PUBLIC LAND POLICY AND MANAGEME[illegible] ACT OF 1975

HEARINGS

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS

OF THE

COMMITTEE ON INTERIOR AND INSULAR AFFAIRS HOUSE OF REPRESENTATIVES

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

H.R. 5224 and H.R. 5622

TO PROVIDE FOR THE MANAGEMENT, PROTECTION, AND DEVELOPMENT OF THE NATIONAL RESOURCE LANDS, AND FOR OTHER PURPOSES

HEARINGS HELD IN WASHINGTON, D.C.
MARCH 21, 24, AND 25; APRIL 7 AND 11, 1975

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PUBLIC LAND POLICY AND MANAGEMENT ACT OF 1975

FRIDAY, MARCH 21, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON PUBLIC LANDS OF THE
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:10 a.m., in room 1302, Longworth House Office Building, Hon. John Melcher presiding.

Mr. MELCHER. The Subcommittee on Public Lands will come to order. This morning we are opening in this Congress our public hearing on the Land Management Act.

We have before us a subcommittee print, Public Land Policy and Management Act, which is print No. 1, which is about—well, which is truly what the subcommittee and the full committee have agreed on as far as we went last year when marking up of the bill was halted.

The subcommittee print contains the amendments that were offered and accepted in the full committee, but as it is here before us today, it also includes collective amendments that would have been offered and would have been accepted had the full committee continued consideration of the bill.

We don't look on it at all as the perfect document or what we will finally recommend be accepted and approved by the Committee on Interior and Insular Affairs, but we do recognize it as a starting point for this Congress.

Now, the administration bill, I understand, will be introduced—has been introduced. The administration bill has been introduced. It has been assigned number H.R. 5224, has not reached us yet from the Government Printing Office, but assuredly will be with us next Monday when we continue our hearings.

I understand that Congressman Ruppe introduced the bill by request and that it is further my understanding that it is very similar to the administration bill of the last Congress. Is that correct?

Mr. SHAFER. That is correct, yes.

Mr. MELCHER. Very similar?

Mr. SHAFER. And the Senate-passed bill of last year.

Mr. MELCHER. And very similar to the administration's recommendations and what the Senate passed.

Well, this morning and Monday the subcommittee will want to hear testimony principally on grazing. The administration bill doesn't suggest that there be a grazing section actually but the subcommittee last year, and as far as we went in the full committee here in the House last year, was intent on having a rather detailed grazing section and, furthermore, setting out the grazing fee by law, and I presume that the subcommittee will want to continue along that same

line in this Congress. So we will have to wait and see whether the membership of this subcommittee, as it is this year, has that intention.

So this morning our first witness will be Deputy Assistant Secretary for Land and Water Resources, Roland G. Robison, Jr.

I understand that Mr. Robison will not testify, but Curt Berklund, Director of the Bureau of Land Management will testify.

Mr. ROBISON. That is correct, Mr. Chairman.

Mr. MELCHER. Will both of you be at the witness table? If so, please come up. And you are accompanied by George Turcott.

STATEMENT OF CURT BERKLUND, DIRECTOR, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY ROLAND G. ROBISON, JR., DEPUTY ASSISTANT SECRETARY FOR LAND AND WATER RESOURCES; GEORGE L. TURCOTT, ASSOCIATE DIRECTOR; JAMES W. MONROE, ASSISTANT DIRECTOR, LEGISLATION AND PLANS; GEORGE D. LEA, DEPUTY ASSISTANT DIRECTOR—RESOURCES; KAY W. WILKES, CHIEF, DIVISION OF RANGE; ELEANOR R. SCHWARTZ, CHIEF, DIVISION OF LEGISLATION AND REGULATORY MANAGEMENT, BUREAU OF LAND MANAGEMENT

Mr. BERKLUND. Mr. Chairman, if I could take the liberty I would like to introduce those with me today.

On my left is Roland Robison, Deputy Assistant Secretary for Land and Water Resources. On my right, George Turcott, Associate Director of the Bureau of Land Management. Jim Monroe is here with me, better known as Tim, Assistant Director of Legislation and Plans. Sitting along side of George Turcott is George Lea, Deputy Assistant Director for Resources. To his right is Kay Wilkes, Chief, Division of Range, Bureau of Land Management, and, of course, we have our ever-needed Chief of the Division of Legislation and Regulatory Management, Eleanor Schwartz, with us today.

Mr. MELCHER. Welcome to the committee. Curt, we will be glad to hear from you.

Mr. BERKLUND. Thank you, Mr. Chairman. It is always a pleasure to come before your committee and have the opportunity to discuss, frankly and openly, the problems that are common to our desires for better management. Again, this is no exception. We do appreciate this opportunity to discuss with you grazing permits, fees, and privileges today, and we will be prepared to get into that section of the subcommittee print No. 1 as the Department views this in relationship to national resource lands administered by the Bureau of Land Management.

As you know, the Department of the Interior strongly supports enactment of legislation that would clearly define the mission of the Bureau of Land Management, and recently sent to the Congress a proposal for such legislation. As we found this morning, it is H.R. 5224. I will discuss the proposal in some detail next Tuesday.

We believe that broad mission legislation, such as a National Resource Lands Management Act, should not contain specific limiting

provisions relating to the management of one use of resources on federally owned lands. This would appear to put a stamp of high priority on that use and resource. Concurrent with this presumption it would be suggested that equally detailed provisions for administration of other resource values be included in an Organic Act for the Bureau of Land Management. A general policy document with specific provisions for each resource use on the national resource lands would turn it into an unwieldy piece of legislation that would be difficult to administer or enforce. We urge that the committee would avoid this approach. Our philosophy runs to a broad document expressing the policy of Congress on resource preservation, use, and management.

We believe the Taylor Grazing Act provides the broad policies and authorities for our administration of lands for grazing purposes. Modifications or changes in the administration of these lands under the Taylor Grazing Act may be accomplished through amendment of the grazing regulations, without the necessity for enactment of new or additional legislation.

I would like to discuss briefly the revision of regulations that BLM is considering to meet present-day conditions and requirements. We plan to expose these changes to full public participation through a program that will give all interested parties the highest opportunity for comment on the regulations.

Since passage of the Taylor Grazing Act in 1934, there have been few substantial changes in the regulations as originally issued. The rules have accomplished the intended purpose of adjudicating livestock use allowances to qualified ranch operations and designating grazing allotments. Having accomplished all this, a number of important areas of change are now being considered. Emphasis on the environment and considerations for wildlife and other resource uses in the issuance of grazing permits need to be strengthened and incorporated into the regulations as a result of stringent requirements resulting from acts of Congress. Multiple use and environmental considerations are basic and viable objectives of the grazing management program, as are sustained yield of forage, and community and operator stability. For these reasons, changes in the regulations are being proposed to meet the modern-day needs for more intensive management of our national resource lands.

I will describe briefly how the new suggested regulations are intended to accomplish a needed update of management practices.

One: The regulations emphasize intensive management by allowing practices responsive to today's needs from a physical, livestock, and environmental standpoint. They will use the concept of livestock as a tool to change vegetation to reach multiple-use objectives for watershed, wildlife, and recreation. At the same time, they seek to increase livestock production. This will be accomplished through allotment management plans, frequently referred to as AMP's.

Two: They will strengthen environmental considerations by incorporating those statutory and regulatory requirements which clearly require improvement and maintenance of environmental quality. They will also tie range management activities to the Bureau's resource planning system for land use.

Three: The format of the regulations will be updated to improve the layout, readability, and understanding of the new provisions by the reader.

Four: The regulations will also provide more clearly for other uses by allowing accommodation of habitat needs for all wildlife; where appropriate for wild free-roaming horses and burros; and where required, for the allocation of range forage for wildlife and higher priority uses not compatible with domestic livestock grazing.

Five: Existing preference conditions and base property control requirements for livestock use on the public lands will be retained to provide for orderly use and stabilization of the industry.

Six: Range livestock operations will be improved by expanding the opportunities for economic betterment of the users. Specific forage crop production requirements will be eliminated, allowing for livestock operation flexibility whenever the national resource lands are under intensive management. Administrative details will be reduced and procedures streamlined for efficiency. This will provide more BLM manpower on the ground to assist all users of the national resource lands.

Seven: We plan, to the extent possible, to manage section 15 lands in the same fashion as section 3 lands. This will help reduce management distinctions between these two types of land which are similar in character and are subject to the same management objectives and will apply the same environmental planning and intensive management practices to all areas of national resource lands where we permit domestic livestock grazing.

Eight: Range improvement construction policies will be clarified and land use implications considered in the construction of livestock control facilities on the public lands.

Nine: Finally, the regulations provide better control of unauthorized use by requiring substantial penalty for trespass and the means to deal effectively with this problem.

These proposed changes are significant in scope and anticipated benefits to both the Bureau of Land Management and the user. The proposed changes have been presented to various interested parties, including the American National Cattlemen's Association, National Woolgrowers Association, National Resource Council, the Forest Service, conservation groups, and our field offices. We plan to continue such briefings and would be pleased to brief the committee staff in more detail on the proposal.

As to grazing fees, the Taylor Grazing Act provides for periodic setting of grazing fees by the Secretary of the Interior. The present policy is generally considered fair and equitable. New or additional legislation is not required and would not be desirable unless it would result in improved management of the national resource lands.

Subcommittee print No. 1 proposes a formula to set an annual fee for the grazing of livestock on lands administered by the Secretary. It would establish a minimum fee of $2.00 per animal unit month of grazing. We are aware of no study or evaluation supporting the formula proposed in that bill. We are opposed to that or any statutory formula. In contrast, the formula used by the Bureau of Land Management to set fees was arrived at after extensive studies and public review.

Subcommittee print No. 1 would require that permits and leases for domestic livestock grazing on public lands be for a term of ten years except under certain conditions. Further, it would require the renewal of the permit if the permittee or lessee had complied with its terms and conditions.

Thus, in effect, the permittee would be granted a 20-year permit or lease upon compliance with the terms and conditions of the lease. The privilege of using the land would in effect become a proprietary right—a right not afforded other users of publicly-owned land, and a right given without any consideration for the condition of the land. This is in direct conflict with the Taylor Grazing Act and with sound multiple use land management.

The Taylor Grazing Act authorizes the Secretary of the Interior to issue permits not to exceed 10 years subject to renewal at the discretion of the Secretary. BLM issues 1-year to 3-year permits with 10-year permits issued when all environmental aspects have been considered and a cooperative allotment management plan is in effect. These management permits provide greater stability to the user's operation through more effective and improved management.

One of the serious issues since 1950 has been the problem of granting tenure to grazing permittees. It still is an issue. We believe provisions of the Taylor Grazing Act allowing permits up to 10 years with renewal at the discretion of the Secretary are superior to the provisions in subcommittee print No. 1.

Recently attention of Congress, conservation organizations, and the general public has been focused on conditions of the national resource lands used for grazing and other purposes. The declining condition of these lands was cited in the Public Land Statistics as far back as 1955. The Department has been aware of this trend and has prepared numerous papers and appeals to rectify this situation.

The Senate Appropriations Committee report on fiscal year 1975 appropriations directed the Department of the Interior to review its programs and range conditions and report its findings together with recommendations for correcting major deficiencies. The Department's report in response to this directive presents the status of the range management program, describes the conditions of the Federal rangelands, identifies potential for improvement, and makes recommendations for correcting deficiencies. To further assist the committee in its deliberations, the report includes the Department's recommendations for accomplishing the identified management objectives.

