains as it was in the early 19th century and, in addition to many natural scenic attractions, provides the last remaining example of a primitive notch road cut by early settlers. The road winds through dense forest cover over a narrow mountain pass containing waterfalls, ponds, unusual stone formations, and alpine vegetation.

Acquisition of Sandwich Notch would go far in relieving some of the pressure placed on the entire White Mountain region. Central New Hampshire lies within a leisurely day's drive of 60 million people, and use of the National Forest has increased dramatically in recent years. The recreation demands placed on the Forest have necessitated use restrictions in some areas and have caused grave concern as to the future effects on the Forest of sustained heavy use. Modern roads and increased leisure time promise even heavier burdens on the area in the foreseeable future.

I believe that preservation of a truly beautiful area and meeting the rapidly increasing recreation demands of Megapolis are sound reasons for this procurement and I urge the subcommittee to favorably report H.R. 4612.

Mr. RARICK. Thank you very much, Mr. Wyman.

Any questions?

Mr. GOODLING. Just this observation. I am sure our good friend must be a very active member of the chamber of commerce.

Mr. WYMAN. Mr. Goodling, knowing of your interest in such beautiful wild areas, I wish you could have been up there with Mr. Teague

just to see the woods and water situation that exists in New Hampshire generally. At a time when ecology and ecological enthusiasts are in conflict with the energy enthusiasts and the protectors of domestic industrial requirements, New Hampshire is truly an oasis where there are waters that are truly clean. I have a log cabin on Lake Winnepesaukee. I take my water from the lake. I drink it. We have been drinking it for 22 years. There are at least 35,000 people on that spring-fed lake right now, actually physically on that lake. Much of New Hampshire is similarly blessed.

The waters in Sandwich Notch are all completely drinkable. If you want a drink of water, you stop your car along the road that winds around and through the forest, and you get a cup out and drink it. This will never stay this way if it is allowed to deteriorate to commercialism. The notch is handy to metropolitan areas. The greatest service you can provide to people who live in city chasms is to give them a chance to get out to something like this in a 2-hour drive. It cleanses, purifies, and refreshes.

Mr. RARICK. Mr. Wyman, you had earlier made the statement, that that land belongs to the people of New Hampshire and their children and grandchildren. You are asking us to take title to it in the name of the American people. That even includes people like mine down in Louisiana and Mr. Thone's in Nebraska.

Now, our two colleagues here from Pennsylvania and their people might get a lot more use out of it. Our people in the South have also heard of New Hampshire. In fact, we have great respect for your license plate. I believe it reads "Live free or die."

Mr. WYMAN. Well, that is part of the New Hampshire tradition, too, Mr. Chairman, and we are proud of our philosophy. When I spoke about the land belonging to people I was not for one moment disparaging the private property concept or the fact that legal title to this land is in private hands who, absent eminent domain, must be involved in negotiation toward a price that will be somewhere near market. However I doubt seriously whether even "market" is as high as has been suggested by the agencies opposed on a cost basis. Much of the back acreage is in ledge and rock and is precipitous.

Mr. THONE. Getting back to those 20 property owners, I understand two of them are located within the Draper property area. You are a former distinguished attorney general of that State, I know, and I am sure you worked on State condemnations as I did in the Nebraska attorney general's office.

Mr. WYMAN. Yes, I did too.

Mr. THONE. Usually these people are not willing sellers. Individuals, especially in an area as you describe here, want sizable awards. What is your observation of these other 18 tracts, or do you know their situation?

Mr. WYMAN. I do not believe, Mr. Thone, there is any need to acquire the other 18 abutting tracts in order to maintain the integrity of the Notch area. I am sure that those people are there probably in 90 percent of the cases because they cherish being an abutter to a wilderness area and that they would in all probability be willing to dedicate the fee of their land to the public use or to noncommercial use if they were requested to and could be assured they could still be able to retain the use for their own private living.

In individual cases this would vary of course. As to the two tracts that are located within the area, I would assume if their owners were not willing to sell at a reasonable and comparable price, their tracts could be acquired by eminent domain, but I understand from what Mr. Bofinger just said that those people have already indicated that they were "cooperative," whatever that means.

Mr. THONE. Thank you.

Mr. RARICK. Mr. Wyman, I am sure you and Mr. Cleveland are familiar with a man up in your State named William Loeb who has the New Hampshire Sunday News and the Union Leader, and I have several clippings from those papers. It seems that there is considerable public support for "Save the Notch," is that correct?

Mr. WYMAN. That is correct. There is considerable support for this effort and it is widespread. All concerned recognize the value and the need to act now. The Manchester Union Leader and Mr. Loeb have been helping.

Mr. RARICK. Without objection I am going to ask that these several news stories from the New Hampshire Sunday News and the New Hampshire Union Leader be placed in the file of the proceedings.

(The newspaper clippings referred to will be found in the files of the subcommittee.)

Mr. RARICK. Our next witness this morning is Dr. Thomas C. Nelson, Deputy Chief of the National Forest System, Forest Services, Department of Agriculture.

Dr. Nelson, we are happy to have you with us this morning. You are a brave man if you can give your report in front of the New Hampshire delegation.

STATEMENT OF THOMAS C. NELSON, DEPUTY CHIEF FOR NATIONAL FOREST SYSTEM, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Dr. NELSON. Thank you, Mr. Chairman and members of the committee.

We appreciate this opportunity to present the views of the Department of Agriculture on H.R. 4612. We apologize that our report is not here yet. It is still in the Department awaiting signature and should be up here shortly. My statement has been cleared by the Office of Management and Budget with respect to the administration's program.

H.R. 4612 would authorize and direct the Secretary of Agriculture to acquire for National Forest purposes approximately 7,000 acres of land in the Sandwich Notch area of New Hampshire. In describing the area to be acquired, the bill refers to a map and description on file in the Office of the Chief, Forest Service. The map referred to in the bill is the one here before you.

The yellow-colored area on the map is the area that would be acquired. The large gray-colored area above the yellow is a portion of the existing lands of the White Mountain National Forest. The bill pro-

vides that funds appropriated and available for acquisition of lands in the National Forest System pursuant to section 6 of the Land and Water Conservation Fund Act, would be available to pay for these lands.

A small map, showing how the Sandwich Notch proposed acquisition is located with respect to the total area of the White Mountain National Forest and vicinity, is attached at the end of my prepared statement. Present net national forest ownership within the boundaries of the White Mountain National Forest consist of 683,203 acres.

Almost all of the area which would be acquired and added to the White Mountain National Forest is owned by a single corporation. The land is forested and has been managed for timber production. Under this form of management it has remained essentially undeveloped.

In 1936, the Forest Service of this Department initiated steps to acquire the area for addition to the national forest. The Forest Service filed a request with the New Hampshire State Land Use Board for approval to establish the Sandwich Notch area as a new purchase unit wherein land could be acquired under the Weeks law. The State approved the request in 1937. Forest Service plans to establish the purchase unit were never finalized, probably for reasons of insufficient funds or that the land was not for sale. We are presently informed that the principal landowner in the area would consider selling its lands.

While we recognize that these lands could be added to the White Mountain National Forest, we believe that any such acquisition should follow established authorities to the extent available rather than by way of specific legislation. Therefore, we recommend that H.R. 4612 not be enacted.

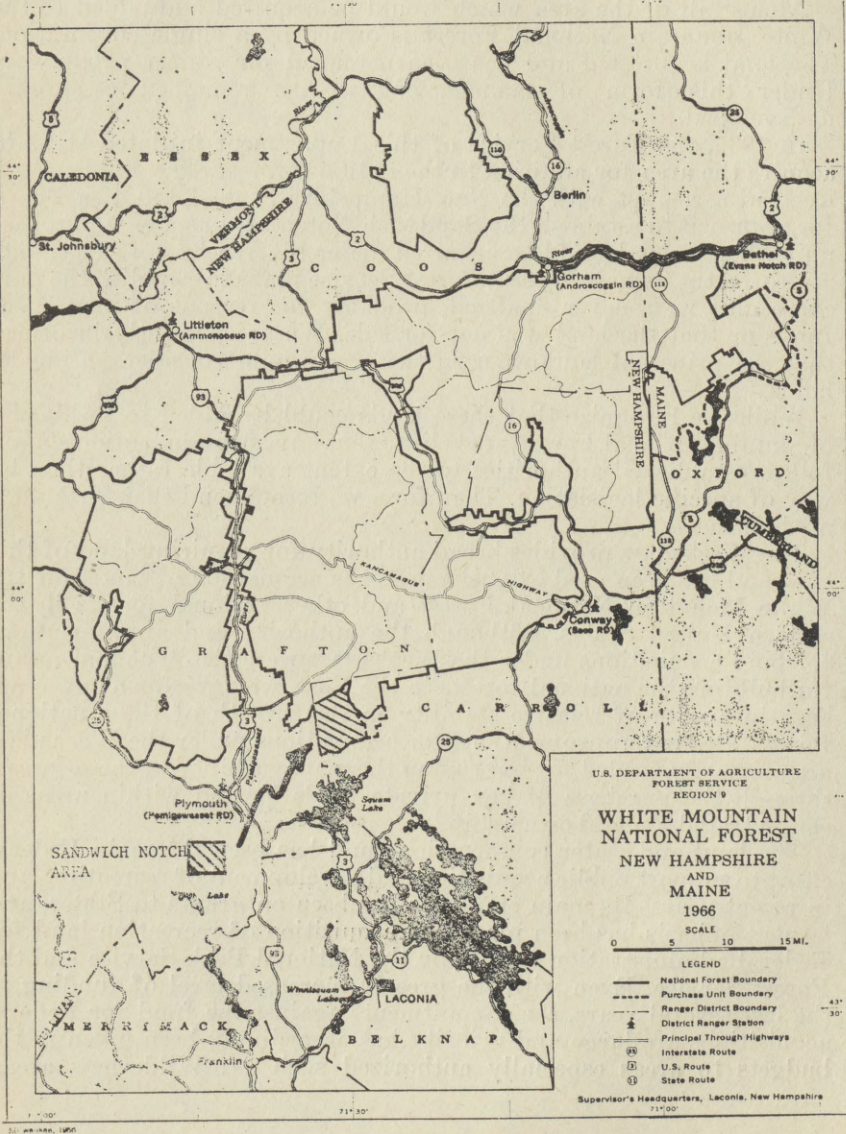
The Weeks law provides broad authority for acquiring land of this type and has been used extensively in the acquisition of lands for the White Mountain National Forest and other national forests in the eastern United States. Although the authority and appropriations for land acquisitions under the Weeks law were the principal means for building the national forests in the East, we have for many years been in an era of relative stability in the growth of these national forests. Present appropriations for acquisitions under the Weeks law are primarily needed for improving the manageability of these forests through the purchase of key private lands located within areas of concentrated Federal ownership.

