

them in 504(g) of Federal Land Protection and Management Act [FLPMA] to reduce or waive right-of-way fees for nonprofit organizations found to operate in the public's interest.

This congressional fix has not proved entirely successful. Unfortunately, as in the case with the strict liability issue, the example is a utility located in my district.

Oregon Trail Electric Cooperative [OTEC] of Baker City, OR, has the distinction of being the newest formed rural electric cooperative in the United States. It was created by private citizens who formed a cooperative to buy out the facilities of an investor-owned utility which had found that serving rugged, rural territory is not a profitable venture. The buyout served to ensure continued electric service for the citizens of that part of Oregon and, significantly, was achieved without relying on government financing.

It is this last fact that is at the root of the issue. Instead of being rewarded for avoiding the use of government financing, the Forest Service has sought to penalize OTEC. The vehicle they are using is the language included in PL 98-300 which describes fee exempted cooperatives as "financed pursuant to The Rural Electrification Act of 1936." What had been a convenient way to describe cooperatives in 1984—because 100 percent were REA-financed—no longer holds true. Despite the obvious congressional intent in PL 98-300 of exempting all cooperatives; despite the numerous attempts to get the agency to utilize other administrative authorities; the Forest Service is now charging OTEC full ROW fees. Ironically, one of the ROW's is used to serve a Forest Service Office.

As an example of the attempts to reason with the Forest Service, I ask unanimous consent that a letter to the Forest Service from the Pacific Northwest Generating Cooperative on OTEC's behalf be inserted in the RECORD after my statement.

The language of my bill is simple and straightforward. It would change FLPMA to exempt from ROW fees those electric and telephone utilities that are eligible for rural utility service financing rather than those utilizing it. In this era of budget consciousness, the last thing we need is to continue a monetary incentive to perpetuate reliance on government funding. We should be congratulating the OTEC's of the world rather than burdening them with ROW fees that other, government-financed, co-ops are exempted from.

Mr. Speaker, as you can see, my bill attempts to correct yet two more examples of the Federal bureaucracy run amok. I believe that the Forest Service and BLM already have the administrative authority to solve the problems that I have identified. Unfortunately, they have refused to do so. Rural citizens who want nothing more than to have access to reasonably priced electric and telephone service have to appeal to the jurisdiction of last resort—Congress.

It is my hope that the Resources Committee will take up this legislation, whether as a free-standing measure or as an amendment to another bill. As public servants who understand the challenges of country life and the importance of keeping the lights on in areas that are rural, small, and distant, I trust that the members of the committee will ensure that a measure of common sense prevails with regard to Federal right-of-way policies.

PACIFIC NORTHWEST  
GENERATING COOPERATIVE,  
Portland, OR, July 20, 1994.

Mr. JIM GALABA,  
U.S. Forest Service, Pacific Northwest Region,  
Portland, OR.

DEAR JIM: Thank you for taking the time to meet with me during my recent trip to Portland. As I mentioned last week, both the Pacific Northwest Generating Cooperative (PNGC) and Oregon Trail Electric Cooperative (OTEC) are very interested in revisiting the issue of whether Forest Service right-of-way fees should be waived for OTEC electric transmission lines.

I appreciated your willingness to run through the Forest Service regulations in an effort to help me understand earlier Forest Service decisions to charge OTEC right-of-way fees and to help explore areas of possible compromise. Per your request, I have attached several documents detailing the Congressional history surrounding the enactment of P.L. 98-300—the Federal Lands Policy and Management Act (FLPMA) amendment requiring that ROW fees be waived for rural electric and telephone systems financed by the Rural Electrification Administration (REA).

#### LEGISLATIVE HISTORY

As you can see from the enclosed Senate Energy Committee report, at the time of the bill's consideration, both the Forest Service and the Bureau of Land Management (BLM) opposed the legislation because of their feeling that "there is no equitable basis for granting rural electric or telephone cooperatives free access and use of the public lands, especially when regulated private utilities and their customers are treated differently." At issue was the BLM and Forest Service's failure to waive right-of-way fees for cooperatives under the existing FLPMA section 504 (g).

The prevailing concern articulated by the agencies was that cooperatives engage in "practices comparable to private commercial enterprise." It is interesting to note that this is the same basis upon which OTEC's request of a fee waiver has been so far denied. In enacting P.L. 98-300, Congress explicitly rejected the agencies' reasoning in favor of holding down the cost of electric and telephone service to rural consumers. It is also interesting to note that Senator Hatfield, who supports a fee waiver for OTEC, was a member of the Senate Energy Committee at the time of its consideration of the waiver legislation.

While the legislative history does make a number of references specifically to entities funded through the REA, the enclosed floor statements from Senator Baucus and Congressmen Lujan, Oberstar, and Boucher make clear that Congress's prime concern was supporting rural electric and telephone consumers that receive service from member-owned cooperatives. Mr. Oberstar's statement includes the sentence: "It makes little sense for a Federal agency to impose new charges on these companies, most of whom borrow from REA to build and improve their systems." Mr. Boucher refers to Congressional intent, in passing FLPMA, to "exempt or reduce fees for nonprofit utilities."