Present studies show only 28 million acres or 17 percent of the public grazing lands are in satisfactory or better condition. Some 135 million acres, or 83 percent, are producing less than their potential. Some 81 million acres, or 50 percent, are in fair condition, while 54 million acres, or 33 percent, are in poor or bad condition. Because of these conditions, the BLM has assigned a high priority to correcting identified deficiencies in problem areas related to grazing use in excess of the recognized grazing capacity and to insuring adequate supervision of rangelands. Corrective action is being taken Bureau-wide on administration deficiencies to insure compliance with the grazing regulations for national resource lands.

In summary, analysis of data shows that 16 percent of range conditions are deteriorating while 19 percent are improving because of

intensive rangeland management practices. Significant decline may continue. BLM believes the best solution for significantly correcting these deficiencies is acceleration of the intensive management and development program to arrest deterioration and increase the productivity of the public lands for a multitude of uses.

We believe that the Taylor Grazing Act provides adequate authority and specific direction for grazing administration on the national resource lands. Consequently, we do not think specific new legislation in this area is necessary at this time.

We urge that our new program directions be given an opportunity without the encumbrance of new legislation or legislatively required programs either on grazing fees, tenure or duration of grazing leases.

Subcommittee print No. 1 has a specific provision relating to grazing district advisory boards. We believe that advisory boards should be broad-based and multiple-use oriented, as the Federal Advisory Committee Act requires. Multidisciplinary advisory input is essential to good land management.

This concludes my prepared statement. I will be pleased to answer questions.

Mr. MELCHER. Thank you very much, Curt. Now, I am going to follow your testimony. I have earmarked three or four places where I would like to have you supplement your testimony with more detailed answers.

Mr. BERKLUND. Very well, sir.

Mr. MELCHER. A general policy document with specific provisions for each resource used on the national resource lands would turn it into an unwieldy piece of legislation. Now, what are the—that is your critique, not getting too specific about grazing as a section in a land management act, but what are the principal uses that are comparable with grazing on the lands that BLM administers?

Mr. BERKLUND. Mr. Chairman, we feel that all the uses of the public lands will have to be weighed. As far as the acreage and the amount of use, grazing is still the largest use of the public lands. But we have energy development that has to take place on the public lands if we are to meet the goals of the President. We have extensive recreation that is taking place on the public lands today with great need for management, and wildlife habitat is of critical concern to all of us.

Mr. MELCHER. All right. Now, on energy development, you of course, are involved, I am sure, with another Subcommittee on Mining recommendations for amendments to the Mineral Leasing Act, isn't that correct?

Mr. BERKLUND. Yes, sir.

Mr. MELCHER. You started on that. I know the subcommittee has started hearings on it. I am sure you are participating in that, is that true?

Mr. BERKLUND. Yes. We have testified already, now, sir.

Mr. MELCHER. All right. So in terms of energy development, then, as one of the major uses of public lands, you would be addressing yourself on that use through that act, would you not?

Mr. BERKLUND. Yes, sir, that is correct.

Mr. MELCHER. And certainly that does not go on here.

Mr. BERKLUND. That is true.

Mr. MELCHER. There could be, as far as—you mentioned energy development on the public lands to meet our growing energy needs, and of course, you could be referring to strip mining of coal, couldn't you? That could be a part of it.

Mr. BERKLUND. That is one of our programs. Removal of the surface coal.

Mr. MELCHER. I want the record to show that the projection for the development of coal in Montana on BLM lands by the State director was 5,000 acres in the next 10 years. I want the record to show that to get this in perspective, because I think this is just thrown around like, you know, boy, are we ever going to develop this federally owned coal. Montana, according to other people in the Department, is supposed to have the greatest amount of coal of any State in the country, supposed to have by far the greatest amount of strippable reserves. Now, I do see some conflicting figures. I get this—I think it is the USGS that supplied this figure of 42 billion tons of strippable coal in Montana, and yet I read in the Congressional Record and in numerous newspaper stories of the total strippable reserves of coal in the United States as being 33 billion.

Now, this is a little bit out of your—33 billion tons. This is a little bit out of your testimony, but do you have any answer for this? Does anybody know why that discrepancy?

Mr. TURCOTT. Mr. Chairman, perhaps sometimes we in BLM are as confused by some of the figures from different sources, not all of them Federal, as you are. I do know this, that some of the printed figures have different points in time as to when they were developed. We will furnish for the record the most current figures we use in BLM as derived from the combination of USGS and the Bureau of Mines. They are our principal sources.

Mr. MELCHER. All right. I appreciate that, George, and it would also help at the same time in this particular area if you would supply from Wyoming what that State director's estimate is of how much land administered by BLM will be strip mined for coal within the next 10 years.

Mr. BERKLUND. Mr. Chairman, there are five of the western States that have major deposits of strippable coal and we would like to supply the figures on all five of those States for you.

Mr. MELCHER. I would appreciate it because I want to point out that 5,000 acres in Montana out of 8 million acres that are administered by the BLM in Montana is a very small percentage, and that projection, if it is accurate, as the projection of 5,000 acres to be strip mined by BLM over 10 years, is not a very high percentage.

Mr. BERKLUND. Mr. Chairman, what we are working from, as you well know, are estimates and our program that we have proposed, that we are preparing the environmental statement on now, EMARS, will try to define and bring into focus all of these projections and try to give us numbers that we can work with in the development of this program.

[The information requested follows:]

The estimate of 42 billion tons of strippable coal in Montana came from a 1972 Geological Survey report. A Bureau of Mines report as of January 1, 1974, had a formula by which the coal reserve base was calculated and resulted in this estimate of demonstrated coal reserve base of measured and indicated coal categories as defined by the Geological Survey (100% of coal in place) surface only:

Wyoming—28 billion short tons.
Montana—65 billion short tons.
Colorado—14 billion short tons.
New Mexico—2 billion short tons.
Utah—4 billion short tons.

This reserve base is not a fixed quantity but will increase with discovery and additional development and decrease with mining, and change if the criteria for its calculation are modified.

Recoverable reserves of Federal coal leases forming logical mining units currently in production:

	Million tons
Colorado	50. 5
Montana	504. 1
New Mexico	99. 9
North Dakota	193. 7
Utah	0
Wyoming	520. 0
Total	1, 368. 0

Otherwise: 66⅔ percent of coal reserves are recoverable by strip mining. Cannot furnish any estimates by State.

Mr. MELCHER. Thank you. Do I detect, Curt, that you are going to strongly oppose the retention of these committees that have functioned as advisory boards under the Taylor Grazing Act up until January of this year?

Mr. BERKLUND. Yes. We feel strongly, very strongly, that we need broad-based multiple-use advisory boards. We have prepared draft regulations to establish a series, three levels of advisory boards, and we want to maintain those three levels. As you know, there has been a suit brought against us now and we are waiting for a court decision that will determine whether there will be grazing district advisory boards. The regulations that we have proposed will give us in administrative district multiple-use, broad-based advisory boards.

Mr. MELCHER. No, I am not aware of the suit. Tell me about the suit.

Mr. BERKLUND. Well, I think I will let Mr. Robison speak to that. He is working on it. Or Jim Coda is supposed to be here.

Mr. MELCHER. It kind of helps to have counsel with you.

Mr. BERKLUND. I will let George—he is my legal counsel today, Mr. Chairman.

Mr. TURCOTT. I can't talk to it from an attorney's standpoint. Several months ago some very good friends of mine in northeastern Nevada joined together and filed suit in the Nevada district court to test the legality of the Bureau of Land Management and the Department of Interior's determination that the grazing district advisory boards now covered under section 18 of the Taylor Grazing Act were in effect canceled out or rescinded by the passage of the most recent Advisory Board Committee Act. I have got the citation here someplace, and I will furnish this for the record.

[The citation follows:]

John C. Carpenter, Jr., et al v. *Rogers C. B. Morton et al.* Civil No. R–75–1–BRT, USDC Nevada.

Mr. TURCOTT. They did not ask for an injunction. The Department of Justice has requested and received a 30-day extension of time to file rather voluminous and legally complex briefs in this matter. We do not expect hearings before the Federal district court for Nevada until probably sometime in early fall. September is when we anticipate it, although the judge has not set any definite date yet.

Mr. BERKLUND. Mr. Chairman, what we have proposed is to have a multiple-use advisory board at the district level, but it will be on administrative districts instead of grazing districts and then a State multiple-use advisory board and a national multiple-use advisory board.

Mr. MELCHER. What is an administrative district?

Mr. BERKLUND. That is the area of BLM-administered lands under the jurisdiction of a district manager. That would be an administrative district for BLM. Right now some of these districts have two or three grazing districts or parts of grazing districts within one administrative district and in some areas we have more than one administrative district in a grazing district. So there is overlap. We have certain groups advising more than one district manager at the present time.

Mr. MELCHER. Would you have 1, 2, 3, or 10 advisory boards in Montana? If you had your way?

Mr. BERKLUND. Five. We have five administrative districts. There would be five district advisory boards. It wouldn't only be on section 3 land this way. They would cover all of the BLM lands. Right now the advisory boards represent grazing districts and only section 3 lands. Ours will include section 15 lands as well.

Mr. MELCHER. Now, couldn't you—did the Taylor Grazing Act prevent you from having your advisory boards relate also to title 15 lands?

Mr. TURCOTT. Yes.

Mr. MELCHER. Only dealt——

Mr. TURCOTT. Section 18, to paraphrase, applies only to the formal grazing district, so that the section 15 lands do not have that type of board. In some areas we have been able to augment a district board, but it is not completely under section 18. For instance, in Missoula we don't have any. Down in Casper, in a somewhat analogous situation, where it is mostly all section 15, we do have a special board approved by the Secretary.

Mr. MELCHER. Approved by the Secretary.

Mr. TURCOTT. Yes.

Mr. MELCHER. Under existing law?

Mr. TURCOTT. Two districts in Alaska have none.

Mr. MELCHER. Well, if you did it down in Casper under existing law I guess you could do it other places if you wanted to.

Mr. BERKLUND. You could, but they would not be section 18 advisory boards, but there could be an advisory committee, yes, sir.

Mr. MELCHER. Yes. All right. Now, one other thing on this particular point. Under the Taylor Grazing Act and under the advisory

boards stipulated by the Taylor Grazing Act, could the makeup—the makeup of who was on the board didn't limit you to putting wildlife people on or recreation people on, did it?

Mr. TURCOTT. Yes, with respect to nonwildlife recreation people.

Mr. BERKLUND. Yes.

Mr. MELCHER. It did? You are statutorily prohibited from including that on the board?

Mr. BERKLUND. Yes, sir.

Mr. MELCHER. Well, five advisory boards in as large a State as Montana would mean that access to an advisory board might mean like 200 or 300 miles away from the ranch headquarters. Would it not?

Mr. BERKLUND. That is true. Some of them have two advisory boards in a district. By putting one in each administrative district it would make a change. I will let George speak to that for you.

Mr. TURCOTT. There are five formal grazing districts in the State of Montana. Two are out of the administrative headquarters, district headquarters, at Montana City. Nos. 2 and 3. Malta is No. 1. The Billings area is No. 4. Dillon is No. 5. Five formal grazing districts. They each have a board. Missoula does not have a board. It is the sixth administrative district in the State of Montana.

Mr. MELCHER. Are you telling me, George, that you are going to cut down on the number or remain——

Mr. TURCOTT. No, sir.

Mr. MELCHER [continuing]. Remain about the same?

Mr. TURCOTT. The regulations that have been submitted to the Secretary's Office as a final rule call for a balanced multiple-use advisory board for every district—area of administration—office we have. That would call for six in the State of Montana. The boards would have a limitation of 10 each in total as to membership.