The land and water conservation fund has been the main Federal effort to support public acquisition and development of recreation land in recent years. Its main emphasis has been on grants to States, and lesser emphasis has been placed on acquisition of recreation land for Federal administration mainly by the National Park Service and the Forest Service. Even with the greatly increased level of funding in the last several years, the commitments against the fund for Federal acquisitions are large and priority has accordingly been given in the budgets to areas especially authorized such as: Wilderness areas,

national recreation areas, wild and scenic rivers, and lands for endangered wildlife species. Consequently budget priorities have not been extended to other general purpose recreation lands for Federal administration.

Mr. Chairman, this concludes my prepared statement. I will be happy to answer any questions.

[Map of the White Mountain National Forest area follows:]



Mr. RARICK. Thank you very much, Dr. Nelson. As I understand the gist of your testimony, the National Forest Service has since 1936 been in the process of actually obtaining the parcel in discussion today?

Dr. NELSON. Mr. Chairman, New Hampshire requires certain State approvals under its enabling act for acquisition of National Forest lands. In 1937 these formalities were completed for this particular tract.

However, this particular piece of property never did come before the National Forest Preservation Commission at that time for action, to establish it as a purchase unit.

Mr. RARICK. But there were efforts as far back as 1936 to recognize this as a valuable asset to the National Forest Service, is that correct?

Dr. NELSON. That is correct.

Mr. RARICK. You have no idea what the land could have been acquired for back in 1936.

Dr. NELSON. Very reasonable costs, Congressman. I do not have the figures available.

Mr. RARICK. It is a shame when you compare the cost then and what it costs these days.

Dr. NELSON. That is correct.

Mr. RARICK. Even today we have no idea what the costs might be in another 10 years.

I was looking over this one news story written by Carol Morrissey from Center Sandwich. She paints this dismal view that if we don't do something to save the notch, we can shortly "visualize rows of ski chalets and summer camps popping up among the trees like black flies after a spring rain. Here and there would be a gift shop, a snack bar or a lawn littered with antiques. Automobiles and motorbikes would speed around curves of the newly tarred road."

She goes on and on. We might even have a few high rises up on the notch as people clamor to try and get clean air and fresh environment again. So if commercial ventures enter into the area, it would even be more expensive.

So, under the Weeks bill, then, if we have waited since 1936 and haven't moved, we can probably anticipate there never would be any opportunity for this acquisition by that route. Would that be correct?

Dr. NELSON. Congressman, in 1973, fiscal year 1973, our total appropriation under the Weeks Act was \$1.3 million.

Mr. THONE. How much?

Dr. NELSON. \$1.3 million, in fiscal year 1973. Within existing national forest purchase units and exterior boundaries, at present, there are approximately 40 million acres of private holdings; 25 million of this 40 is within the Eastern United States.

Mr. RARICK. At the time the House considered the only appropriations for the National Forest Service, Mrs. Hansen, the chairman of the committee, commented that roughly \$20 million, about one-tenth of the total Forest Service appropriation, went merely to repair the vandalism and pick up the debris and deterioration caused by the users of our national forests. That is \$20 million really for nothing but maintenance and repair.

Of course, I know your comment here is that the Weeks law fund is used primarily to maintain the sufficiency of the parks?

Dr. NELSON. No. The Weeks law provides for the acquisition of lands within existing national forest boundaries and purchase units.

Mr. RARICK. Well, if we have \$20 million a year to spend to clean up after those who use our national forests, it would seem very minor, wouldn't it, to expend the \$2 million called for here to acquire this land—even though you disapprove of the route that the authors of the bill have taken as to the land and water conservation fund. In other words, the National Forest Service would like to acquire this piece of property, isn't that right? You feel it would be a valuable asset to the forests in New Hampshire today.

Dr. NELSON. I think the best way to express that, Congressman, is to state that this particular tract of land is of a character that fits within the concept and ideas for which the national forest system was established.

Mr. RARICK. The only other problem then is where and how are we going to get the money? This committee is very aware of OMB. Our friends over there impounded \$4 million of the cooperative forest fire protection fund. We had them impound, in some instances, the appropriations to the Forest Service itself. But I think you answered my question. This is a valuable piece of property for the purpose intended by the authors of the bill. I want to say this, in my area, people don't want to give up private land. This is quite a compliment to the National Forest Service that the people of New Hampshire have so much confidence in you that they want to make you the custodian of the notch.

Dr. NELSON. Thank you, Mr. Chairman.

Mr. RARICK. Mr. Vigorito, do you have any questions?

Mr. VIGORITO. Yes. Mr. Nelson, would you have any idea how much this land in question is worth?

Dr. NELSON. Mr. Congressman, I think that it will be necessary if legislation is enacted to get a complete appraisal on this property. From going prices of land in the area, in our judgment, the property would be valued some place between \$2 and \$3 million. I am sure that you understand that this estimate is without an appraisal of the land and its resources.

Mr. VIGORITO. Thank you. That is all.

Mr. RARICK. What or who would make these appraisals?

Dr. NELSON. We would have a certified appraiser make these appraisals, Mr. Chairman, probably under contract.

Mr. RARICK. How long would such a matter take?

Dr. NELSON. I would judge, sir, that on a property of this size, 7,000 acres—it is timbered—you would need a rather decent estimate of the timber values involved as well as the other values—it would take something in the neighborhood of 4 to 5 months.

Mr. RARICK. If the legislation were passed out we would hope that the people involved, or the majority of them, would sell. We have never had any contact with them through the Forest Service, have we?

Dr. NELSON. I cannot answer that question.

Mr. RARICK. I was wondering if it might not be best to have the Service contact some of these people and get an idea of what their thinking is as to the value of the land so that we really know what is involved and could intelligently tell our colleagues when the matter comes up on the floor how much we are talking about.

Dr. NELSON. Under Public Law 91-646, Mr. Chairman, it is necessary that the fair market value be offered to the owner. Now, I believe that the owner can waive this if he so desires, but this is the principal—one of the reasons why we go the appraisal route.

Mr. RARICK. Mr. Thone, do you have any questions?

Mr. THONE. I think all my questions have been answered. One thing, though, Mr. Nelson. What was your opening disclaimer? It caught my ear, but I wasn't quite sure what you were saying. What was the thrust of it? You don't have OMB approval or you don't have the Secretary of Agriculture's approval?

Dr. NELSON. No. My opening thrust was that our report was not yet filed with the committee, that it was still in the Department awaiting signature and should be up here shortly, probably today, but the statement has been cleared by the Office of Management and Budget with relation to the administration's program and inasmuch as our report follows very closely our statement, I see no difficulties arising from that.

Mr. THONE. The statement has the approval of the Department, I assume.

Dr. NELSON. That is correct.

Mr. THONE. And I take it, then, that your testimony generally is to the effect—leaving out the fiscal aspects, the budgetary restraint—that this would be a sought-after acquisition by the Forest Service.

Dr. NELSON. I think that that would be a fair statement.

Mr. THONE. All right.

Dr. NELSON. It is true that this land does have national forest character, that its proximity to large population centers makes it a desirable purchase when budgetary and fiscal situations are such that it would be possible.

Mr. THONE. That is all.

Mr. RARICK. Dr. Nelson, sometimes after enabling legislation is passed the value of these lands goes up. Can you give us some rough idea how long it would take the Service to contact these people, at least get a written letter whether or not they would sell and some idea of the value they would place on their land so we would know what sum roughly is involved?

Dr. NELSON. Mr. Chairman, if it were the wishes of the committee, we could contact these people immediately and attempt to get this information that you request.

Mr. RARICK. I am only speaking for myself here. There are other members on the committee. We have another full committee later and I am sure this is one of the immediate questions, how do we know what this is going to run? It may be estimated at \$13¼ million or \$2 million, but we have no way of knowing for sure. At least if someone contacts these people and we have a letter, merely an offer to sell at a certain price, we certainly would have a better understand-

ing of cost than if their legislation were passed out merely saying we are going to buy the property and authorizing the appropriation of necessary funds.

Sometimes these prices go up considerably after they realized that we are hunting them down to give them some money to get the property.