As I mentioned during our visit, we believe that Congress, in enacting P.L. 98-300, sought to clarify their intention that the Forest Service and the BLM waive right-of-way fees for rural electric cooperatives—regardless of their financing. The goal, as evidenced by the testimony, was to help keep electric and telephone costs down for rural consumers. This is precisely the reason REA exists in the first place. It is contradictory to charge fees to the types of non-profit associations that are so worthy in the eyes of

Congress as to spawn a subsidized loan program. It is important to remember that OTEC remains eligible for REA financing because it is helping to fulfill the REA's mandate of rural electrification.

A further irony is that OTEC does not now have any REA loans in an effort to keep their costs as low as possible to their members—the exact goal in mind when Congress passed the amendment. OTEC should not be penalized for pursuing that end.

#### EXISTING ADMINISTRATIVE DISCRETION

P.L. 98-300 was clearly an attempt to clarify whether rural electric cooperatives provided a public benefit sufficient to warrant a waiver of their right-of-way fees. The legislation originated out of frustration that the agencies were not properly utilizing administrative discretion already enacted by Congress in FLPMA. The Senate report states that "both FLPMA and the regulations contain a provision which explicitly grants discretionary authority to the relevant Secretary (Agriculture or Interior) to issue rights of way to nonprofit organizations for such lesser (or zero) charge as the Secretary finds equitable and in the public interest."

Even if the Forest Service continues to deny OTEC a fee waiver under P.L. 98-300 based on a strict reading of the statute rather than its intent, it is clear the Congress believes that the agencies have broader administrative discretion to grant the waiver under existing FLPMA section 504(g). Accordingly, we would be active in urging the Forest Service to exercise that discretion in favor of a fee waiver. Oregon Trail is a nonprofit association that provides substantial benefit both to the public and (because they serve the Forest Service) the programs of the Secretary. However, we believe a more immediate decision favorable to OTEC is warranted given that the legislative intent of P.L. 98-300 was to provide a fee waiver to all rural electric cooperatives.

#### SCOPE OF DECISION

As I mentioned during our meeting, the impact of granting OTEC a waiver, does not set a large precedent. Nationwide, out of roughly 1,000 existing rural electric cooperatives, only approximately 32 do not have REA financing. Of these, the majority are located in the Midwest and South. Only a handful are located in public land states and fewer still have service territory comprised of large amounts of Federally owned acreage. While the amount of money at stake is minuscule in terms of any impact on the Federal Treasury, it is important to the customers of Oregon Trail.

Again, thank you for taking the time to visit with me. Your willingness to review OTEC's waiver request and to explore a solution to this problem is very much appreciated. If I can provide additional information or be helpful in any other way, please feel free to contact me at either 202/857-4876 or 503/288-1234.

Sincerely,

R. PATRICK REITEN.  
Director of Government Relations.

#### MEDIGAP PROTECTION ACT OF 1996

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, May 1, 1996

Mr. BENTSEN. Mr. Speaker, I rise today to introduce vital consumer protection legislation, H.R. 3374, for Medicare beneficiaries. H.R. 3374, the Medigap Protection Act of 1996, will provide real freedom to senior citizens to

choose between traditional fee-for-service Medicare and managed care Medicare programs without risk of penalty. It does so by guaranteeing access to Medigap supplemental insurance for seniors who choose to enroll in fee-for-service Medicare after participating in a Medicare managed care plan.

Congress is currently debating fundamental changes to the Medicare system. The Republican plan to reform Medicare would strongly encourage Medicare beneficiaries to enroll in managed care plans. Nationwide, approximately 13 percent of the Medicare population have enrolled in managed care options. I support providing freedom of choice for senior citizens, but the choice must be real and not coerced. As more senior citizens enroll in managed care plans, we need to ensure that they can reenroll in Medicare without losing benefits or paying a financial penalty.

Under current law, Medicare beneficiaries can enroll in either a managed care product or traditional Medicare Program. Many enrollees in traditional Medicare choose to purchase supplemental insurance policies, called medigap to cover the cost of copayments, deductibles, and other uncovered benefits such as prescription drugs. When Medicare beneficiaries make this initial choice, current law protects them by requiring all insurers to sell medigap insurance. Regrettably, this consumer protection is not provided after this initial enrollment period.

H.R. 3374 would require guaranteed issue of medigap policies for those senior citizens who choose to enroll in traditional Medicare after leaving a managed care Medicare Program. This bill would require any issuer of medigap insurance to provide an annual enrollment period of 30 days for those Medicare beneficiaries that reenroll in the traditional Medicare Program. The Secretary of Health and Human Services would issue regulations to enforce this act. The bill would become effective 90 days after enactment.

Without this protection, senior citizens do not have real choice. In addition, many senior citizens are not aware of this lack of protection and may enroll in managed care plans without knowledge of this problem. A constituent of mine, Ms. Nona Phillips of Pasadena, contacted me when she had difficulty obtaining medigap insurance after switching back to fee-for-service Medicare from an HMO. Consumers should be able to choose plans without financial coercion or penalties, such as lack of medigap insurance. For many senior citizens, medigap benefits are extremely important because traditional Medicare does not provide prescription drug coverage. I want to ensure that Medicare beneficiaries make a choice between equal options. It also provides greater freedom and choice for seniors without forcing them to cover the costs of higher copayments, deductibles, and prescription drugs.