In terms of balance, we can talk about an area that we both know well. Let's talk about eastern Montana. I couldn't conceive of a district administration multiple-use advisory board that would have less than 3 or 4 livestock representatives on it of the 10. I most certainly would think that it would include representatives of county government, or at least the local planning commissions, whatever the States have. There should certainly be people there representing one or two kinds of recreation use, rock hunting, ORV use, whatever it is. The wildlife interests would have to be represented. The mining interests, or at least in eastern Montana the oil and gas interests should be represented. So that there is a real broad-based grassroots local advisory input to this district manager on all matters of importance that would come before the district manager.

In addition, of course, to this are all of the now formalized and institutionalized public meetings, public hearings, public participation processes that we have.

Mr. MELCHER. Well, first of all, we are talking about—I have no quarrel with your concept of broad-based advisory boards. I think it would be very wise, very prudent, very forward looking, very much needed. But we are talking about advisory boards that had to do with the Taylor Grazing Act. Really, the Taylor Grazing Act, as I understand it, didn't get into mining or oil and gas leasing. So I am not—

I agree. Have your advisory boards on these other aspects. But my line of questions isn't to the same point as you gentlemen are bringing us. I am asking about dropping the advisory boards from the Taylor Grazing Act which is, you know, just about grazing.

Now, you might say, well, you don't want too many advisory boards. Well, I understand that point, too, but advisory boards that have existed—and I understand generally as far as the livestock people were concerned they thought they were a good idea—did take into consideration wildlife.

I think you mentioned, George, that 10 members be on each board. One of them, of course, would be or should be somebody representing wildlife management. Now, that may be a very small percentage, but I can't really think that somebody that has a great interest in serving on a board because he might be interested in oil and gas production would necessarily share the interests of the nitty-gritty of what to do about grazing, but I think in the overall concept you have to—if you are going to follow multiple-use practices, I think such a board covering the whole broad spectrum of the uses of the public lands is indeed very worthwhile and meritorious. But my point is those grazing boards as were set up and have operated for so many years, if they were of good service for one of the predominant uses of BLM lands, namely, livestock grazing, let's find out whether they are worth keeping, and not rule out broader boards that you are also recommending.

Mr. BERKLUND. Mr. Chairman, the advisory boards had a very, very important function at the time of the passage of the Taylor Grazing Act. We had to adjudicate the grazing privileges on the public lands, and hear the appeals of the ranchers, and the boards were elected out of their own numbers. There was one wildlife representative on the Taylor Grazing Act advisory boards. At the present time, if there are some privileges that remain to be adjudicated, I am not aware of where they are. But the boards have served their purpose. They have done a splendid job. They have been very useful, but now as the uses of the public lands expand and the adjudication process is over, shouldn't we look to the new advisory boards to help us and assist us? We can call in as consultants some people that we feel have the competence to help us if there is adjudication. If there is a protest on grazing privileges, we can call these people in as consultants to advise the district manager, but with the adjudication complete we feel we have to now look at the broad base of all uses of the public lands.

Mr. MELCHER. I yield to the gentleman from Nevada.

Mr. SANTINI. Thank you, Mr. Chairman. I happen to share the Chairman's sentiments, that I don't find the two are mutually exclusive. I think they could be compatible and serve a joint objective, if you will.

It seems to me on the basis of my communications in an attempt to understand both the position of the Department and the position of cattlemen on this issue that the cattelemen perhaps represent an isolated group of those who are trying to derive economic sustenance, in some instances survival, off the land. I think they represent a very unique problem area. They are not an across-the-board multiple use

problem area exclusively, but those who have over in many instances a great number of years been using the land as a basis of livelihood.

I think it does represent a distinct and unique problem, and to my mind, at least, it would suggest a board to meet that problem and converse in that arena on a person-to-person basis, and the severance of this communication to them at least by their interpretation is another example of the efforts on the part of the Department to further isolate itself from any communication with those using the land.

I think at the very least it is ill advised, from a public relations standpoint as we discussed informally a time or two, and I think there may, No. 2, be a serious question of legality and that will be reconciled in the courts; and No. 3, I would just urge as a matter of your administrative prerogatives to please give serious consideration to the retention of these boards and to the recognition of their importance to the cattle industry.

I would appreciate your thoughts and responses to the contents of my observations.

Mr. BERKLUND. Congressman, we recognize your concern. It is a concern of many people in your State. We find that there is a great resistance to change. We have found that as we moved out to make changes in the national advisory boards that we had the same resistance. But we found many of the same people coming back wearing another hat. Very few of the ranchers per se are ranchers. Many of them represent local government, wildlife, and other interests, and the same people are there, but because they don't have the title of livestock representative that it constitutes a change, and we find some resistance to it.

Mr. SANTINI. Change per se is not good or bad. I think change has to sort of suggest itself or at least the advocate of change has to lay a premise of evidence that warrants the transition or change, and I think therefore the burden would be with the Department to suggest there is no utility or purpose or service to be rendered by these boards any longer. Perhaps our views differ on this, but I happen to feel that there very definitely is a need for continued communication input from the industry in this realm.

Mr. TURCOTT. Well, sir, I don't want anybody to think that the views and the values of the domestic livestock grazing industry and the economics of it as practiced in the West is going to be forsaken whatsoever by the Bureau of Land Management. The very definition of multiple use in the committee print talks about balanced uses. It doesn't get at priority uses unless they can very definitely be determined under certain situations.

Mr. SANTINI. But, are they mutually exclusive, returning to my original question?

Mr. TURCOTT. No, they are not. This is what I am leading to. As I said, in any kind of a substantial administrative district area of any kind, where there is any substantial kind of domestic livestock industry going on at all, there are going probably to be 3 or 4 of the 10 people on these boards who are going to be ranchers. But now at the same time I will have to say that of all of the biological values on these public lands, any grazing animal, whether it be a cow or sheep

or elk or antelope or deer or whatever it is, has the most significant effect on the proper condition of that rangeland resource.

Now, here is the chance, if we believe in the principles of the committee print or the administration bill, to get at balanced use, to get at balanced advice. Here we have the chance to do it. The livestock people are going to be very strongly represented on these multiple use boards, but they are going to be there for the confrontation, the sharing of views with people very knowledgeable in wildlife matters, recreation, watershed, county planning, and so forth. Their prerogatives as to the most universal use are going to be fully considered by these boards.

Now, the last point, if I may, sir—think of the incongruity we have if we go to a two-board district system if the legislation goes through as the committee print states. To review just grazing matters before a newly augmented Taylor grazing system board, they will go through such things as the cut and grazing allocation processes. They will get involved with range improvements, things like that. Then we would have the multiple use board at the district level, another avenue of advice, public participation with the district manager. I can't see how it is going to work, taking one set of recommendations from a single value standpoint, coming before a multiple use board and going through it all again. It seems incongruous to me when I know that the livestock man's values are going to be fully reviewed and considered by multiple use boards with his peers on that board, probably in the predominant numbers.

Mr. SANTINI. There is a very logical distinction between the use of the land for purposes of earning a livelihood and the use of land for recreation. Now, they overlap in the sense that they may well pertain and often times do pertain to the same land, but they don't pose and present the same issues. And I don't—the recreationist, in whatever form that interest is represented, and the person earning a livelihood will present or pose two different issues to the board and to the Bureau for its evaluation and consideration on how that land should be used. But to my mind it is far more logical to have the two interests separated and presenting their position and their thoughts on the use of the land than it is to overlap them and to a significant extent obscure those who are trying to earn a living from the land or make the land productive from an economic sense rather than productive in a recreational sense.

Mr. TURCOTT. I can just say this. I can see what is going to come. The wildlife interest will want their board especially in such areas as the chairman's district. In eastern Montana 40,000 out-of-state antelope permits are issued each year. One of the highest cash income sources for eastern Montana comes from this. The same in Wyoming. In our mutual home State, sir, in the northeastern part of the State, 4,000 out-of-State deer permits are issued, one of the most lucrative sources of cash revenue during an economically slow time of the year. They will want one. You can go into Oregon. You will get the rock hunters. They will want a board because it is a high-intensity activity, and away we go ad infinitum. Still, most of these interests and values would be covered on a district multiple-use board. Don't forget the Director's statement, Sir, that on questions of grazing qualifications

through the use of consultants there will be a special effort made to enable ranchers' peers to say, yes, we think your qualifications are this, or no, we don't. We can also use the livestock associations and several other alternatives.

Mr. SANTINI. Do I then deduce that the Bureau's mind is made up on this issue and that there is no realm left for discussion?

Mr. TURCOTT. Well, sir, we are working with the Solicitor's office and the Department of Justice in opposing this suit filed in the State of Nevada, so the answer has to be yes.

Mr. MELCHER. I would like to get into the question of the—we believe the provisions of the Taylor Grazing Act allowing permits up to 10 years with the renewal action of the Secretary are covered in Committee Print No. 1. Since this is something that is very important to the management of the public lands and grazing, I would like a little more detail on what the differences are in Committee Print No. 1 and the existing practices of the Secretary. For instance, it is my impression that the Secretary almost automatically renews a permit year after year, that his reason for not renewing would be to utilize the land for a higher value, or for reasons that the permittee had violated the regulations of the Secretary. And I am well aware that that is exactly what is in Committee Print No. 1. So at what point are we differing?

Mr. BERKLUND. First, our policy is to issue 1- to 3-year permits pending completion of an AMP.

Mr. MELCHER. Well, that is a different point.

Mr. BERKLUND. OK. You say you issue unless you meet these criteria. We take a different approach. We want to encourage intensive management through AMP's, so we have taken two separate approaches there.

The first section of your committee print (a) and (b), therefore, give us a great deal of concern. If we start your section with section (c) and read through I think we are almost on track. From there on through you are putting into legislation the practices of BLM almost—except for minor word changes, but it is the first two sections that give us a great deal of concern on permits. That is section 211 (a) and (b). That is the major difference in our approach and your approach, Mr. Chairman.

Mr. MELCHER. What page is that on?

Mr. BERKLUND. Page 33.

Mr. MELCHER. Well, that is an annual fee. That is a statutory fee. That has nothing——

Mr. Berklund. No, section 211, sections (a) and (b).

Mr. MELCHER. I am in 210. Excuse me.

Mr. BERKLUND. Those two sections are the major difference between our administrative approach and your legislative approach. If we were to start our discussion with (c) except for word changes I think you have almost outlined our administrative approach in the remaining part of that Section 211. It is just (a) and (b) that are really troublesome to us because a grazing permit now is—unless there is another higher use, it is practically in perpetuity and that is what you say in concluding your statement on this section. So I don't see a great deal of difference except in those first two sections.

Mr. MELCHER. You are using in your testimony the words "Taylor Grazing Act" allowing permits up to 10 years with no more discretion. It seems to me the Taylor Grazing Act directs the Secretary to issues leases up to 10 years.

Mr. TURCOTT. Yes. There is a discretionary provision in the Taylor Grazing Act allowing the issuance of permits for up to 10 years. In addition to that there have been interpretations which we have long used, for 35 years, that we can issue an annual license, renew it each year. The license and permit are the authorizing pieces of paper that are used now within a grazing district.

Now, this is the real problem. Commencing just before World War II, and subsequently thereafter, there was a tremendous push put on by the livestock industry to utilize that section of the Taylor Grazing Act for the issuance of permits for up to 10 years. They were issued by the thousands and probably two-thirds of the then 22,000 livestock operators in BLM got them. What this set up was a system of management that we have paid a penalty for ever since. A rancher got an annual bill because he had a 10-year permit. No management standards or no maintenance or reaction to range conditions year by year were put into these permits at all. Sure, there were terms and conditions to do it, but it wasn't done.