Dr. NELSON. Mr. Chairman, we would be happy to fulfill the committee's request in this respect.

Mr. VIGORITO. I think that would be an excellent suggestion.

Mr. THONE. Yes. I would be in favor of it.

Mr. RARICK. Would you proceed on that premise, then, Dr. Nelson?

Dr. NELSON. Yes.

Mr. RARICK. Contact at least the major landowners involved. This will give you some idea whether he is willing to sell and he could probably give us some firm idea of what he would want. At least, if we have these letters we would know then what we are shooting for in dollars and cents, since fiscal responsibility is a great issue of the hour.

Dr. NELSON. I gather that the question, then, is directed toward the North American Rockwell Corp.

Mr. RARICK. And I think we have——

Mr. THONE. At least, those two owners within the——

Mr. RARICK. Mr. Cleveland and Mr. Wyman may be able to give you some of the names and addresses of the other parties. Tell them we are considering the possibility of adding this Notch property to the National Forest Service and we are wondering if they would be a willing seller and what they would accept for the land.

Dr. NELSON. Mr. Congressman, I think we are going to have to clarify for the record the question of the tracts to the south here that are owned by the 18 or 20 other private individuals. The information that we have is that there are two small inholdings within the Draper Corp. holdings and we do not have information of other landowners at the south end of the map on the flyer, but we will check this out for the record.

Mr. RARICK. I believe Mr. Wyman and Mr. Cleveland are sitting behind you. Perhaps they can obtain these names and addresses for you. Probably they would be happy to assist you.

Mr. WYMAN. Mr. Chairman, we really don't believe that contracting the 18 abutters is necessary.

Mr. THONE. From experience, I think you are going to stir up a hornet's nest with them.

Mr. WYMAN. That is right. You have really but a single large owner here, North American Rockwell and the question is how much they would sell for, and next the two who are within the North American tract, what they would be willing to dispose their property for. Mr. Bofinger, who is about to testify, has indicated that they are both cooperative.

Mr. RARICK. Would you both agree if we contact these three owners this would be sufficient?

Mr. WYMAN. Yes.

Mr. CLEVELAND. I would like to add the question to North American Rockwell is what would they sell this tract of land to the White Moun-

tain National Forest for the use of the people of the United States—it is a lot different than selling it to somebody who is going to turn around and make a fast buck out of it, or selling it to a government who is going to preserve it for future generations and also assure these people that their Draper Corp. through multiple use will still have a supply of hardwood.

Mr. RARICK. Dr. Nelson, do you understand an easement is to go with this?

Dr. NELSON. I think that complicates your question, Mr. Chairman.

Mr. RARICK. Right.

Dr. NELSON. The easement or the rights to the timber.

Mr. RARICK. Then, I believe it is worth the contact. I don't know how long the easements in New Hampshire run. Do they run for 10 years, 30 years?

Dr. NELSON. I do not know, sir. I would have to check.

Mr. RARICK. It may be that they would give a price both with the easement and without.

Dr. NELSON. We will follow through on that, Mr. Chairman.

Mr. RARICK. I think this is something that wasn't brought out earlier in the testimony that we should know. We would greatly appreciate it if you or somebody in the office would do that and let the committee know when you have obtained any information.

Dr. NELSON. Yes.

Mr. RARICK. We certainly appreciate your willingness to appear this morning and give us the testimony you have given.

Dr. NELSON. Thank you, sir.

Mr. RARICK. We have one more witness this morning. Mr. Paul Bofinger, executive secretary, Society for the Protection of New Hampshire Forests. Mr. Bofinger, we are happy to have you with us this morning. We appreciate receiving your testimony.

STATEMENT OF PAUL BOFINGER, EXECUTIVE DIRECTOR, SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS

Mr. BOFINGER. Thank you, Mr. Chairman, members of the committee.

For the record my name is Paul Bofinger. I am the executive director of the Society for the Protection of New Hampshire forests. I apologize to the committee for not having before you copies of a prepared statement. The lights went out in our building yesterday afternoon and I found myself without a dictating machine, electric typewriters, mimeograph, or other forms of office equipment.

With your permission, I will submit at a future date a copy of this testimony. I have my rough notes.

I have also given an exhibit which contains a number of items which I will be referring to in my testimony to the young lady over here.

The Society—

Mr. RARICK. Without objection we will ask that the exhibit be placed in the file of the proceedings along with the other newspaper clippings and material we have. Proceed, sir.

[The exhibits referred to will be found in the files of the subcommittee.]

Mr. BOFINGER. Mr. Chairman, the Society for the Protection of New Hampshire Forests is a private nonprofit organization with over 3,200 members. It was founded in 1901 to promote the wise use and preservation of New Hampshire's natural resources as each use best suits the public interest.

The society was the motivator behind establishing a State forestry department in the early 1900's, and is currently engaged in both forestry activities, promotion of tree farming, and protection of outstanding natural areas.

Many State parks and reservations have come about as a direct result of the society initiation and purchase for later gift to the State.

More specifically in the area of Federal ownership and land use, the society was the prime mover, certainly in New England, in the creation of the Weeks Act. The prime purpose for the establishment, the incorporation of the society in 1901, was to secure protective public acquisition for the White Mountain. John Wingate Weeks, the author of the Weeks Act, was an officer of the society and through his efforts and the cooperation of people with similar interests in other States in the East, the Weeks Act became a reality in 1911. Since that time, of course, we have paid very close interest and had a very cooperative attitude with the Forest Service, and particularly in relation to land acquisition in the White Mountain National Forest.

There has been some description of Sandwich Notch, but I would like to give you just a little bit more. The word notch is a uniquely New Hampshire and northern New England word for a mountain pass. In the late 1700's and early 1800's, the settlers who had homesteaded up along the Upper Connecticut Valley in New Hampshire and far northeastern corner of Vermont were seeking a better route to get to the seacoast to do their trading, get their molasses and rum, and so forth, and a road was put through the Sandwich Notch area finally in 1801. It gradually developed a small settlement. This is mountainous hill country. The soil is difficult, and with steep slopes in many places and very rocky soils. Yet at the height of its activity, the Sandwich Notch area had between 200 and 300 inhabitants.

It is located, as you see on the map, in central New Hampshire, just on the southern border of the National Forest. It has a remarkable wildlife population. It has every species of wildlife indigenous to New Hampshire. There are extensive deeryards in Sandwich Notch and it is a very good area for deer hunting.

The last remnants of the New Hampshire moose herd are found among other places in Sandwich Notch. It has one of the most stable populations of moose in the State.

The area is very heavily used now by recreationists, hunters, fishermen, campers, and the like. It has within its boundaries four remote, wild, undeveloped, trout ponds. Three of these are so inbound that they must be stocked by air and provide excellent trout fishing.

Because of its prior habitation and the old turnpike that went through this Sandwich Notch area, there are many old cellar holes and the foundations of the taverns, and so forth, that the people used back well over 100 years ago. There are many artifacts still in the Notch. Each of the cellar holes that remains up there—approximately

30 have been identified so far—contain their own supply of artifacts dating back to the early 1800's.

The last inhabitant of Sandwich Notch, a gentleman by the name of Moses Hall, died in 1930. He left his entire life savings to the town of Sandwich for the preservation of Sandwich Notch. The interest in protecting this area dates back, then, to 1930 when the last of the Notch inhabitants died.

In 1932, an area just outside the boundary that we are talking about here today, known as Beede Falls, a lovely waterfall area, was acquired by a local resident and given to the town of Sandwich. The lady that did this at that time tried to get the Society for the Protection of New Hampshire Forests behind a drive to incorporate this within the White Mountain National Forest back in 1932. At that time the society was heavily engaged in another campaign for a large tract of land to be included elsewhere and didn't feel it could take on a new campaign then.

In 1937 the town meeting of the town of Sandwich voted to ask that the entire Sandwich Notch tract be added to the White Mountain National Forest. After this approval by the town, and subsequently by the State in 1937, not much happened in this area until 1950, when a private landowner who owned approximately 1,700 acres between the Draper lands that we are speaking of here today and the boundary of the national forest gave his entire tract, some 1,700 acres, to the national forest.

There have been several proposals in recent years for an improved highway through the Notch. The existing road is a narrow mountain gravel road that is in virtually the same condition today as it was when it was first constructed in 1801. The bridges have obviously had to have been rebuilt over the years, but the same method of construction is used today as was used originally, with wooden beams and pegs, and so forth. This is an almost fetish on the part of the town road agent in the town of Sandwich. He wants to keep that road exactly the way it was in the same location and its original width.

The current activity with relation to Sandwich Notch again in 1970 when a group of New Hampshire citizens operating under the name of New Hampshire Tomorrow investigated the site and recommended that activity begin again to preserve the area. The proposal that is before you today has been endorsed by our congressional delegation, by the Governor, by the town of Sandwich, and at the most recent vote, by the town of Sandwich was just this past year at their town meeting they unanimously passed a resolution asking for acquisition by the White Mountain National Forest. Just 2 months ago, the New Hampshire Legislature, the house of representatives, again unanimously passed a resolution suggesting that the Sandwich Notch tract be added to the White Mountain National Forest. We have endorsements for this proposal from virtually every State resource agency, from every State citizen organization. Some of them are included in the exhibit that I have given to this committee. Every organization in the town of Sandwich, from the Mount Israel Grange with 87 members to the town planning board, to the conservation commission, to the selectmen, the town club, and so forth, has endorsed this proposal unanimously.

