

If you couldn't, and if he proceeded or tried to proceed, you would have to take action against him. At that point, you would be in litigation to determine the value.

We would, in effect, condemn the scenic easement, and the court would make award accordingly. And likely the value would be the difference in terms of what it would have been worth for a honkytonk and what it would be worth for the use subject to the scenic easement.

Senator JORDAN: I am raising the question now just to make the record. It is a good time to make it.

Secretary FREEMAN: It is, indeed.

Do you wish to add something to that, Chief?

Mr. CLIFF: As I understand, the way this works, a man is immune from condemnation even from a scenic easement as long as he complies with the standards. But if he chooses not to comply with the standards, then he subjects himself to condemnation for scenic easement. And if he proposes an objectionable development that was not in accordance with the standards, then this gives the Secretary the authority under the provisions of this bill to take action to condemn a scenic easement.

And under the condemnation proceeding we would have to go to court, and the court would determine the value. We would first, of course, try to negotiate with him and reach an amicable settlement. If we couldn't do that, then we would have the authority to condemn a scenic easement. That is one of the main features of this bill.

The private owner is protected in his present use in that he isn't subject to condemnation except for very limited purposes. New uses could also be made as long as he is not interfering with the purposes for which the act is passed.

If he doesn't comply, then, with the standard set up by the regulations, he subjects himself or exposes himself to a possibility of condemnation of the scenic easement.

Senator JORDAN: There is really a question there. At that point, does he have to perform an act in violation of the standards or does he have to notify that he intends not to live up to the standards?

Mr. CLIFF: No, I don't think he would need to perform an act. He wouldn't need to start tearing up the country in order to get us to move. As a matter of fact, we envision that we would want, in order to get the kind of controls that we need to obtain scenic easements on a majority of the private lands. The standards will vary from place to place, depending on the character of the land and just how exposed it is to public view. But we would, in due course, want, I think, to get scenic easements on a great deal of this private land. And we would start out by negotiating the scenic easements to assure compliance. This would take some time. And I am sure there will be some problems.

But the man wouldn't have to start tearing up his land in order to get us to act. We would be moving on this, working these things out in advance as much as possible.

Senator BIBLE: Let me ask just a couple of more questions, Mr. Secretary, and Mr. Cliff: How many mining claims are there within the taking area?

Mr. CLIFF: We estimate that there are about 88 patented mining claims within the area and about 200 unpatented claims.

Senator BIBLE: There are 88 patented mining claims and 200 unpatented mining claims? Are any of these mining properties in operation?