Now we are coming right back to it with the provisions in your proposed statute, sir, where BLM will have to issue a 10-year permit whether or not we have got the intensive management worked out, the mutual planning with the operator, the livestock operator, and the other multiple use values determined or not. That is our objection.

Mr. MELCHER. Is the intensive managment the same as allotment management plan?

Mr. TURCOTT. Yes, sir.

Mr. MELCHER. And is it still the same as it was last year when we discussed this that you are not going to have those plans completed until the year 2000?

Mr. TURCOTT. We hopefully in our programmatic impact statement on grazing can cut it 10 to 15 years under that.

Mr. MELCHER. From 10 to 15 years now or 10 to 15 years under 2000?

Mr. TURCOTT. No. We hope to get it somewhere around 1990, 1995.

Mr. MELCHER. 1990, 1995, and in the meantime this Congress shouldn't act on that point.

Mr. TURCOTT. Yes.

Mr. MELCHER. We should wait 25 years to act, 20 years.

Mr. TURCOTT. No, sir. What I am saying is what we are doing at the present time is we will issue a 10-year permit if we have an allotment management plan worked out with the operator. We are more than glad to. But his planning effort, his skill are in there. The multiple-use values are recognized and the rest of it. We'll permit up to 3 years in certain situations where we think the range conditions are satisfactory and we have got enough environmental data to it. Otherwise we want to continue on the annual renewal license basis.

Mr. MELCHER. Well now, we are also talking about what we call section 15 lands.

Mr. TURCOTT. No, I am not. I am talking within the districts.

Mr. MELCHER. In the proposed law we are talking about, as I understand it, section 15 lands.

Mr. TURCOTT. Your proposed bill includes it, but we have about the same kind of program going on with respect to the section 15 leases, too, sir.

Mr. MELCHER. Well, of course, you know, sections 15—George, when you were making your remarks about having a strong desire to get away from this concept of 10 years, your strong desire to get away from the 10-year deal with section 15 land hasn't transmitted itself down to the lower levels, has it? Surely all—has it?

Mr. TURCOTT. Yes, it has. It is in the regulations and instructions, and if it is any kind of substantial acreage in the section 15 lease at all.

Mr. MELCHER. I know there are a lot of very small leases in——

Mr. TURCOTT. In some of these 40-acre tracts, no, sir.

Mr. MELCHER. I am not going to belabor this, but at any rate, what is in the bill is pretty much the program you have been following, and I understand what your objection is. You want to make the allotment management plan a portion, a condition of having some assurance of tenure.

Mr. TURCOTT. No. No, sir.

Mr. MELCHER. You don't?

Mr. TURCOTT. I sure don't. That is real critical. The Taylor Grazing Act gives these people tenure as long as they live up to the rules and regulations and the facets of law that they must comply with.

Mr. MELCHER. Oh, well, that is all we are trying to say, I think, in our language here, is that they would have some assurance.

Mr. TURCOTT. That is right. The term is insignificant as far as tenure is concerned under the Taylor Act now. What I am objecting to, sir, is the way I read this, that ipso facto we will have to issue a 10-year permit whether we are ready to do it or not.

Mr. MELCHER. Well, I think maybe we ought to just say without saying 10 years, that as long as the permittee meets the regulations of the Secretary he will get first chance at that lease. Of course, subject to the other provisions, putting it into a higher use, and then we drop the 10 years. We probably are going to come into line with what you are thinking.

Mr. BERKLUND. That is right. If we drop sections (a) and (b), start with (c) you have said that in the balance.

There was one major change that everyone should be aware of and that is to compensate the operators for their authorized improvements on prior termination.

Mr. MELCHER. Do you agree with that or disagree?

Mr. BERKLUND. We are on record as disagreeing with it, sir.

Mr. MELCHER. Yes. Well, of course, it makes good horsesense, just put it that way, because you would have a mutual interest then in the improvements.

The gentleman from Arizona.

Mr. STEIGER. Thank you, Mr. Chairman.

Mr. Director, I would like to give you about a 10-second lecture on the Steiger philosophy of Government. It is very important, so you feel free to take notes or whatever you want to do. The fact is that

when man determines a mission inevitably he approaches it with zeal and with some understanding. When he institutionalizes that determination and forms a structure, whether it is a Government structure or private structure, automatically then the people involved in the structure have to devote a certain amount of time to justification of their existence and the longer the structure exists, the greater the attention is paid to the justification and the less to the mission, and I will tell you that BLM is my best laboratory example of that.

Now, Mr. Turcott is a sincere, decent, understanding guy. He knows the processes and he knows the problems. He is wrong, dead wrong, in his approach, not because he is anticowman, but because logic has simply fled the window in this massive attempt to justify existence.

Now, the 10-year mandatory lease is a good example, a great example. The logic in the 10-year, if you will, mandatory lease is a very simple one. The permittee is going to be encouraged to maximize his investment on a 10-year basis. As the situation—and that was obviously the intent in the original act.

Now, the idea—and George also believed, Mr. Turcott also believes that the wisdom of the Bureau is infinitely superior to the wisdom of the permittee because the permittee is motivated by a necessity to stay alive and the Bureau is objecting in that it is able to view the thing on a balanced basis. That is wrong, just dead wrong. The concept, and it is best personified by the attitude about the advisory boards, the attitude—the Bureau's attitude about advisory boards implicitly says that the cowman can only be a nuisance because there is no way he can be objective. He has to be greedy. He has to interfere with the multiple use.

Now, the one place where it doesn't fly, absolutely collapses, is the Forest Service experience with their advisory boards and your experiences with your advisory boards, in the same country, in the same area, side by side. Will you explain to me what the distinction is, why the Forest Service apparently has got a happy relationship, their multiple-use demands are far greater than yours, yet they do not see the need to abandon the grazing advisory boards.

Now, have you—I am sure you have been asked that question before and I would be interested in the response.

Mr. BERKLUND. Congressman, very seldom do I disagree with you, as you well know.

Mr. STEIGER. I can understand that.

Mr. BERKLUND. But I think if you would take a look at the section that we have agreed that pretty well lays out our philosophy. Go to your section F, 211, and you have laid out all the assurance that the operator needs except for the issuance of the 10-year permit that we don't do until we have completed an AMP. You say in there that:

> So long as the lands for which the permit or lease is issued remain available for domestic livestock grazing, no permittee or lessee complying with the rules and regulations promulgated by the respective Secretary and who has complied with the terms and conditions of the permit or lease shall be denied the renewal of such permit or lease.

That has been our philosophy and will continue to be, but it doesn't say that you give a 10-year permit except for these conditions. We say we will give you 1 to 3 years in certain situations, when we have

taken into consideration all the other values, all the other uses of the land. When we have completed our AMP, then we can look out ahead 10 years. We will give you a 10-year permit, but we have to recognize that there are going to be changes until we reach that 10-year permit.

Mr. STEIGER. That is amazing, Mr. Director. You came to us from the real world, a great success, unqualified, I will state that, a man that confronted reality all his life and you have been downtown just a few years and look at you. They have melted your brain. You are approaching this from the back side.

What magic is there about the 1- to 3-year lease? What magic is there that says the 1- to 3-year lease is going to automatically protect the land better than the 10-year lease that as a practical matter, whatever is wrong with the land now or right with it, has been accomplished under the 1- to 3-year lease. I don't know what percentage of the 10-year leases there are, but you know there are very few.

Now, I don't expect you to magically see the light and reverse your position, but I am going to tell you on the basis of—you have got the worst end of this thing because not only do you make our constituents mad where it automatically, of course, involves us, but you are wrong. Now, that is the happiest of all possible positions for us and we are going to just have to run over you on this one, and I just want you to know that it is not because of any personal situation. It is just because you are wrong. And the language in your statement on page 6 is one that really shocks me in light of your devotion to the 1- to 3-year lease, and I quote:

> The privilege of using the land will in effect become a proprietary right—a right not afforded other users of publicly owned land, and a right given without any consideration for the condition of the land.

Now, you are telling this committee that you are incapable of writing a lease that would demand that if the land is abused the guy has got to stop it. I don't care if that lease is for 100 years or for 6 months. If you are incapable of devising a lease which says that if you abuse this land, you are—your permit is just cancelled, then really we don't need you at all.

I wish you would consider that. I wish you—well, I know you won't, so I won't even ask you to respond, but that is the whole—that is the thing in a nutshell. You are defending a process that I am not even condemning, but you are defending a process just on the basis that that is what you are doing now and you are defending a process on the implication that the management plan is going to bring, going to be all things to all men and the implication again or the posture says without a management plan the land is being abused, and that is just not true. Simply not true. In fact, many management plans aren't going to be successful in application and you may not stipulate to that, but I think you understand that. Only because man devises them regardless of what the motive is. So there is nothing inherently superior in either the permittee's outlook or the Bureau's outlook. I am sure there is error on both sides. But to assume that the Bureau is absolutely right and the permittee is wrong is just nonsense that runs through your whole argument here. And I can't get away from the fact that given a 10-year lease by law, the incentive to invest is greater, the ease of acquiring the money to invest is greater, and the

investment and the improvement and the management plan can't be done without the approval of the Bureau anyway. So I think you are beating a dead horse and I honestly don't understand it, and I——

Mr. SANTINI. Or cow.

Mr. STEIGER. Thank you. I appreciate that. Or cow.

OK. One other thing.

Mr. Chairman, I don't want to abuse this. I know we have a very important witness to hear from yet. But the studies that the 16 percent are improving, and whatever it is, 19 percent—16 percent deteriorating, 19 percent improving, you again give the implication, and it is an implication, that these are static conditions, that these are absolutes, that 50 percent are fair, 54 percent are poor or bad.

Now, again I know that you are aware that in a given area this spring when the—if there was a lot of moisture, a given area can all of a sudden change categories, and I don't think you are locked in it. I suspect maybe the figures take that into account, but the fact—the point I want to make is at the time of the analysis, whatever was done was done with the existence of the 1- to 3-year permits and that applied to the 16 percent deteriorating as well as the 19 percent that are improving, so in the final analysis, it is going to be the skill and cunning of both the permittee and the BLM man on the ground who are going to devise the best way to maximize that resource without defeating it, and all of the structure in the world—the only thing that greater structure is going to do, management plan, that is a structure. That is a whole new office in your office that is now going to review management plans. You say by the year 2000. You and I both know it is going to be nearer 3000 than 1990 because the guys who are doing it have to justify their existence and that is one of the problems, and they have to be reviewed and they have to be reviewed to the point of nausea and the final level of review, there are people who can't even spell cow and that is the problem.

So I hope you don't hang up on the prerogatives of the Bureau and I don't think you have, in fairness. I think in the main with the exception of the point the chairman has raised and the gentleman from Nevada, we need your advice. But I think you embarrass yourself and the Department when you come in here and try to sell a posture that you are now more concerned about multiple use than you have been before. I will tell you now you have always been concerned about multiple use, and properly so. You haven't always been able to implement that concern, but you are not going to implement it by new structures. You are going to implement it by a new awareness and the existing law gives you all the opportunity to implement that you need and to assume that somehow the cowman's advice is antiprogress and that the designation of the cowman as a member of a multiple-use board is going to change, it shows you have forgotten the real world. That is all I am telling you. So——

Mr. BERKLUND. Thank you for the new awareness, Congressman.

Mr. STEIGER. I knew you would understand right away.