We feel that acquisition by the White Mountain National Forest, inclusion in the national forest, is important for the following reasons: The national forest already abuts this tract on better than two sides. The national forest and Forest Service in New Hampshire have a proven record of management practices. We are confident that they can maintain the kind of timber management that the Draper Corp. has had over the years. We are very proud of our private landowners in New Hampshire, and particularly the Draper Corp. They have practiced to a very intensive degree forest management on this.

This is not a cutover tract by any means. There is a great deal of value on this tract, both in hardwoods and softwoods. The potential sugar maple cut on this tract is very significant.

We feel that the Forest Service multiple use management concept would best fit the management that we foresee coming about in this Sandwich Notch tract. In fact, we have already prepared, and a copy of it is in the exhibit, a draft management plan that has been reviewed and approved by the State agencies that have some interest in this, by the townspeople, and obviously to the extent that this has received some approval by the Forest Service itself.

The private landowners—other private landowners that have been mentioned here in particular—are the present owners of the Moses Hall house. This is the last house remaining in the Notch and it is kept in its original condition by the present landowner. He uses it as a summer home. There is no way to get through the Notch road in the winter because it is not plowed. He has expressed his willingness to the society and to the people in the town of Sandwich that he wants to keep that house just exactly the way it is today and he wants to keep the land exactly the way it is today, and he is willing to, through means of easements or outright sale or some other legal means, secure the permanent preservation of that Moses Hall tract of land and that Moses Hall house, and because of the historical aspects of this area, I think it is appropriate that there still be a house in the Notch that dates to almost 175 years ago.

The other in-holding is a very tiny tract, as near as we can determine, not much over an acre, that is owned by the Tilton School, which is a private boys' school and they have a little cabin which the school-boys use for a hiking base. They have said to the society that they would be willing to enter some agreement whereby the use of that property would never change and if they could find another base for their hiking camp, they would be willing to give that up that they now have.

The balance of the private land holdings, as has been mentioned earlier, are not important for this purpose. They are on the—in the southeast corner of this and they abut the property that is already owned in the public interest by the town of Sandwich. We have already contacted most of those people, and they have expressed a willingness to cooperate in some fashion, and by that I mean either by easements or other forms of acquisition or otherwise to the town of Sandwich or to the Forest Service, whichever is most appropriate, and we have not—we want to make the record clear that we have not yet contacted every landowner, but everyone we have contacted so far, and we have con-

tacted a majority of them, has indicated a willingness to help because these people own this land, because they want to see it kept the way it has been over the years. They are not interested in speculative profits. They are people that have a local interest and in fact a public interest in keeping this area the way it is.

The urgency of this has been mentioned very well by both Congressmen Cleveland and Wyman. I won't get into that.

Just a few statistics on use. The White Mountain National Forest has the highest recreation use of any National Forest in this region, the northeast. It gets the same degree of use as many National Forests that are three times its size, for example, the Superior and the Angeles National Forests.

We presently are at a level of 2½ million visitor-days. It is predicted by the Forest Service that by 1980 we will be up to 4,100,000 visitor-days annually. By the year 2000, 6,500,000 visitor-days.

The use and recreation pressure on this National Forest is increasing at an increasing rate. The only way we can maintain the quality of the recreational experience that the White Mountain National Forest can presently offer is to add tracts to it like the Sandwich Notch tract. This is really an exceptional piece of land in terms of its physical characteristics, the water, the ponds, the rivers, the scenery, the historical aspects of it, and most importantly, to me at least, the fact that here you have an example of a road that was built practically in colonial times as a turnpike and is today in exactly the same condition as it was then. We are confident that the U.S. Forest Service and the White Mountain National Forest can manage this tract on a multiple use basis, providing timber products to local industry, including the Draper Corp., to provide hunting and fishing and other forms of recreation potential, and still maintain some of the historic qualities of the area.

Congressman Wyman mentioned the fact that there is a possibility of a gift here by the Draper Corp. I think it is a very real possibility. We have been negotiating, that is, the society acting as kind of the initiator of this—and without, of course, congressional approval the Forest Service couldn't proceed themselves on this—we have been negotiating with the Draper officials for well over a year and have met with their vice president in charge of real estate and other North American Rockwell officials. They are very sympathetic to this project, and I think there is a very real possibility that some form of a gift can be negotiated.

Most recently there has been a gift by the Union Camp Corp. down in Virginia, some 10,000 acres, that has received a great deal of favorable publicity for the company who made the gift, and I know for a fact that North American Rockwell is aware of that publicity and aware of the potential value of this. I would think if this committee showed the interest in this so that some serious negotiations could start to take place with North American Rockwell, we might be pleasantly surprised at what can be done in acquiring this tract.

Thank you.

MR. RARICK. Thank you very much, Mr. Bofinger. I might add a special interest of this subcommittee, at least since the devaluation of the

dollar, in diverting some of the American tourists from going abroad and encouraging them to see America first. I have never been in New Hampshire. I have never visited your forest. It surely sounds like a very beautiful and scenic spot to attend.

Do you folks sell nonresident trout stamps up there?

Mr. BOFINGER. We have a nonresident fishing license that is most reasonable.

Mr. THONE. You would have to get him a New England passport first.

Mr. RARICK. They accept foreigners in Europe. I guess they accept foreigners in New Hampshire.

Mr. BOFINGER. You are welcome to come and if you would like to see the tract I am sure we can arrange a field trip when the trout are rising.

Mr. RARICK. I think the only thing we now are waiting on is the result of Dr. Nelson's contact with the proposed vendor of the property. The other aspect is the discussion or suggestion by Mr. Cleveland that this was to carry an easement whereby the Rockwell people would be able to continue timber cutting. I have serious doubts, of course, that the Government would want to take any tract into the Federal domain and then allow the former owner to continue cutting timber. We have had some bad results in situations like that.

Mr. Thone, do you have any questions?

Mr. THONE. Only this. Mr. Bofinger, at the end of your testimony you implied that perhaps some acts of this committee or Forest Service could help trigger this negotiation with American Rockwell. Do you have a specific suggestion for Judge Rarick and myself? I am sure—I am not speaking for him, but do you want us to come up there or do something? We could work it out with Congressmen Wyman and Cleveland. Anything we can do I think in this regard we would be happy to do.

Mr. BOFINGER. I think a trip by you or some other visible physical means of support or show of support for this would be very, very helpful to the general project and specifically to the Forest Service and to those of us who are dealing with the other landowners in here. If we can show North American Rockwell that in addition to the town, in addition to the State, in addition to every possible point of interest that we have been able to identify in New Hampshire who is in favor of this, if the Congress of the United States, at least this subcommittee, is interested in it, I think it would make a lot of difference and it would show them that it is not just the small State of New Hampshire that is speaking here but we have a larger forum as well, and certainly this land is being acquired for all the people of the country.

North American Rockwell is a giant corporation, as you know. In dealing with space shuttles and this sort of thing, a relatively small thing to them like Sandwich Notch, you know, may escape their attention. So this is why something like that would be very helpful.

Mr. THONE. I might suggest this. Why don't you communicate any specific ideas you have on this to the two Congressmen. They will check in with Judge Rarick, and I will do everything I can do to cooperate, even to taking some of my own time. George Goodling left his proxy, Judge. He is willing to vote out the bill although I think both of us

agree that we find some problems with those 18 tracts. I have heard testimony before the fact of condemnation, and it sounded awfully good, but, once you start actual condemnation or acquisition, you get a different story. I think Lou Wyman took care of that by suggesting maybe that those tracts ought not to be included.

I would suggest if we are going to report this bill, Judge, we might even want to amend the bill. Having had a lot of prior experience in this area, I can see problems when we start dealing with 18 individual landowners after there is a big acquisition in the wind.

Mr. RARICK. Unless we get the implied approval first——

Mr. THONE. I'll just bet you are not going to get that out of those 18 owners.

Mr. BOFINGER. Congressman, one thing we are doing this summer—in fact, the work is already underway—is to try to acquire options from these 18 other owners, in the name of the society that would be exercisable by the U.S. Forest Service or with any public agency. This is a technique that we have used many times in the past. In other words, the society as a private organization can go to another private landowner and negotiate often a gift directly with them, or negotiate an option at a place which we feel confident that the Forest Service or some other——

Mr. THONE. You know the local situation much better than I do, but I have sure run into it in the past. Maybe those citizens up in New Hampshire are much more public spirited than out in Nebraska, I don't know.

Jim?

Mr. CLEVELAND. Charlie, you did notice in the testimony here, one lady bought 1,200 acres, gave it to the town, and another man bought 1,700 acres and gave it to the White Mountain National Forest. Now, that tells you something, doesn't it? That is 2,900. That is almost a third of what we are talking about.

Mr. THONE. Obviously, Jim, but these 18 people haven't seen fit to do that on their own.

Mr. CLEVELAND. I don't know.

Mr. WYMAN. May I add something? This bill that is before us is essentially an authorization and the authorization, of course, is preliminary and necessary to any appropriation. The 64 dollar question that seems to be bothering the members of the committee, and I think justifiably so, is if an authorization is passed, how much of an appropriation problem is going to exist.

Now, it may well be that with Mr. Bofinger's help and the society's help, because it has a very substantial standing in the community and the State, and with the help of the delegation, if the committee saw fit to send two or three of its members or even one up to New Hampshire to go with Congressman Cleveland, Mr. Bofinger and myself and look over the property and then sit down with a representative of the company to ascertain whether if Congress authorizes acquisition what is going to be the price tag here? If we could come up with an answer that would appear satisfactory it would answer the objections moneywise.

