

Section 5 of the bill prescribes certain conditions to which the Secretary's authority to acquire interests in private property by condemnation will be subject. This section directs the Secretary of Agriculture to make and publish regulations setting standards for the use of private property within the recreation area to insure that such uses will be in furtherance of the purposes of the bill. They will have the object of assuring that the use and development of privately owned property is consistent with the purposes of the bill and with the overall plan of management for the Sawtooth National Recreation Area. Such regulations and standards may differ between the several parcels of private lands in the area. This section would authorize the Secretary to establish, for various units of private property, uses which will be compatible with the preservation of the forest and pastoral character of the National Recreation Area, and with conservation and enhancement of the scenic beauty of the area and of the Salmon River fisheries. It would provide for compatible development of private property to accommodate ranching and other individual uses and to provide public services and accommodations. Standards we would set pursuant to this portion of section 5 would be designed to accomplish this to the fullest extent possible. The regulations establishing these standards would be promulgated in conformity with certain provisions of the Administrative Procedure Act which require a public hearing.

The intent of section 5 would be clarified if subsections (a) and (c) were amended as follows:

Change subsection (a) to read "Except as otherwise provided hereinafter, private property shall not be acquired in fee without the consent of the owner and the authority of the Secretary to acquire scenic easements, or other interests less than fee in private property by condemnation shall be suspended so long as the use of such property conforms to the regulations established pursuant to the provisions of this section."

Change the second paragraph of subsection (c) to read: "As used in this Act the term 'scenic easement' means the right to control the use of land in order to protect the esthetic values for the purposes of this Act, but shall not preclude the continuation of any use as exercised on the date of this Act."

These language changes would make clear that private landowners may retain ownership of their property as long as they so desire. We would use the authority to acquire scenic easements to the fullest extent. It could be used with the owners' consent without limitation. Its use without the owners' consent would be limited to avoidance of non-conformity with the Secretary's regulations, except that it would not be used to preclude continuation of any use as that use is being exercised on the date of the Act. Present uses could continue but any changes or modifications in a manner that would not conform to the regulations would subject the property to the authority to condemn scenic easements. All non-conforming uses not presently exercised would be subject to that authority.

Omission from the legislation of these limitations would enable this Department to eliminate present non-compatible uses regardless of the owner's consent. We would, of course, make every reasonable effort to negotiate and reach agreement with property owners. Past experience has shown that mutually agreeable terms can be reached in the vast majority of cases, and we would recommend that our authority for acquisition not be limited as the above language would do. This would enable us to eliminate those non-compatible present uses that tend to impair the quality of the area. Nevertheless we will make every effort to accomplish the purposes of the bill.

The requirement in the last paragraph of section 5(b) for conformity with the provisions of the Administrative Procedure Act apparently is intended to apply to the regulations promulgated pursuant to the provisions of this section. We suggest that this be clarified by changing the word "Act" in lines 12 and 15 on page 4 to "section." Also, since the provisions of the Administrative Procedure Act referred to in this section are now a part of Title 5, United States Code, as enacted by P.L. 89-554 (80 Stat. 378) it would be appropriate to cite the relevant section in the code rather than the Administrative Procedure Act. Thus the words and figures "7 and 8 of the Administrative Procedure Act" in lines 17 and 18 on page 4 should be changed to "556 and 557 of Title 5 of the United States Code."

We suggest insertion of a comma after "funds" in line 23 on page 4 to assure proper interpretation of the authority for "purchase" of scenic easements.

Section 5(d) concerns the situation where the owners of private property within the exterior boundaries of the recreation areas as of the date of enactment, or their heirs, would desire to dispose of such property to the Federal Government. The Secretary would be directed in such cases to purchase the property at a price