This is another incremental health care reform we can pass immediately that should be supported on a bipartisan basis. President Clinton has endorsed this provision as part of his 1997 budget. We need to pass common sense, reasonable legislation, H.R. 3374, that will improve the Medicare Program so senior citizens are protected and have real choice. I urge my colleagues to join me in this effort to strengthen consumer protections for Medicare beneficiaries.

## IN CELEBRATION OF EMANUEL DAY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 1, 1996*

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my colleagues and the members of Temple Emanuel of Great Neck, as they gather on May 5, 1996, in Temple Emanuel to celebrate Emanuel Day, the end of a 10-year effort that has served to beautify the synagogue, and enhance it as an ongoing source of inspiration to its congregants and the Great Neck community. Conceived by Rabbi Robert Widom, spiritual leader of Temple Israel, the project evolved into the design of six stained glass windows for the synagogue's sanctuary, a new ark and eternal light. The initial project, under the direction of Rabbi Widom, undertook a search that would last for 10 years until the appropriate artist was selected and the creative plans were developed.

An extensive search by the rabbi and the congregation's refurbishing committee yielded Paul Winthrop Wood, a Canadian born artist, who comes from a family of renowned architects and builders. Mr. Wood brought to Temple Emanuel an innate understanding of the Old Testament and the many creative and imaginative themes that flow from it. It was his early upbringing by his mother that endowed him with a rich blend of talent and insight that would be brought to fruition by the many religious building challenges he undertook.

A native of Port Washington, Mr. Wood continues the family tradition of building and design. He began his early studies in the Art Studies League and the National Academy of Design. Soon thereafter, he founded his own school, and began a career that would include the design and construction of more than 100 churches and synagogues throughout the United States and 30 houses of worship on Long Island.

In rising to the challenge of bringing to the synagogue and sense of love, understanding, and compassion, Mr. Wood succeeded grandly. It is with great pride and love that the trustees of Temple Emanuel of Great Neck have declared Sunday, May 5, as Emanuel Day. As the hundreds of congregants of Temple Emanuel gather on this day, it is most exciting and reaffirming that in the truest tradition of the American spirit, this beautiful congregation continues to so willingly give of itself, to its members and the community.

## CONGRATULATIONS TO MR. AND MRS. MATTHEWS

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 1, 1996*

Mr. HILLIARD. Mr. Speaker. There has been a great deal of discussion about the importance of family values in America during this session of Congress, and I can offer no better example than of Mr. and Mrs. Matthews of Bessemer, AL.

This Wednesday, May 1, will mark the 50th wedding anniversary of William and Margaret Matthews. By celebrating 50 years of mar-

riage, they are serving as a shining example of what love, commitment, and dedication can do for a loving relationship and for society. I want to offer them my personal best wishes and congratulations on achieving this milestone in their relationship.

## HATS OFF TO THE WOODLAND WAL-MART DISTRIBUTION CENTER

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 1, 1996*

Mr. SHUSTER. Mr. Speaker, I rise today to pay tribute to the men and women of the Woodland Wal-Mart Distribution Center which is located in my congressional district. The Woodland Center was recently singled out by the Wal-Mart Corp. for its President's Award for Excellence. The President's Award is no small honor as it is only bestowed upon one center per year and its winner is generally recognized across the Nation as the top distribution center of the entire Wal-Mart Corp.

As if this was not enough, the private fleet operation at the Woodland Center also received the President's Award for Excellence in the area of dispatch, centerpoint and shop operations for 1995. These two awards are a testament to the drive and professionalism of the Woodland Center's employees who day in and day out do a first-class job for both their company and their community.

I will close by once again congratulating all the folks at the Woodland Center for a job well done. Your commitment to excellence speaks very well for both Wal-Mart and the people of west central Pennsylvania and it is my honor to represent you. Hats off to the best of the best. Hats off to the Woodland Wal-Mart Distribution Center.

## TO AMEND THE INDIAN HEALTH CARE IMPROVEMENT ACT

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

*Wednesday, May 1, 1996*

Mr. YOUNG of Alaska. Mr. Speaker, I am pleased to introduce a bill to amend the Indian Health Care Improvement Act to extend the demonstration program for direct billing for Medicare, Medicaid, and other third-party payors to September 30, 1998.

Section 405 of the Indian Health Care Improvement Act established a demonstration program to authorize up to four tribally-operated Indian Health Service [IHS] hospitals or clinics to test methods for direct billing for and receipt of payment for health services provided to Medicare- and Medicaid-eligible patients. This program was established to determine whether these collections could be increased through direct involvement of the tribal health provider as compared with the current practice which required such billings and collections to be channeled through the IHS.

Currently, there are four tribal health care providers participating in this demonstration project, the Bristol Bay Area Health Corp. of Dillingham, AK; the Southeast Alaska Regional Health Consortium of Sitka, AK; the