Mr. Chairman, I won't belabor it, but I think in fairness you should know that I don't think this committee, at least it is my—I don't know of any advocate of your position on this committee. I am sure there are several urban advocates in the Congress, but I suspect that

they aren't justifying any existing structure. I think they can probably be persuaded that the position is simply not supportable.

I would be happy for a 10-second response if you have any. If you care to wipe me out in 10 seconds, you are welcome.

Mr. BERKLUND. Could I make a 10-second response, but George can summarize it in 20 minutes.

Mr. TURCOTT. The good Congressman and I have had our philosophical differences, but we both respect each other. I will say just two things just to correct the record. The Taylor Grazing Act has been tested clear up to the Supreme Court. The first Supreme Court case, *Brooks* v. *Dewar*, 313 U.S. 354 (1941)—he was a regional grazer then in northeastern Nevada—tested this and it was determined that term permits for up to 10 years were not mandatory. They were discretionary.

Second——

Mr. STEIGER. Excuse me. I will stipulate that. That is the reason we are putting them in. We want to make it mandatory.

Mr. TURCOTT. And the same argument——

Mr. STEIGER. We are not saying you are doing wrong or anything illegal.

Mr. TURCOTT. And as the corollary to that point, sir, your committee print 1, 94th Congress, under section 211(a), in the first sentence of that act, it says, "shall be issued for a term of 10 years subject to grazing capacity except as provided in section 2," and so forth.

All I am saying, sir, the current condition of the Federal rangelands managed by the Bureau of Land Management in my view in general are not good and they don't reach near the productive capacity they should for several purposes—basically because we were forced to issue those 10-year permits prior to World War II and shortly thereafter. We couldn't control it.

Mr. STEIGER. George, do you tune out when we are talking to you?

Mr. TURCOTT. No, sir.

Mr. STEIGER. There is nothing to prevent you in this law or in your own process now in the course of a 10-year lease to say you can't run this many cattle because this range is deteriorating. They are subject to grazing, subject to the conditions of the lease, and the lease says you can only run what the land will carry and if the lease doesn't say that, you had better rewrite the lease.

Mr. TURCOTT. "There shall be issued," and, of course, the cancellation originally is for this 2-year notification and all that, except in case of emergency. I wouldn't be a bit surprised, sir, if the total effect on any program that the Bureau will have, in terms of manpower and resources, will be to force the Bureau to be so conservative in issuing these term permits that we will be doing an injustice to the man when we want to turn around and get at the use of his art and managerial incentive, and do something to increase his use as the forage production increases.

Mr. STEIGER. Do me a favor. Read paragraph (d) on page 34. It is applicable. I assure you it has a direct bearing on 211(a) and it says, "nothing contained herein." Nothing means nothing.

Mr. TURCOTT. All right.

Mr. STEIGER. I mean there is no ambiguity. "Nothing contained herein shall be construed as restricting the authority of the Secretary

concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms or conditions thereof, or to cancel or suspend."

Mr. TURCOTT. All right.

Mr. STEIGER. Now, if you can't understand that paragraph, then the paragraph is designed to allow management within the 10-year framework, and it does, and what you are saying is that we are doing violence to what you have been used to and that is all. You are just—you are not— either not understanding or not reading or anticipating a strawman that just doesn't exist.

One other thing. I did ask a question which was not responded to and maybe somebody can. How do you account for the happy experience of the Forest Service with their advisory boards and your desire to eliminate the advisory boards, and I don't want to pit you at each other, but I would be interested in how the Forest Service can be successful in their relationship and BLM cannot. If you don't know, maybe you ought to ask. I realize it is hearsay—does Macy's tell Gimbel's.

Mr. TURCOTT. No. We have discussed this at length and I will just have to defer, sir, to Forest Service to support and justify their position. They have little different systems than we do, but that is as far as I will go. My views on it are based on the fact that we want to live with the context of this bill, the definitions of multiple use, and so forth, balanced use. We feel strongly that a good balanced multiple-use board at the district level advising that district manager is entirely in keeping with the concepts of the various organic acts as submitted.

Mr. STEIGER. You are telling us there is a difference in the law or the structure of the Forest Service advisory boards, and the BLM advisory boards?

Mr. TURCOTT. Yes, sir, there is, but I am not expert at it.

Mr. STEIGER. Is that difference the reason that they have a happier experience? Is that your——

Mr. TURCOTT. I don't know, sir.

Mr. STEIGER. How come you haven't found out when you come in with what in our area is a very devastating recommendation? Nobody has ever checked with the Forest Service to see how everybody is getting along?

Mr. TURCOTT. Yes, sir, we have.

Mr. STEIGER. Maybe you could have recommended some changes that would be comparable to the Forest Service changes.

Mr. TURCOTT. I can only say in general on several occasions we discussed this at length with the highest officials of the Forest Service. They have a grazing advisory board under the Granger-Thye Act, providing good coverage of the grazing areas within the total national forest system. In addition to that, they have a multiple-use advisory board system that either covers regions, maybe to some extent, down to forests. I understand that they are looking hard at that and over the last some years have reduced the numbers of members on some of these boards. Maybe in some cases even have eliminated the boards. They have a dual system now.

The only thing I can say, sir, is I don't think that the national forests have the complexity of multiple uses that the BLM lands

have or the intensity of them, especially in certain situations. They don't have the mining and the mineral leasing problems that BLM has. They don't have the rights-of-way problems that BLM has. Just by the nature of forests they don't have the ORV problems that BLM has, and so forth. So perhaps that is one reason why they wish to continue the single use Granger-Thye Act boards. We both have a very high intensity public participation process. I know they use that as justification for their approach.

Mr. STEIGER. I just want to point out, Mr. Chairman, that what we are suggesting in Subcommittee Print No. 1 is that there be a two-stage advisory board, exactly as the Forest Service has gotten into. It just seemed—again, I fail to see the rationale.

Mr. MELCHER. The gentleman from Colorado.

Mr. JOHNSON. No questions.

Mr. MELCHER. The gentleman from Oregon.

Mr. WEAVER. No questions.

Mr. MELCHER. The gentleman from Nevada.

Mr. SANTINI. I don't know what the appropriate method is, Mr. Chairman, for entry of this kind of data in the record, but the gentleman from Arizona poses a fair, logical question as to the comparison of the two management entities within the Forest Service and suggests that they have been workable, functioning, and that it is a very realistic day-to-day administrative process within the Forest Service and why couldn't the Bureau consider adaptation of the Forest Service program or plan. There is some difference in the use of the lands you suggest with perhaps heavier emphasis on economic use on BLM land as opposed to Forest Service land, because typically they may not be as readily adaptable to grazing and other activities relating to economic use, but I do think it is a very, very fair question and I do think it deserves something more than a casual, no, we haven't checked and really don't know response. And whatever the convenient mechanism for you to reply for the record, I would strongly urge you to do so.

Mr. BERKLUND. Congressman, could I relate a little experience I had? Of course, not everything that my friend from Arizona says is true about me. But we had a problem with the National Advisory Board Council because of its composition. It was heavily dominated by one user group. That council or board took it on themselves to reorganize and get a better, broader balance. The credibility of that board was so low we were being attacked in the press all over. Everyone was skeptical of the advice. They restructured themselves and now they have been accepted by the general public. Many of the same people are there. There is some—they represent different interests.

Mr. MELCHER. Might I interrupt, Curt? I do so only because we are running out of time and we do have another witness, but I don't think you are responding to either the gentleman from Nevada or the gentleman from Arizona. They are saying why not review the advisory board the Forest Service has for grazing and what the Taylor Grazing Act called for and give a comparison. I think it is a reasonable request. I think we would like to have the critique of why you recommend doing away with the single purpose, almost single-

purpose grazing advisory board, noting that one of the 10 members was supposed to represent or is required to represent wildlife, and just compare that with what the Forest Service has been using. I think that is a very reasonable request, and I am sure you can do it for us. It would help us better understand your rationale. We may agree with you when you are all through, and I recognize the point you are making, that when a board supposedly dealing with a broad range of subjects becomes heavily weighted and oriented for only one purpose, they cease to have credibility. I recognize that.

Mr. BERKLUND. Mr. Chairman, that is what I was heading for, but I think I will submit it for the record because of the time. Thank you.

[The information follows:]

The matter of having grazing district advisory boards as well as multiple use advisory boards has been discussed with the Forest Service on at least two occasions during the course of monthly Bureau of Land Management—Forest Service coordination meetings.

The Forest Service grazing district advisory boards are established under the Granger Thye Act. BLM's grazing district advisory boards are established pursuant to the Taylor Grazing Act. It is my understanding that the Forest Service has reexamined its advisory board program and has made some changes in it; that grazing district boards are established only when requested, and the numbers of members on the boards have been reduced in some cases. Forest Service is also continuing its multiple use boards. Although they claim they have no difficulty with a dual board system, I do not know whether they have ever had a situation where a grazing district board and a multiple use board have disagreed on the advice given.

By the nature of the national forests, they do not have the broad spectrum and extent of interests in lands that is reflected on BLM lands—for instance—rights-of-way, mining, mineral leasing, etc. They do not have the same off-road vehicle problems that BLM has.

It may be that the difference in the attitude of the two Boards lies in the differences in the laws establishing the advisory boards for the Forest Service and the Bureau of Land Management. The distinctions are subtle. It is the feeling that the Taylor Grazing Act through historical functions gives more authority than the Granger Thye Act. Taylor Grazing Act boards in the early days of the Grazing Service assumed many functions because of the vastness and complexity of the program in relation to funds and personnel available to administer it, and some boards have continued through the years to try to exercise the same prerogratives. However, with the resolution of many of the matters that they handled, this aspect of their operation has decreased significantly. In recent years the strict advisory nature of their function has been insisted upon by the Bureau. We find now, in light of BLM's multiple use mission, that a single use grazing board, even with wildlife representation, is inconsistent with multiple use concepts.

Mr. MELCHER. Yes. I have a question that I think is important. If I understand our dialogue today, if we had language in this bill that said that a permit or lease will remain in effect until the Secretary withdraws or puts the land to a higher use or the permittee or lessee has violated the regulations, that is about what our dialogue boils down to. Something along that line is pretty much acceptable to you, isn't it?

Mr. BERKLUND. That is section (d) that you have, sir. We don't find a great deal of concern there.

Mr. MELCHER. I mean that is what we are attempting to arrive at, to assure that if the land is available for grazing, you know, if you have a permit or you get a permit or get a lease, as long as it is available for grazing, that person is going to have the first chance and

could comply with the lease. I think we are pretty close to agreeing on the language.

I think people are hung up on what this ten-year thing means, and personally it doesn't mean a heck of a lot to me because I—what I would like to assure the permittee or the lessee of is if he continues, if the land is available for grazing and he continues to treat it right, he is going to get the first chance at it.

Mr. BERKLUND. Yes, sir.

Mr. MELCHER. That has been your policy. I know it has been your policy. Pretty much of the policy of the Forest Service. I think that is what the committee would like to have.

Now, can we have assurance from you, Curt, that while we ponder this subject in developing this bill, you are not going to have these new regulations that have been proposed implemented any further than they are?

Mr. BERKLUND. No, sir, Mr. Chairman, I cannot assure you of that. We had agreed that we would hold up any action until we had an opportunity to discuss this with you today. We would like to go to proposed rulemaking. We would like the opportunity to get the public comment which may be of assistance to this committee along with ourselves, and if we go through the normal process, we are not going to be able to go to file rulemaking probably until September, and implement the first of the year. I don't know what your schedule is for passage of this act. If we agree to hold over until you act here in the committee or in the Congress, I don't know. I couldn't commit to that.