Mr. THONE. Excellent. It is up to Judge Rarick, but I am willing to help.

Mr. RARICK. I think right now we had best wait on the findings or the report from the Forest Service as to their contact, at least with the Rockwell people, so if we report this to the full committee, we will be able to give them some idea, with some accuracy, what can be done or what will be done.

Is there anyone else—I sure thank you, Mr. Bofinger. We do really appreciate you coming down here to be with us this morning.

Is there anyone else present who desires to be heard or testify on the legislation before us? There being none, then, the committee will stand in recess subject to the call of the Chair.

[Whereupon, at 11:35 a.m., the committee recessed, subject to call of the Chair.]

CONVEYANCE OF LANDS TO THE STATE OF LOUISIANA

TUESDAY, JULY 17, 1973

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

The committee met, pursuant to notice, at 2:05 p.m. in room 1302, Longworth House Office Building, Hon. E de la Garza (chairman of the subcommittee) presiding.

Present. Representative de la Garza.

Also present: Betty Prezioso, staff assistant; and Steven Allen, staff consultant.

Mr. DE LA GARZA. The subcommittee will come to order.

We met to consider H.R. 9295 by Mr. Waggonner and other members of the Louisiana delegation.

(H.R. 9295 and the Department's report follow:)

(65)

93^d CONGRESS
1ST SESSION

H. R. 9295

IN THE HOUSE OF REPRESENTATIVES

JULY 16, 1973

Mr. WAGGONER (for himself, Mr. HÉBERT, Mr. PASSMAN, Mr. RARICK, Mr. BREAUX, Mr. LONG of Louisiana, Mrs. BOGGS, and Mr. TREEN) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To provide for the conveyance of certain lands of the United States to the State of Louisiana for the use of Louisiana State University.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Secretary of Agriculture shall convey, without
4 monetary consideration, to the State of Louisiana, for the use
5 of Louisiana State University, all right, title, and interest of
6 the United States in and to the real property at Robson,
7 Caddo Parish, Louisiana, containing 99.956 acres in section
8 19, township 16 north, range 12 west, and sections 24 and
9 25, township 16 north, range 13 west, Caddo Parish, Louisi-

1 ana, being a part of lot 3 (Martin survey) Robson Plantation
2 and described as follows:

3 Beginning at a point 260 feet south and 230 feet west
4 of northwest corner section 30, township 16 north, range
5 12 west, thence north 42 degrees 37 minutes east, 2,986
6 feet to Harts Island Road, thence along road north 44
7 degrees 55 minutes west, 1,381 feet to intersection with
8 Robson-Forbing Road; thence along latter road south 30
9 degrees 25 minutes west, 523 feet south 51 degrees 40 min-
10 utes west, 832.5 feet south 48 degrees 15 minutes west,
11 1,008.4 feet south 24 degrees 40 minutes west, 572 feet
12 (all courses along both roads being a distance of 40 feet
13 from centerlines of said roads); thence south 35 degrees
14 20 minutes east, 467 feet along Bayou Pierre; thence south
15 1 degree 30 minutes east along Bayou Pierre 530 feet;
16 thence south 85 degrees 02 minutes east along drainage
17 canal 641 feet to place of beginning.

18 SEC. 2. The real property conveyed pursuant to this
19 Act shall be used consistent with the purposes of Louisiana
20 State University, including, but not limited to, the mainte-
21 nance of a pecan production research station.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., July 17, 1973.

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

DEAR MR. CHAIRMAN: This is in response to your request for a report on H.R. 9295 in lieu of H.R. 8653, a bill "To provide for the conveyance of certain lands of the United States to the State of Louisiana for the use of Louisiana State University."

This Department recommends the enactment of this legislation.

The bill provides for the conveyance, without monetary consideration, of real property containing 99.956 acres at Robson, Caddo Parish, Louisiana to Louisiana State University. The bill further provides that the property be used for purposes consistent with the objectives of Louisiana State University to include, but not limited to the maintenance of a pecan production research station.

Initially the Robson Station was acquired by donation from the Caddo Parish Police Jury by deed dated April 25, 1930. It consisted of two tracts acquired by the Jury for donation to the United States for the establishment and operation of a pecan experiment and research facility. The donation was accepted by the Secretary under authority contained in House Joint Resolution No. 200 dated December 1, 1930, which was approved by the President on January 30, 1931. Pursuant to the Act of March 4, 1952, P.L. 267, the Secretary was authorized to reconvey to the Caddo Parish Police Jury a 38.8 acre tract, which was no longer required for the needs of this Department. The original deed to the United States stated only that the land was being made available pursuant to the laws and constitution of the State of Louisiana. It did not recite any reservations or restrictions as to its use, nor did it provide for reversion of title to the Caddo Parish Police Jury when no longer required for the U.S. pecan research program.

Due to changing priorities this property has been determined to be in excess of current property needs and therefore should be considered for appropriate disposition.

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

Sincerely,

JOHN C. FOLTZ,

Deputy Under Secretary for Legislative Affairs.

MR. DE LA GARZA. For our first witness, we are happy to have our distinguished colleague, Hon. Joe D. Waggonner, Jr., of Louisiana.

We will be very happy to hear from you now, Mr. Waggonner.

STATEMENT OF HON. JOE D. WAGGONNER, JR., A REPRESENTATIVE IN CONGRESS FROM THE STATE OF LOUISIANA

MR. WAGGONNER. Thank you, Mr. Chairman. I want to express to you my personal appreciation for the opportunity to appear before you, Mr. Chairman, and your subcommittee with regard to something that we in Louisiana think is quite important. I appreciate this opportunity to present a statement in support of the legislation I have introduced, which I hasten to add has been cosponsored by the entire Louisiana delegation.

The bill we are talking about, Mr. Chairman, simply provides for the conveyance of certain lands in Caddo Parish, Robson, La., owned by the United States, to the State of Louisiana for use by Louisiana State University.

Mr. Chairman, by way of background I want to give you a brief history of this property, a legal description, which of course is provided in the bill.

In 1930 the police jury, which is the governing body of Caddo Parish, donated to the Government approximately 138 acres to be used in conducting research on pecan production problems. In 1952 38.80 acres were conveyed back to the State of Louisiana, leaving 99.956 acres. The land, although not selected by the representatives from the Department of Agriculture, was accepted by the Department because of the interest of pecan growers in northern Louisiana regarding the problems relating to pecan production on the upland sites as well as on river bottom land.

The property has been used continuously by the Department of Agriculture since 1930 for the purpose of research on disease and insect problems, and cultural methods of pecan production.

Louisiana State University's agricultural extension service has cooperated with and offered some assistance to the research activities being conducted at the facility over the years. Last year and earlier this year the Department of Agriculture made a determination that the pecan research facility should withdraw its personnel from the pecan research studies that were being done in Caddo Parish inasmuch as similar studies were being conducted in Byron, Georgia and Brownwood, Tex.

The USDA took the position that individual States could adequately furnish the additional information that was needed by pecan growers. It is the position of the Louisiana Pecan Growers, as well as pecan growers in the immediately surrounding area that pecan problems that they experience are peculiar to the immediate area, and they feel that the research program presently being conducted in Caddo Parish by the USDA should continue.

By conveying the land to the State of Louisiana to be used by Louisiana State University, it would allow the USDA to cease operations there but would allow the pecan research facility to continue under the direction and operation of LSU.

Conveyance legislation is needed to prevent the property in question from being declared surplus by the Government or being taken over by some other interest not associated with pecan research.

As you know, Mr. Chairman and members of this committee, there is adequate precedent for conveyance of this type. The last Congress legislation was enacted that would convey land to the State of Tennessee to be used with the University of Tennessee on the problems related to livestock breeding in the State of Tennessee.

Mr. Chairman, I have made the statement brief. I feel that I have outlined the history, the need for this legislation which is supported by Louisiana State University, the State of Louisiana, and the pecan growers in my State as well as by the Department of Agriculture.

That concludes, Mr. Chairman, my formal statement, and I would be happy to entertain any questions you might have.

MR. DE LA GARZA. Thank you very much, sir.

We thank our distinguished colleagues very much and no, there are no questions.

We have our distinguished colleague, Mr. Rarick, and the Chair is going to leave the record open for Mr. Rarick and any other member of the Louisiana Delegation that might want to submit statements on this bill.

[Congressman John Rarick submitted the following statement to the subcommittee:]

STATEMENT OF HON. JOHN R. RARICK, A REPRESENTATIVE IN CONGRESS
FROM THE STATE OF LOUISIANA

Mr. Chairman, I would like to express my personal appreciation to you for your prompt action in scheduling this hearing on H.R. 9295, legislation "to provide for the conveyance of certain lands of the United States to the State of Louisiana for the use of Louisiana State University."

I join with my colleagues in the Louisiana Delegation in urging prompt enactment of this legislation. The bill has the support of the people of my State and is supported by the Department of Agriculture.

Mr. Chairman, our colleague Congressman Joe Waggoner, the principal sponsor of this legislation, has provided the Subcommittee with a brief history of this property and has discussed the reason for this legislation. The value of this property and the pecan research facility located there is such that this legislation will be beneficial to the pecan industry of the State of Louisiana. It will also prove beneficial as an addition to the Louisiana State University System, thereby aiding all the people of my State.

Precedent for this type of conveyance legislation was set in the last Congress when we enacted a bill conveying land to the State of Tennessee to be used by the University of Tennessee for research into problems related to livestock breeding in that State.