Mr. MELCHER. When do we have the Secretary of the Interior before this committee?

Mr. SHAFER. He has been before the——

Mr. MELCHER. I mean this year, this Congress.

Mr. SHAFER. He has been here on the briefing session of the——

Mr. MELCHER. I mean this subcommittee.

Mr. BERKLUND. I think Assistant Secretary Horton may appear before you on Tuesday. I am not sure I will be here myself. One of us will be here Tuesday.

Mr. MELCHER. What I am getting at, we are well aware that the committee in the last Congress thought entirely differently on this subject than BLM did, what your ideas were and what your premises were. We are well aware of that, but—if the subcommittee feels the same way and the full committee feels the same way and the House agrees and the Senate agrees too, to a statutory provision on grazing that gives some guidance to BLM and the Forest Service—it hardly makes any sense to me for BLM's coming out with regulations that I am sure would be in violation of what we were going to do last year and did not accomplish, but which we may accomplish this year. It hardly seems that this is productive, a productive exercise of the prerogatives of the legislative branch versus the executive branch, and I would—I want to be assured before we conclude our hearings next week that we are not going to be running headlong into a confrontation because I think there is advantage to working together. But when you split the blanket, as you want to, if these proposed regulations are published in the Federal Register in April, we

are going to then have to be on the basis of confrontation, not on the basis of cooperation.

Mr. BERKLUND. Mr. Chairman, I think there would be very few areas of concern in there, but we would be happy—we just received your committee print—to now lay it out against regulations and meet with staff in order to identify any areas of concern.

Mr. MELCHER. Well, I might not have made myself clear, Curt. I don't think we can do that between now and April 1st, do you?

Mr. BERKLUND. Possibly not that soon, but——

Mr. MELCHER. Well, isn't that—when would you put these in the Federal Register?

Mr. BERKLUND. We would like to go with proposed rulemaking. That is just putting them out for public comment.

Mr. MELCHER. At what date?

Mr. BERKLUND. As soon as we can get them cleared. They are in the Secretary's office right now waiting a clearance for publication.

Mr. MELCHER. That is what I was wondering, when we are going to talk to the Secretary.

Mr. BERKLUND. We have made the recommendation to the Secretary and they are in the Secretary's office.

Mr. MELCHER. We will hear more about it next week when we talk to Assistant Secretary Horton. We did get into range improvement and I am not going to prolong this any longer, but surely we are going to have to have a common—a common denominator when we talk about range improvements and who recommends what, and as I view it, these advisory boards would want—some advisory boards dealing with range improvement would have to be in existence if we are going to get a dialogue between the people who are utilizing the leases and the permits and the people who are managing the public lands, whether it is BLM or Forest Service. So this is an area where we want as good guidance as you can provide us on how to establish that dialog, and we would like to set that as part of the law rather than just leave it to regulation.

Mr. BERKLUND. Hopefully our AMP's will be moving out and they will be identifying a lot of range improvement needs through the planning process, Mr. Chairman. And with public participation and the advisory boards' opportunity to review these, we think we will have full public participation, but when we get into the section of fees and distribution of funds, here I think probably we have more questions than we have answers at the present time because we are just trying to analyze it now.

Mr. MELCHER. Yes. I appreciate that.

Now, I have one or two further questions for you, Curt. Under the Taylor Grazing Act, either a Member of Congress or an employee of the BLM were prohibited from a lease or permit.

Mr. BERKLUND. Right.

Mr. MELCHER. Does that provision or other provisions of law apply to a Member of Congress or an employee of the Bureau of Land Management if his ownership or involvement with the lease or permit is through a corporation?

Mr. ROBISON. As you are aware, Mr. Chairman, the Solicitor of the Department has made a ruling with respect to ownership when a corporation is not involved.

Mr. MELCHER. No. I am not aware—oh, if the corporation is not involved. All right.

Mr. ROBISON. If the corporation is not involved.

Mr. MELCHER. I had seen that opinion, but I would like to——

Mr. ROBISON. I would think this would be a matter, of course, that would have to be referred to the Solicitor, but just addressing it as it would appear to me, it might well be that we would have to look at the corporation, itself, whether it is a closely held corporation or whether it is a corporation that deals in the open market where there are arm's-length transactions, that type of thing. If it is a family corporation, a closely held corporation, I don't think it would be any different than if the individual were involved, but if you are a stockholder in General Motors, that might be something different.

I do not speak authoritatively for the Solicitor, though, and I think the matter would have to be referred to him.

Mr. MELCHER. It isn't a point that you are prepared to answer on today.

Mr. ROBISON. No.

Mr. STEIGER. Mr. Chairman, I wonder if I could have unanimous consent that Mr. Berklund provide us with, and I don't want an in-depth operation, but a summary—provide us with a summary of the new available enforcement and management techniques that would be available to you under your new proposed rules which are not now available to you under either law or practice. Is that a big deal? If it is a big deal—you should know that it is going to be used against you.

Mr. BERKLUND. We have it prepared, but I don't know if it is in the depth you want. Could we supply that to you and see if——

Mr. STEIGER. I don't think it ought to be indepth. In other words, you are thinking—it would really be the justification of why you think you need the new rules. If it is available, if we could have it as soon as possible, it would be very helpful for us in examination of Assistant Secretary Horton. I would ask unanimous consent——

Mr. MELCHER. Is it possible to——

Mr. BERKLUND. We will supply it, sure.

Mr. MELCHER. Thank you very much. We appreciate your candid answers to our comments and questions. We know we will be continuing the dialog as we move along.

[The information follows:]

MAJOR CONSIDERATIONS FOR CHANGES IN THE GRAZING REGULATIONS

1. INTRODUCTION

In 1934 Congress passed the Taylor Grazing Act to regulate livestock grazing on the national resource lands (public lands), ending a 50-year period of competitive use of the range. Regulations were adopted to adjudicate livestock use allowances to qualified ranch operations and to designate grazing allotments. The objectives of these regulations were essentially accomplished by the mid-1960's. With changing times and with intensified use of the national resource lands by a variety of users, the old regulations have not only fulfilled their usefulness but have also become outdated.

For several years the Bureau of Land Management has been working on a draft of proposed regulations which would modernize livestock grazing administration under the Taylor Grazing Act. A number of important areas of change are being considered to meet the modern-day needs for more intensive manage-

ment of the national resource lands. Emphasis on the environment and considerations for other resource uses in the issuance of grazing permits need to be strengthened and incorporated into the regulations. Multiple use and environment are basic and viable objectives of the grazing management program as are sustained yield of forage and community and livestock operator stability.

The text of the proposed regulations is better organized and the language is less formal making them easier to read and to understand.

The objective of the proposed regulations is to improve administration of the NRL's to meet Departmental and BLM land management responsibilities. No changes would have to be made in the Taylor Grazing Act.

2. GRAZING ADMINISTRATION

The proposed regulations are intended to include grazing rules for all of the national resource lands, exclusive of Alaska, under the jurisdiction of BLM. They combine into one set the regulations applicable to Section 3 and Section 15 of the Taylor Grazing Act, the O&C western Oregon lands, and LU lands acquired under the Bankhead-Jones Act. All of these lands are similar in character and values and should receive equal management attention under standardized policies and regulations.

The regulations for Section 15 and Section 3 have been similar since the Section 15 regulations were changed in 1968. These proposed regulations bring the two together into one set of rules.

The proposed regulations would provide the policy to strengthen multiple-use management and provide a basis for intensive livestock management. These regulations would help stabilize existing grazing users and reduce administrative costs.

3. OBJECTIVES

The objectives of the present regulations have been to conserve and regulate the public grazing lands and to stabilize the livestock industry dependent upon them. The proposed regulations place emphasis on environmental considerations and intensive management to protect and properly manage the NRL's. This does not mean that the often predominant function of livestock grazing will be less prominent, but that means will be sought to accommodate other uses.

4. QUALIFICATIONS

There is no change from the requirements in the present regulations. To quality for a grazing permit an applicant must be a citizen of the U.S. engaged in the livestock business. In addition, he must own or control land or water base in or near the NRL area which is used in support of his livestock operation.

5. PREFERENCE

Present regulations set forth the guidelines for adjudicating and allocating grazing use on the NRL's to qualified applicants (Sections 3 and 15). The regulations contain the guidelines for determining season of use, grazing capacity, class of livestock, for adjusting present use because of changes in available forage, and for issuing permits, licenses, and leases.

The proposed regulations would protect the interest of preferenced grazing users. The allocation of preference and the issuance of grazing permits would be based on the grazing use on the NRL's which is recognized when the proposed regulations become effective. The preference would be based on District records of land dependent by use or prior water, adjudication, and the license, permit, and lease history.

6. ACCOUNTABILITY

Under the present regulations (Section 3), base property requirements are established for a State or District. They require that the permittee produce enough forage on his base land to support the livestock authorized on NRL's for a specified period (2, 3, 4 months, etc.). DPS records are maintained to record range and forage crop production on the private land, to assure that the base property is commensurate, and to show that the permittee has a year-round operation.

Under the proposed regulations, there would be no base property requirement and DPS records would not be necessary. A record of the permittee's preference

would be maintained through the use of applications, permits, billings, and transfers.

7. GRAZING AREAS

Under the proposed regulations the authorized officer would establish grazing areas to be allotted to a single permittee or a group of permittees. The grazing areas would be designated as:

1. Management allotments—established to be intensively managed under an AMP.
2. Custodial grazing area or allotment—established where the NRL acreage contains limited resource values and/or where NRL acreage is small in comparison to the total area.
3. Interim grazing areas or allotments—established pending designation as a custodial grazing area or allotment or a management allotment.

Previously these areas had no formal designation.

8. PERMITS

Under the present regulations, licenses, permits, and leases are issued to authorize grazing on the NRL's.

Under the proposed regulations all grazing on NRL's will be authorized by a grazing permit. The permit will identify the allotted grazing area(s) and the amount of the NRL's forage to which the permittee is entitled.

Three kinds of grazing permits will be issued. Each, to varying degrees, sets out the conditions and manner in which livestock grazing use is to be authorized. Each is designed for a specific purpose and will reflect the intended category of permit.

Management permits will be issued for grazing areas which are under intensive management; they will be issued in conjunction with an AMP. They will be issued for a period of up to 10 years with provisions for renewal. They allow for the allocation to the operator of all additional livestock forage which becomes available within his allotment.

Custodial permits will be issued in grazing areas in which planning has been completed and where only limited resource values are involved. Generally, they will be issued for grazing use on fragmented NRL areas. These permits will be issued for up to 10 years with provision for renewal.

Regular permits will be issued in grazing areas in which resource planning has not been completed. They will be issued for a period of up to 10 years with provisions for renewal pending management considerations in the planning system. After planning, the allotments covered by regular permits will generally be scheduled for development of an AMP or designation as a custodial grazing area or allotment. These permits are not subject to any permanent increase in permitted use.

9 SPECIAL PERMITS

There is no substantial change in the regulations providing for special permits.

Free-use permits may be issued to an eligible individual for grazing on the NRL's adjacent to the individual's residence. The permit will authorize grazing use only for the domestic livestock owned and whose products or services are used directly and exclusively by the individual and his family.

Crossing permits may be issued to persons showing the necessity for crossing NRL's with livestock for proper and lawful purpose.

Exchange-of-use permits may be issued to any permittee or livestock operator having ownership or control of non-Federal land within his grazing area. They are issued for the grazing capacity of the non-Federal land at no charge.

Nonrenewable permits denote temporary use which carry no preference. Generally, such permits are issued for grazing above the active use preference provided such use does not interfere with existing operations and is in conformance with management objectives.

10. TRANSFERS

A preference is transferable. The present as well as the proposed regulations require that a transferee be qualified. Procedures for transfering a preference will be simplified. An operator may have as much base property to which the preference is attached as he desires. At the present time every variation of base

property exists and no modification in these are proposed. The proposed regulations will provide the latitude to make desired changes in land or water base. The base property offered will be recognized as long as it meets the regulatory requirements.

11. FEES AND CHARGES

No change in regular fees is proposed. The fees for each fee year will be published in the Federal Register. Fees will be charged on all grazing, crossing, and nonrenewable permits for the grazing of livestock on NRL's at a specified rate per animal unit month. The charges for any fee year will consist of a use fee and a range improvement fee and will not be less than $10/permit.

The only changes from present procedures are:

1. Where a management permit has been issued, a fee notice based on actual use reported will be issued after the grazing season.
2. Except for actions initiated by the authorized officer, a service charge of $25 will be made for each transfer of preference and for each supplemental or revised billing. Presently there is no charge for these actions.
3. Whenever the annual grazing use authorized exceeds the recognized preference, an added range improvement charge will be made. No such charges are made under the existing regulations.

12. TERMS AND CONDITIONS

In addition to the existing terms and conditions, the violation of which can result in penalty action, the proposed regulations provide that permits will be subject to modification or cancellation for:

1. Littering—(Land and Water Pollution)
2. Use of poisonous substances
3. Violation of Wildlife Laws (Bald Eagle Protection Act, Endangered Species Act, etc.)

Some of the existing terms and conditions are:

1. that all livestock authorized to graze the Federal range be branded or marked
2. that all range improvements placed on NRL's be authorized
3. that permittees not interfere with other lawful uses or users of the NRL's.

13. RANGE IMPROVEMENTS

The proposed regulations would provide for continuing the use of cooperative agreements and Section 4 permits to authorize the construction of range improvements on the NRL's. The proposed regulations would simplify the procedure for assigning range improvements to the transferee when there is a transfer of the preference. Unauthorized improvements would either have to be modified to acceptable specifications or removed. EAR's, or if necessary EIS's, will be prepared following multiple-use planning for all livestock management facilities and land treatment projects. The proposed regulations would strengthen design and construction standards.

14. UNAUTHORIZED LIVESTOCK USE

Under the proposed regulations it would no longer be necessary to determine if a trespass was wilful or nonwilful. Instead of using the $2/$4 trespass fee in connection with the wilful/nonwilful trespass, settlement due the U.S. as a result of unauthorized livestock use will consist of (1) a base charge of $5 per head for cattle and horses and $1 per head for sheep and goats, (2) cash rental value of forage consumed, and (3) costs arising from damage to the public land and property. The new regulations would provide for impoundment and sale of trespass livestock.

15. APPEALS AND HEARINGS

Regulations governing appeals and hearings are in Part 4 of 43 CFR and no change is proposed.

16. ADVISORY BOARDS

Regulations governing advisory boards have been removed from the grazing regulations and will be in Subpart 1784 of 43 CFR. Part of the new regulations

being implemented to meet the requirements of the Federal Advisory Committee Act have been published as final rulemaking in the Federal Register on 1/21/75. The regulations providing guidelines for the establishment and composition of advisory boards were published as proposed rules in the Federal Register on 12/30/74.

17. LOCAL ASSOCIATIONS OF STOCKMEN

The draft regulations do not propose any change in these rules. They will, however, be removed from the grazing regulations and will be in Subpart 1787 of 43 CFR as the Departmental regulations are recoded.

Mr. BERKLUND. Thank you, Mr. Chairman, and we look forward to very close working relationships in the coming year.

Mr. STEIGER. Thank you very much.

Mr. MELCHER. The next witness will be John R. McGuire, Chief, Forest Service.

Chief McGuire, we are pleased to have you back with us again.

STATEMENT OF JOHN R. M'GUIRE, CHIEF, FOREST SERVICE, ACCOMPANIED BY ROBERT M. HOUSLEY, ASSOCIATE DEPUTY CHIEF FOR THE NATIONAL FOREST SYSTEM

Mr. MCGUIRE. Thank you, Mr. Chairman. With your permission, Ray Housley, our Associate Deputy Chief for the National Forest System, will join me here at the table.

Mr. MELCHER. Of course.

Mr. MCGUIRE. In the interest of time I can summarize my statement in just a few sentences if you wish.

Mr. MELCHER. That would be appreciated, chief. Without objection, Mr. McGuire's prepared testimony will be made a part of the record. Hearing no objection, so ordered.

Please proceed.

Mr. MCGUIRE. Since the preparation of this statement, we received a copy of subcommittee print No. 1. We have compared it to the bill referred to in our prepared statement. We find that our comments in the statement also apply to the subcommittee print.

The statement lists about a half dozen specific items. Our position on each of the items is generally stated in the last paragraph under the item.

About 1 year ago we testified before this committee in support of the legislation to provide organic authority for BLM. We again express our support of such legislation as proposed in the administration's bill. I think that is about all I need to say as an opening statement, Mr. Chairman.

Mr. MELCHER. Well, chief, you have been very patient and I know you have heard the dialog we have had with the BLM witnesses, and I am not sure whether you are objecting as they did to our using the term "10 years."

Mr. MCGUIRE. Our concern is, I suppose, a bureaucratic one. We would like a little more flexibility. Actually, as the statement points out, approximately 85 percent of the permits that we issue now are 10-year permits. About 90 percent in the West. But there are occasions when we would like to issue shorter permits, especially in the East. There may be times when there is some forage present on the land for brief periods and it could be used if we could issue a permit for a short term.

This might be, for example, when we have a new plantation of trees. There may be a period in the life of that stand when the forage would be utilized, but it wouldn't be 10 years long.

Mr. MELCHER. What specifically are you saying in the committee print that wouldn't permit the Secretary to do that?

Mr. MCGUIRE. Well, as we understand it, we would have to issue a 10-year permit except under the two conditions listed in the print.

Mr. MELCHER. Well, we felt those sections clearly indicated that the discretionary authority of the Secretary for shorter permits is there.

Mr. MCGUIRE. Perhaps we misinterpreted. We noticed the two conditions. Only one really applied to the national forests. The one referring to land disposal we felt did not particularly concern us, but the one talking about other uses would be the one I take it you are referring to.

Mr. MELCHER. Yes. That is what we thought anyway. But at any rate, I detected, after we got through talking with the Director and Associate Director of BLM, that about the only thing they were thinking differently than what the subcommittee had thought last year was on the express use of the words "10 years," or the term "10 years." The subcommittee was striving toward making the land available to the permittee or lessee if it was going to be continued in grazing and, of course, subject to following all the regulations. If that is what you have in mind, I don't see that we have much difference.

Mr. MCGUIRE. Well, I think that is what we have in mind, Mr. Chairman.

Mr. STEIGER. Will the chairman yield?

Mr. MELCHER. Yes, I will be glad to.

Mr. STEIGER. I would like to call the chief's attention—if you have the committee print there, Chief—page 34. Line 9 and line 10 in (d), page 34. Really it was the committee's intention to address exactly the point that you say in which we say very clearly, "in whole or in part, pursuant to the terms or conditions thereof," referring to the lease. In other words, there is nothing in here to prevent you from writing a lease, an on-off lease that you can now lease or a lease that it may be—it may be a 10-year lease that says, "can only be used when forage is available at the discretion of the ranger." Obviously—I know that was the intent of the Chair and myself and it wasn't to reduce the management capabilities of either agency. It was, again, to encourage investment on the part of the permittee, very simply, and I wonder in light of that if you still would object even to the 10-year specification.

Mr. MCGUIRE. If that is the case, then this language would authorize us to do what we are already doing, but in addition would direct us to do what we are now doing, you might say, voluntarily.

Mr. STEIGER. And frankly, give it the security as law as far as the financial institutions are concerned. That is—there is no subterfuge intended. That is exactly what the purpose is.

Mr. MCGUIRE. I think we have a better understanding of it now.

Mr. MELCHER. Chief, if there are range improvements that are essential and are agreed upon by the—or offered by the permittee and

agreed to by the Forest Service, such things as improvements by building a dam or piping some water, underground piping of water, would it bother you if the bill stipulates that if the permit is canceled the person who has made an investment on a prorated basis would get his investment back?

Mr. McGuire. Yes, it would, Mr. Chairman. We are concerned about this direction—on page 34 that the permittee or lessee shall receive a reasonable compensation.

I think, in the first place, of course, this would somewhat limit our ability to devote the lands to a higher use, if that appeared to be desirable, because we would have to find the money to pay the compensation. But we are even more concerned about the implication that this privilege of the permittees could be interpreted as a property right. You know, there has been long debate about the definition of a grazing permit, whether it is a privilege or a property right, and I believe that is our basic fear, if this compensatios requirement became law.

Mr. Melcher. Well, if I am a prudent landlord and my renter says to me: "I would like to bury 2 miles of plastic pipe to take water where I can better utilize the range," if I have it there, I don't believe I would be very smart when that is over with, if I had to cancel his lease for some reason, to say you are going to have to dig up that pipe if you want it.

Mr. McGuire. That is right, and that is why we do not require a permittee to put the pipe in in the first place because of that very fact. Now, if we enter into an agreement, however, both parties need to be pretty clear that that investment can be amortized during the period of the permit, and we would be very slow to cancel the permit before the amortization period is over. But, on the other hand, we are afraid that if this is made a matter of law rather than voluntary arrangement, it will mature into some kind of property right, and this raises all of the old issues that have been around for years as to the rights of the users of the national forests.

Mr. Melcher. Well, I fail to see much difference in whether the range improvement is burying plastic pipe or other structure or whether it is, as you point out in your testimony, a windmill, or some other property that could be removed from the land. I don't think that leads to any inherent right or property right.

Mr. Santini. Will the chairman yield?

Mr. Melcher. Yes.

Mr. Santini. Chief, if it were determined by your legal advisors that this was merely a contractual right rather than an enhancement of a proprietary right in the property, a position that precedent would strongly endorse, would that then eliminate your objection to this particular clause or would your first observation with regard to limiting the ability to devote the land to higher use still persuade you to object to that clause?

Mr. McGuire. I think we would still have objections. We have other occupancies that would be affected, you see, by this precedent, summer homes, for example, and other sorts of developments placed on the land under permit. So I could see that we might get ourselves into a less flexible position where we would always have to figure where we would get the money if we wanted to make a change.

Mr. SANTINI. I think that is a worthwhile inquiry and I, too, would be somewhat concerned about the scope of the language and its application to other users.

Mr. MCGUIRE. This would be sort of a precedent and would give other users rationale for seeking similar rights, I believe.

Mr. SANTINI. Well, it would seem that as the gentleman from Arizona suggested, the language on page 34 confines rather explicitly the application of this provision to grazing.

Mr. MCGUIRE. That is true, but if enacted, it would, as I say, give a rationale to other users to seek similar legislative assignment of some kind of rights to compensation. I am not saying that you would give it to them, but it at least gives them reason to seek some sort of compensation here.

Mr. SANTINI. Would you be able to provide through your counsel your position with regard to the legal rights at issue as it affects proprietary versus contractual interests created by the reimbursement provision?

Mr. MCGUIRE. We will be glad to do that.

Mr. SANTINI. Thank you.

[The information follows in letter dated May 6, 1975:]

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
May 6, 1975.

HON. JOHN MELCHER,
Chairman, Subcommittee on Public Lands of the Committee on Interior and Insular Affairs, House of Representatives.