Again, Mr. Chairman, I urge you and the Members of the Subcommittee to give early consideration to this legislation and report it out for further action.

Mr. DE LA GARZA. And now we will be very happy to hear from Dr. Howard Brooks, staff scientist, National Program Staff Agricultural Research Service, USDA.

I notice that you have a prepared statement, Doctor, and without objection we will insert it in the record, and you may paraphrase or briefly tell us the contents of it.

[The prepared statement of Dr. Brooks follows:]

STATEMENT OF HOWARD J. BROOKS, STAFF SCIENTIST, NATIONAL PROGRAM
STAFF, AGRICULTURAL RESEARCH SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Thank you for this opportunity to present the views of the Department of Agriculture on HR 9295.

The bill provides for the conveyance, without monetary consideration of real property containing 99.956 acres at Robson, Caddo Parish, Louisiana, to Louisiana State University. This property is now known as the U.S. Pecan Field Station. The bill further provides for the property to be used for purposes consistent with the objectives of Louisiana State University to include but not limited to the maintenance of a pecan production research station.

Initially the Robson Station was acquired by donation from the Caddo Parish Police Jury by deed dated April 25, 1930. It considered of two tracts acquired by the Jury for donation to the United States for the establishment and operation of a pecan experiment and research facility. The donation was accepted by the Secretary under authority contained in House Joint Resolution No. 200 dated December 1, 1930, which was approved by the President on January 30, 1931. Pursuant to the Act of March 4, 1952, P.L. 267, the Secretary was authorized to reconvey to the Caddo Parish Police Jury a 38.8 acre tract, which was no longer required for the needs of this Department. The original deed to the United States states only that the land was being made available pursuant to the laws and constitution of the State of Louisiana. It did not recite any reservations or restrictions as to its use, nor did it provide for reversion of title to the Caddo Parish Police Jury when no longer required for the U.S. Pecan research program.

The Department has made good use of this land during the last 43 years. Our Agricultural Research Service has conducted research on the physiology and culture of pecan trees and on insect and disease control. Pecan production in Louisiana increased four-fold during this period and production of improved varieties has increased nearly six-fold.

We are currently consolidating our program of Pecan research into two regional locations, namely Brownwood, Texas, and Byron, Georgia. Presently

we are leaving an entomologist at Shreveport until the end of calendar year 1973. This will assure that ongoing pecan weevil research involving the current crop year can proceed with minimum interruption. At the end of calendar year 1973 the entomologist will be transferred to Brownwood. He will be in a position to work very closely with various pecan breeders in developing varieties resistant to pecan weevil and other major insect pests of pecans. By consolidating our efforts to these two stations, we feel that we will eventually provide a broader spectrum of benefits to growers throughout the area. With this consolidation of our program, the Robson property is in excess of our current property needs. We understand that the Louisiana State University wishes to develop an Agricultural Research and Extension Center on this property so as to further encourage production of pecans and other agricultural commodities. This seems most appropriate as the potential of this agricultural area has not been fully developed. The Department recommends the enactment of this legislation.

This concludes my prepared testimony. I will be glad to answer any questions.

STATEMENT OF DR. HOWARD J. BROOKS, STAFF SCIENTIST, NATIONAL PROGRAM STAFF, AGRICULTURAL RESEARCH SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Dr. Brooks. Thank you, Mr. Chairman.

Congressman Waggonner has explained that this land in Caddo Parish was donated to the Government in 1930, and we have been conducting research on pecans since that time. We feel that we have made good use of this land during the last 43 years. The pecan production in Louisiana has increased fourfold during this period, and the production of improved varieties has increased nearly sixfold.

We are currently consolidating our pecan research to two locations—to Brownwood, Tex., and to Byron, Ga. We are, however, leaving the entomologist who is currently at the Robson Station there until the end of the calendar year 1973 where he will continue to work on pecan research. At the end of calendar year 1973 he will move to Brownwood, Tex., to continue to do research there.

We are very pleased to think that the State has an interest in this property at Robson so that they can develop an agricultural research and an extension center to continue pecan research and research on other agricultural commodities of the area.

We think that this is appropriate use of the land and facility and the Department recommends the enactment of this legislation.

Mr. DE LA GARZA. It is my understanding, Doctor, from your testimony that the Department has declared these lands in excess of their current needs.

Is that not so?

Dr. Brooks. Yes, that is correct.

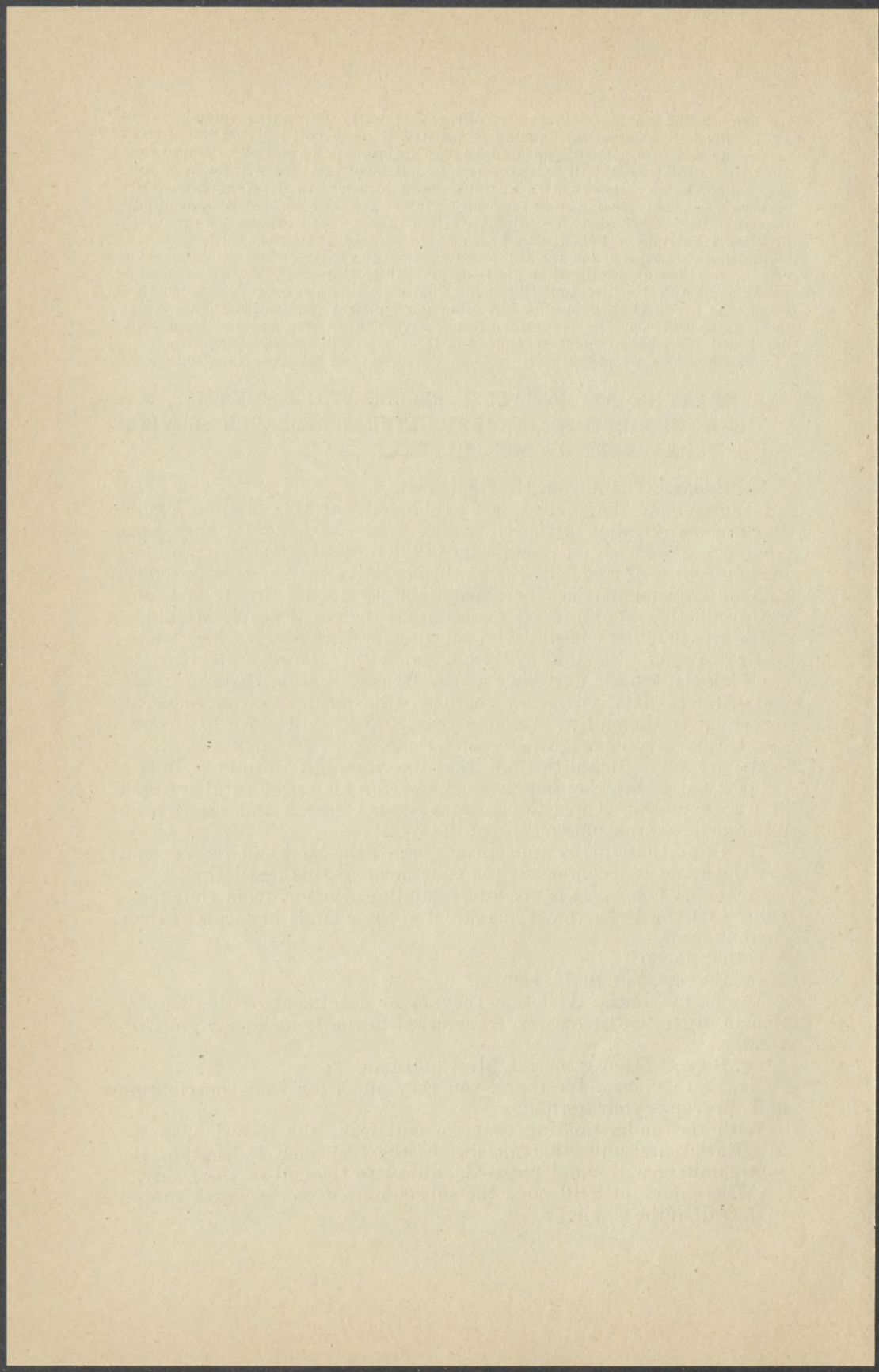
Mr. DE LA GARZA. And that they favor enactment of this legislation in order that it may be transferred to the Louisiana State University.

Dr. Brooks. That is correct, Mr. Chairman.

Mr. DE LA GARZA. We thank you very much for your contribution and appreciate your testimony.

With the understanding that we will leave the record open for Mr. Rarick and any other member of the Louisiana Delegation, the subcommittee will stand recessed, subject to the call of the Chair.

[Whereupon, at 2:10 p.m., the subcommittee was recessed, subject to the call of the Chair.]



REPEAL CERTAIN PROVISIONS OF THE AGRICULTURE AND CONSUMER PROTECTION ACT OF 1973

THURSDAY, DECEMBER 13, 1973

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON LIVESTOCK AND GRAINS OF THE
COMMITTEE ON AGRICULTURE,
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:10 a.m., in room 1301, Longworth House Office Building, Hon. Frank E. Denholm (acting chairman) presiding.

Present: Representatives Denholm, Foley, Sisk, Melcher, Bergland, Litton, and Gunter.

Also present: Hyde H. Murray, associate counsel; Steve Allen and Steve Pringle, staff consultants; and Betty Prezioso, staff assistant.

Mr. DENHOLM. Mr. Foley is detained. He has requested the witness to proceed.

The committee is to hear testimony this morning on Senate bill 2491, a proposal to repeal the provisions of the Agriculture and Consumer Protection Act of 1973 which provides for payments to farmers in the event of crop failures with respect to crops planted in lieu of wheat or feed grains.

[The bill S. 2491 follows:]

93^D CONGRESS
1ST SESSION

S. 2491

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 12, 1973

Referred to the Committee on Agriculture

AN ACT

To repeal the provisions of the Agriculture and Consumer Protection Act of 1973 which provide for payments to farmers in the event of crop failures with respect to crops planted in lieu of wheat or feed grains.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) section 107 (c) of the Agricultural Act of 1949,
4 as amended, is amended by deleting the parenthetical phrase
5 “(or other nonconserving crop planted instead of wheat)”
6 wherever it appears therein and inserting in lieu thereof
7 “(or of cotton, corn, grain sorghums, or barley planted in
8 lieu of wheat)”.

9 (b) Section 105 (b) (1) of the Agricultural Act of

- 1 1949, as amended, is amended by deleting the parenthetical
- 2 phrase "(or other nonconserving crop planted instead of
- 3 feed grains)" wherever it appears therein and inserting in
- 4 lieu thereof "(or of wheat, or cotton planted in lieu of the
- 5 allotted crop)".

Passed the Senate October 11, 1973.

Attest:

FRANCIS R. VALEO,

Secretary.

Mr. DENHOLM. We are pleased to have with us this morning Mr. Glenn A. Weir, Association Administrator, Agricultural Stabilization and Conservation Service, USDA.

I understand, Mr. Weir, that you are accompanied by Mr. Victor A. Senechal, Production Adjustment Branch, and Mr. Claude T. Coffman, Deputy General Counsel.

We are pleased to have you with us and you may proceed.

STATEMENT OF GLENN A. WEIR, ASSOCIATE ADMINISTRATOR, AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE; ACCOMPANIED BY VICTOR A. SENECHAL, ASSISTANT DEPUTY ADMINISTRATOR OF PROGRAMS; AND CLAUDE T. COFFMAN, DEPUTY GENERAL COUNSEL, U.S. DEPARTMENT OF AGRICULTURE

Mr. WEIR. Thank you, Mr. Denholm. We would like to start, too.

There is one small change. Mr. Senechal is now Assistant Deputy Administrator of Programs. Mr. Coffman is still Deputy General Counsel.

The Department supports the provisions of S. 2491, as amended, and we urge the committee to approve this amendment to the Agriculture and Consumer Protection Act of 1973.

In preparing the administrative regulations necessary to implement the various provisions of the Agriculture and Consumer Protection Act of 1973, it became apparent that certain provisions contained in the wheat and feed grain titles of such act presented an almost impossible administrative problem.

The provisions presenting the problem are the parenthetical phrases contained in sections 107(c) and 105(b)(1) of the Agricultural Act of 1949, as amended. These phrases provide that if a producer plants a nonconserving crop instead of wheat or feed grains, a payment equal to one-third of the target price for wheat or feed grains shall be made on the deficiency in production if, as a result of a natural disaster, the

total actual production of such crop is less than two-thirds of the farm acreage allotment times the yield established for the farm.

We do not provide for determining farm yields for crops other than wheat, feed grains, and cotton. Although it may be possible to establish farm yields for some major crops, such as soybeans and oats, for which yield data are published annually for most States by the statistical reporting service, it would represent an enormous administrative task. In addition, we cannot visualize how farm yields can be determined for most minor crops which conceivably could be substituted for wheat and feed grains such as vegetables, guar, and safflower.

S. 2491 would amend section 107(c) of the Agricultural Act of 1949, as amended, by deleting the parenthetical phrase (or other nonconserving crop planted instead of wheat) and section 105(b)(1) of that act by deleting the parenthetical phrase (or other nonconserving crop planted instead of feed grains) wherever they appear therein and substituting in lieu thereof (or of cotton, corn, grain sorghums, or barley planted in lieu of wheat) in section 107(c), and (or of wheat, or cotton planted in lieu of the allotted crop) in section 105(b)(1).

S. 2491 would confine the disaster payment provision relative to a production deficiency for substitute crops to feed grains and cotton planted instead of wheat and wheat and cotton planted instead of feed grains. It would eliminate the requirement of providing disaster payment in the event of a production deficiency for nonconserving crops other than wheat, corn, grain sorghums, barley, and upland cotton. This amendment would substantially reduce our administrative workload, eliminate the almost impossible situation of determining yields for numerous minor crops, and also result in a savings in administrative funds.

Although we have previously indicated that we could administer a program which would provide production protection for some of the major nonconserving crops such as soybeans and oats planted instead of feed grains and wheat, we do not favor inclusion of crops beyond those specified in S. 2491.

If a specified few nonconserving crops other than the program crops are added to the list of those eligible for disaster payments, it would be inequitable to farmers who cannot, because of geographic or climatic reasons, produce those crops specifically named.

The provisions of the Agriculture and Consumer Protection Act of 1973, which afford farmers special payments if they suffer a crop loss due to a disaster, is a feature never before included under farm programs administered by the Agricultural Stabilization and Conservation Service. It, in effect, provides free disaster insurance for about 3 million wheat, feed grain, and cotton farmers throughout the Nation. The administrative problems likely to be encountered in implementing this provision for the first time for wheat, feed grains, and cotton will be massive without adding further complications by extending disaster payments to crops on which farm yield data are not available.

In conclusion, we would urge this committee to give prompt and favorable consideration to S. 2491. The 1974 winter wheat crop has already been planted. Farmers are making plans for spring planted crops. It is, therefore, urgent that we be able to complete and issue

complete administrative regulations relating to the 1974 wheat, feed grain, and cotton programs to our State and county offices as soon as possible so that farmers may be advised with respect to all program details.

Mr. Chairman, that concludes what we have to say. We would be pleased to answer questions that the committee may have.

Mr. DENHOLM. Thank you, Mr. Weir, We appreciate your excellent analysis of the problem.

May I ask you as to paragraph 2 on page 2, line 2, beginning with the quote parenthesis. You read that as "or other conserving crop planted instead of wheat." I wonder if you misread it or meant it to be "or other nonconserving"?

Mr. WEIR. I did, I mean that. That is a mistake. It is nonconserving.

Mr. DENHOLM. I commend you on an excellent analysis. Personally, I had reservations about this section of the bill when it was passed. One thing that I saw personally in the problem of making the substitutions or changes of crops applicable was that in most cotton-growing areas, they can grow almost anything else, but we cannot grow any cotton in the wheat-growing areas. I did not think it was workable at the time, and I am not surprised that a change is necessary.

Off the record.

[Off the record discussion.]

Mr. DENHOLM. Do you have any questions, Mr. Bergland?

Mr. BERGLAND. Yes, I do, Mr. Chairman, if I may.

Mr. Weir, the law passed last July treats wheat and feed grains differently from cotton on this matter of paying for substitute crops planted. Could you or your associates describe the difference?

Mr. WEIR. I would like to have Mr. Senechal do that. He works continually with these crops in this area.

Mr. SENECHAL. Yes, Congressman, I will attempt to describe the difference.

I think I need to describe it by treating two separate provisions of the act. One of them relates to being prevented from planting a crop and the other one relates to more or less a production guarantee.

In the case of cotton, with regard to prevented planting, the statute says that if a producer is prevented from planting for reasons, because of a natural disaster or reasons beyond his control, that he will be eligible for a payment on the underplanted acreage equal to one-third of the target price times the underplanted acreage times the payment yield on that particular farm. And it stops at that point.

In the case of wheat and feed grains, what it says is that if a producer is prevented from planting wheat or any other nonconserving crop equal to his allotment acreage, then he would be eligible for a disaster payment on the total of the nonconserving crop underplanted acreage times the farm yield for wheat times one-third of the wheat target price of \$2.05 per bushel. The feed grain language in the feed grain title is very similar to wheat. It says that if feed grains or any other nonconserving crop equal to the allotment, if the producer is prevented from planting that amount on the farm, then he will be eligible for this prevented planting payment on the acreage and of course, the payment will be one-third of the target price for the feed grain which is underplanted.

So the difference substantially there is that in the case of cotton, if a farmer is prevented from planting cotton for these disaster purposes, he could subsequently plant acreages of other crops—for example, soybeans—on that later on in the year and he would still be eligible for payment. But in the case of wheat and feed grains, if he is prevented from planting wheat or planting feed grains and later on, he can plant other nonconserving crops, he would not be eligible for the prevented planting disaster payment.

Mr. BERGLAND. So a cotton producer who is prevented from planting due to circumstances beyond his control could plant soybeans on that acreage and still be eligible for a disaster or insurance payment?

Mr. SENECHAL. Yes sir, that is correct.

Mr. BERGLAND. But a corn grower in Iowa could not, is that right?

Mr. SENECHAL. Yes sir, that is correct.

Mr. BERGLAND. It strikes me as being discriminatory. That inequity would not be treated in the bill under consideration?

Mr. SENECHAL. No sir, that would not be affected by Senate bill 2491, no sir.

Mr. BERGLAND. Mr. Chairman, I have another matter that I would like to discuss. It is not germane to this bill, but it is relevant to the total matter. May I proceed?

Mr. DENHOLM. Yes.

Mr. BERGLAND. It has to do with the matter of establishing the 1974 and subsequent-year allotment and bases for feed grains and wheat. I think it was adopted by the committee without giving it the careful scrutiny it should have had in that the base period for wheat ties back to the old wheat allotment that was established in the 1950's. The base period for feed grains in 1959 and 1960 as adjusted. This has produced some inequities that trouble me greatly.

We have seen across the United States since the advent of the act of 1970, when the substitution between crops was allowed, a great change in the production patterns. We have seen a shifting out of wheat from some States that have gone into corn; we have seen other States that have gone out of barley into wheat. And now the new act ties everything back to the old history, does not take into account these normal changes in production patterns.

I can cite, for example, in my State of Minnesota, the 1973 wheat acreage harvested was 2 million acres. Our 1974 wheat allotment would be less than 1 million acres. In the State of North Dakota, the 1973 feed grain harvested acreage was 3 million and the 1974 allotment would be over 4. I can go down the list of inequities as I see it.

Do you have any comments on this? I know that you are tied in by law to these bases. It seems to me that if we are going to consider some amendments to the act, this is one that I, for one, intend to pursue. I know you have not had a chance to study this because there is no amendment pending on the matter, but would you care to discuss it informally?

Mr. SENECHAL. Congressman, I can give you a brief comment.

We in Agriculture have been well aware of these inequities because these allotments are tied back to very old base periods, as you have mentioned. I think I can say for the Department that we would like to have these allotments more nearly reflect, be in proportion to where the crops are being produced. But right at the moment,

of course, our hands are pretty well tied on this, as you just mentioned. I do not believe we would be against legislation which would have these allotments reflect the areas where the crops are being produced.

Mr. BERGLAND. Mr. Chairman, I intend to offer an amendment to remedy this defect, to bring these allotments and bases up to date.

If I may, Mr. Weir, work with you and your associates in the drafting of the language, I think perhaps it ought not to apply for the crop year 1974, because the allotments have gone out and it would result in a great deal of confusion and misunderstanding, but to apply in the years 1975 and 1976.

Mr. WEIR. Congressman, we would be most happy to work with you. Those problems are not isolated to the States that you mentioned, but rather are nationwide. With the act of 1970, the shifts that took place in efficient areas for one crop or another, it was widespread across the United States in wheat, feed grains, and cotton.

Mr. BERGLAND. Are you receiving complaints from the field on these allotments and bases?

Mr. SENECHAL. No, sir, not to my knowledge, not yet. Now, we may very well as most farmers do not have their allotment notices except for the wheat allotments to date. But very likely, as we go along into the program operation and they become aware of the significance of them, we could very well. But right at the moment, we have not received any significant amount of complaint.

Mr. BERGLAND. Well, it would be too late to change the 1974 wheat allotments, because the notices have gone out. I would presume that if we change them, we have to change them both to be effective in the same crop year. Is that correct?

Mr. SENECHAL. Yes, sir. I think there is no doubt about it being too late to change them for 1974 for wheat, and probably too late to change them for feed grains, because we expect to send out the feed grain allotments within the next month. Of course, this would involve quite a little work of redoing them at our State and county offices and likely, we could not have them out until quite late in the year. So I would say in both cases that it would be better to wait until we got into another year.

Mr. BERGLAND. One last question. It goes back to the amendment pending in Senate bill 2491. It has to do with whether or not we could include or you could administer a program that would provide for the planting of soybeans on the underplanted feed grain and wheat acreage. You have stated that you preferred not to, but that it could be administered. Would you care to amplify on that point?

Mr. WEIR. Vic, would you present what we talked about yesterday?

Mr. SENECHAL. Yes; I will try to amplify that.

As Mr. Weir had previously said in his testimony, we would prefer not to. But as he also indicated in his testimony, it would not be an impossible situation; I mean it could be done. We prefer not to do it for several reasons.

First of all, as we stated in the earlier testimony, if we allow soybeans and not any other crops, we confine this privilege to certain geographical areas within the United States where they can produce them, and there are very large areas that cannot. This would seem to be inequitable to farmers in other parts of the country.

Second, there is really some question in my mind as to how significant this might be. Say, for example, in the Corn Belt, where most of the soybeans are produced. In that particular area, most farmers, where they do produce soybeans and corn, they will normally have a substantial portion of their farm in soybeans and a substantial portion in corn. And it is very likely that even though they may be planting soybeans in place of corn, still the amount of corn they are producing on that farm will be more than the allotment for that farm. In that case, of course, there would be no substitution involved and there would be no production protection on the soybean acreage.

Conceivably, what would happen in most cases in the Corn Belt would be that the soybeans would be substituted for the wheat allotment. Now, in the feed grain area in the Corn Belt, the wheat allotments, generally speaking, are relatively small. To recall what the legislation states, it says that in determining whether or not a farmer is eligible for disaster, we will take the total production of a crop and apply it against two-thirds of the farm yield times the allotment for the crops for which the substitution is made.

To give you an illustration, if there were a substitution of soybeans for wheat, you might be substituting 100 acres of soybeans against a 10-acre wheat allotment. Although we would base it on a soybean yield, you see, we would have to count total production against that 10-acre wheat allotment, which in most cases would, unless there was a complete wipe out, just about prohibit any possibility of any disaster payment because we are taking total production against the allotment for the crop for which the substitution is being made.

The other point, we have been struggling, to be very frank with you, and Congress has given us the signal to go ahead and administer this program and we will do it the best way we possibly can, and we feel competent with our people in the field that we will do a good job of it as Congress intended. But there are going to be problems involved in the administration of this. It is the first time that we have handled this type of program through ASCS. We would like, at least to begin with, to confine it to programs where we have yields already established, rather than getting into a broader area. Although FCIC also carries an insurance program, their coverage throughout the United States is not going to be anywhere near what ours is. We are covering every farm and they have a selected few and there are some areas where they will not even offer insurance because of the higher risks.

Mr. BERGLAND. Thank you very much, gentlemen.

That is all I have, Mr. Chairman.

Mr. DENHOLM. Thank you, Mr. Bergland.

Mr. Litton, do you have any questions?

Mr. LITTON. No questions.

Mr. DENHOLM. Mr. Sisk?

Mr. SISK. No questions, Mr. Chairman.

Mr. DENHOLM. I believe that completes the scheduled witnesses. Are there other persons present that care to be heard or testify in this matter?

[No response.]

Mr. DENHOLM. Do you gentlemen have further comments?

Mr. WEIR. I think we have covered it from our standpoint, Congressman. I do not think we have anything further to offer. We will be

glad to answer any questions that might come up in your deliberations.

Mr. MURRAY. Mr. Chairman?

Mr. DENHOLM. Mr. Murray.

Mr. MURRAY. One question for the record.

Have you made a cost estimate of the amount of money you would have to spend to implement the law the way it is now as compared to the way you would implement it if this bill is enacted?

Mr. WEIR. Because it is so far-reaching and we have had no experience—in fact, no one has had any experience in this area—I think that we would be reluctant to compare the two possibilities. We look to the law as it is written now as being much more expensive than if we reduced it to the program crops.

Mr. Senechal, would you care to comment?

We have been trying to come up with some kind of an estimate but we want to be sure that it is understood as an estimate, because we have no basis at all to project into the cost of this.

Mr. SENECHAL. Yes; I will try to elaborate on that on cost.

As Mr. Weir mentioned, of course, we are groping in the dark on costs. We have the experience of the Federal Crop Insurance Corporation to draw on their estimates, but there are differences between what we will be dealing with and what FCIC is dealing with. Normally speaking, their insurance will cover the bottom half or at most, the bottom two-thirds of the yield for the farmer and their losses are not paid until it falls below that level.

Now, through this legislation, what will be happening if a disaster does occur with low production or there is prevented planting, we will be paying on the difference between the actual production on the farm and 100 percent of the yield times the allotment. So really, we are covering the top part of the production guarantee on the farm.

Then of course, Federal Crop Insurance Corporation does not offer insurance in many of our high-risk areas. Also, it is a voluntary program and many farmers are not covered by Federal Crop Insurance.

Just to give you a rough estimate, and I must say this is very rough, we believe that probably the total cost for the three programs—cotton, wheat, and feed grains—would likely be ranging somewhere between \$150 million and \$200 million. If we brought in other crops under the language as presently written, undoubtedly, the costs—our cost exposure would be somewhat greater, and possibly, the cost might be 10 percent higher or 15 percent higher than the estimate I have given. And keeping in mind that this cost estimate I have given you, although we are utilizing all available data, is very uncertain because we just do not know until we have had a year's experience. Then we can give a better estimate.

Mr. FOLEY. Mr. Weir, you feel that this action is necessary on a very expedited basis in order to adequately inform the various State officers for implementation subject to the passage of the program in this area, is that correct?

Mr. WEIR. Yes; Congressman. Winter wheat, of course, has already been planted. There is much planning going on on the spring crops and upland cotton and it is going to take us some time to get our regu-

lations out to the States and counties and down so the farmers will really understand what this provision is all about. It is completely new to the way that they share in disaster payments. So we would urge that priority be given to it if at all possible because of the fact that it is going to take some time.

Now, we have prepared some regulations that can be changed to conform with what does come out of the Congress on this amendment, but it is still going to take some time in education on the way it is to be operated out in the country.

Mr. FOLEY. Thank you.

I have no further questions.

Mr. DENHOLM. Very well.

I believe that concludes the hearing for the record, at least. If there are no further questions, without objection, the committee will stand adjourned.

[Whereupon, at 10:35 a.m., the subcommittee adjourned, subject to the call of the Chair.]