DEAR MR. CHAIRMAN: At the Subcommittee's March 21, 1975, hearing on grazing provisions for the proposed "Public Land Policy and Management Act of 1975," Congressman James Santini asked Chief John McGuire if he would provide through counsel our position as to whether the compensation provisions of section 211(e) of Subcommittee Print No. 1, dated March 18, 1975, creates a contractual right or some proprietary interest in the permitted grazing use of National Forest System lands.

Section 211(e) provides that whenever a permit or lease for grazing domestic livestock is cancelled in whole or in part in order to devote the lands covered by that permit or lease to another public purpose, including disposal, the permittee or lessee will receive a reasonable compensation from the United States for the loss of any interest in an authorized permanent improvement placed or constructed on the lands covered by such permit or lease by the permittee or lessee. The compensation for such improvements shall not exceed the fair market value of the terminated portion of the permittee's or lessee's interest in the improvements.

The Department of Agriculture's Office of General Counsel has reviewed section 211(e) in response to Congressman Santini's request. In their view, the compensation granted upon termination of the grazing permit, according to the provisions of section 211(e) of the proposed bill, would be a statutory right created independently of traditional property or contract law, although it is more closely akin to the latter. They advise that the statutory provision would create a specific compensatory right not unlike a reimbursement obligation which could be created between parties to a contract. They do not construe the language of section 211(e) to grant to the permittee or lessee any proprietary interest in the public lands of the United States.

This information is provided for the Committee's file. We are also informing Congressman Santini of the views of the Office of General Counsel by separate letter.

Sincerely,

JOHN R. MCGUIRE,
Chief.

Mr. MELCHER. The gentleman from Colorado.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. McGuire, I am so new to this I don't understand really what your concern is in this respect. When you issue a permit for somebody to build a home out there, you, in effect, let them keep that home. You are not going to take it away from them year in and year out. At least you haven't in my district. They talk about increased tax base and that sort of thing, but as a practical matter I don't care whether you call it a property right or not, it is a quasi-property right. You might say you are going to take it away from them, but you have not been doing it.

What is your concern about this? The last witness, Mr. Turcott, threatened—I thought it was a very explicit threat—that if we came along with something like a 10-year program that, he said, well, we are just going to make the conditions so tough that it is really going to almost vitiate the effectiveness of the 10-year program. That kind of raises the hackles, you know, when you just walk in here the first day and hear that kind of thing. What is it that bothers you so much, recognizing that when you give somebody the right of improvement on the land that they don't have an interest in it, because they do have an interest in it, even now.

Mr. MCGUIRE. Well, I am not an attorney, Mr. Johnson, but as I say, our concern is that we might give away some of the public property in some fashion, in a way that we will later regret. The Forest Service has been around since 1905 and there have been thousands and thousands of demands for special rights of use and occupancy. We have been defending against them over the years saying that use and occupancy of public property is a privilege, not a property right.

Mr. JOHNSON. Yes, I understand.

Mr. MCGUIRE. I grant all the things you say, that we let a person build a summer home, or put up a ski tow, or build a fence, or erect a windmill, or what have you. We almost always have some good understanding with the permittee as to his position, as to his risks, as to how long he is likely to be there, as to what our future intentions might be. But we still would like to reserve the authority to discontinue that use if the need should arise.

Now, it arises very seldom. I can't think of an instance offhand.

Mr. JOHNSON of Colorado. You have that authority as I understand it, quite clearly.

Mr. MCGUIRE. But not with compensation, you see. Not to compensate them.

Mr. CLAUSEN. Will the gentleman yield?

Mr. JOHNSON of Colorado. Yes.

Mr. CLAUSEN. Mr. McGuire, I would like to continue the line of questioning that was started by Mr. Santini and followed along by Mr. Johnson. Let me ask you what the difference is between an interest in these grazing rights in contrast with what we have in California where there is a possessory interest, that is, where an individual has a lease on Forest Service land and the county assessor has an assessment on that possessory interest.

Now, isn't this, to a degree, similar to this, what in effect, I will describe for lack of a better way of describing it as a possessory

interest in the grazing rights for contiguous lands? Is that what you are referring to, Mr. Santini?

Mr. SANTINI. Yes. In fact——

Mr. CLAUSEN. How does it differ?

Mr. MCGUIRE. Well, I think it is quite similar. The difference mainly is that the possession of a grazing permit tends to have a value in ranch transactions. Now, when a ranch is sold, if there is a permit associated with the private based property, the property value is likely to be higher than if there is no permit. So the value of the permit appears in the value of the base property, whereas in the situation you mentioned, where the land is entirely in public ownership and the improvements are entirely in private ownership, there is no private based property, so to speak, that an assessor is looking at, except what sits on public land.

Mr. CLAUSEN. As I see the basic thrust of the language, it is to recognize that by virtue of the fact that they do have a permit, there is a degree of possessory interest involved here and I think the committee's language is attempting to address itself to that, is it not? I will ask that of the Chair.

Mr. MELCHER. That is true.

Mr. CLAUSEN. There is a variable and a significant variable between real property on leased land as opposed to permit on grazing lands. I think, if I could go one step further, I believe with the nodding of heads of my colleagues who are from Western States, I rather gather that this situation is indeed, a factor, and it is in place in our respective areas. For that matter, is it not true that oftentimes lending institutions take this into consideration when they are dealing with a specific individual?

Mr. MELCHER. Well, I would say that it is true, that lending institutions do view it that way.

Mr. CLAUSEN. So, I would imagine what we would have to do is to address ourselves to what is fair and equitable to the private individual involved, and then obviously the public interest at large.

Mr. MELCHER. Correct.

Mr. JOHNSON of Colorado. Could I ask another question along this line, Mr. Chairman?

Mr. MELCHER. The gentleman is recognized.

Mr. JOHNSON of Colorado. Let's say the Aspen Ski Corp., which has millions of dollars invested, you renew their lease every year or every 3 years, whatever the term is.

Mr. MCGUIRE. No. The typical winter sports resort has two kinds of permits. By law, long-term permits cannot be issued on more than 80 acres of land. So if some of the base property, for example, the base of the ski tow, is on Federal land, we can issue a permit up to 30 years, but there is the 80-acre limitation. That is what makes it different from these permits for grazing.

The permits for the rest of the winter sports operation are terminable permits which are reviewed on an annual basis. This would be the ski runs themselves and they go year to year and can be no longer, and there is no acreage limitation prescribed by law for such permits.

Mr. JOHNSON of Colorado. You wouldn't revoke the lease on the ski area if it meant that the long-term investment was going to be

vitiated. Nobody would go up there if they weren't going to be able to ski anyway. So it seems to me the practicalities indicate that if you have a big investment it is obviously not going to be revoked. If you have a small one, then you might not get it back. Is that equitable?

Mr. McGUIRE. Well, the big investments in winter sports developments are mostly on private land. They are usually in the valleys. The Government owns the slopes. The investments that are more costly usually are covered by permits with the 80-acre limitation and run for 30 years. Both parties are in pretty good agreement that these investments can be amortized during that period. Otherwise, we are reluctant to let them put in heavy investment that cannot be amortized in the period of the permit. The rest of the investment is mainly clearing of slopes for ski runs and this sort of thing, and the annual permit seems to be sufficient for that.

Mr. JOHNSON of Colorado. Thank you.

Mr. MELCHER. The gentleman from Nevada.

Mr. SANTINI. Thank you, Mr. Chairman.

Mr. McGuire, may I address two points that were the topic of some inquiry with the prior witnesses.

No. 1, I gather from your experience of 85 percent of the permits being issued for 10 years and 90 percent in the West, that at least within the Forest Service's experience these 10-year leases have been a favorable experience?

Mr. McGUIRE. Yes. sir. Ten-year permits have worked quite well.

Mr. SANTINI. Would you care to elaborate?

Mr. McGUIRE. Well, we, of course, are committed to the idea that livestock grazing is one of the important multiple uses of the national forests. We are committed to the idea of cooperation between the rancher and the Government in the development of the grazing resource. We recognize that the rancher needs more than just year-to-year security in order to invest in improvements or to share in investment. Frequently it is a 50–50 sort of thing where, for example, in fence building, we furnish the materials and the rancher puts up the fence. So we think it has worked very well.

Mr. SANTINI. And, No. 2, I gather from your statement included by specific reference, bottom of page 8, top of page 9, that similarly your experience with the grazing advisory boards has been a favorable one, and one that you intend to continue?

Mr. McGUIRE. Yes, sir. It has been. I listened to the testimony of the Interior witnesses. We take a somewhat different approach. We think that the public must be involved in the management of the public lands, and there are different ways of obtaining that involvement. Advisory boards or committees are one way. Public meetings are another. Circulation of plans and programs, third. Of course, we try to get the press and other media to help us disseminate proposals. So there is no one perfect way in our view to get this advice, this public involvement. We think both BLM and Forest Service need to continue experimenting with other ways to see if we can improve the whole approach to interesting the public in what we are doing.

Now, the grazing advisory boards have been working well for us. We have not found a good substitute for them. We do have multiple

use advisory committees and they represent a different segment of the public. Sometimes these advisory committees work better if they are on a regional or national basis.

For example, in the Colorado forests, many issues are of great interest to people who live in Denver who might not be easily attracted to an advisory committee, but they might participate in public meetings that we hold in the city to discuss some issue. But grazing, on the other hand, is a case where we want to get together all of the permittees in an area where they have mutual problems and get them to talk to us about solutions to mutual problems strictly on grazing.

Mr. SANTINI. I don't want to invite you into necessarily an issue of controversy or to a delicate area of confrontation with other departments, but I have been impressed almost from the inception of my limited inquiry into this realm of the fact that the Forest Service seems to have succeeded where BLM has failed in its coordination with the multiple users of land, and specifically with the grazers, and why is that?

Mr. MCGUIRE. Well, the BLM lands are in quite a different situation than the national forests. The national forests have been set up as units of land for a longer time. We have people in place in the forest areas to a greater extent than BLM and we have an organic act.

Mr. CLAUSEN. Will the gentleman yield?

Mr. SANTINI. Yes.

Mr. CLAUSEN. I think in all fairness it has to be stated that certainly the Forest Service has had more time and more experience with the land management philosophy included in—as Mr. McGuire says—the original organic act. Up until recently, you know, the BLM has been for all practical purposes a disposal agency until we moved in the direction of revising that away from disposal towards that of a management agency, which was more reflective of the name. I can't imagine the Bureau of Land Management being anything other than a management agency. I think as the Chair and the other members of the committee will remember, one of the early breakthroughs on this occurred when we established the King Range National Conservation Area out in our district where we for the first time permitted the BLM to commit themselves to a philosophy in multiple-use land management wherein they could classify a management area consistent with its best use. I think that explains part of it. Would you agree with that?

Mr. MCGUIRE. That is certainly true, and the public is more aware of these designated areas such as the King Range, for example, than they are of just grazing acreage as you find in parts of Nevada that don't seem to have a unit designation.

Mr. SANTINI. Thank you, Mr. Chairman.

Mr. MELCHER. The gentleman from Oregon.

Mr. WEAVER. I will defer questioning, Mr. Chairman, due to the time.

Mr. MELCHER. Mr. McGuire, when you talk about the fee itself, are you advocating that the fee be maintained at $1.11?

Mr. MCGUIRE. No, sir. We think the fee should go to fair market value.

Mr. MELCHER. Well, but when?

Mr. MCGUIRE. We set up a 10-year schedule to reach the fair market value, as you know.

Mr. MELCHER. You mean by 1985 we reach it?

Mr. MCGUIRE. Our original target date was 1978 and is now 1980.

Mr. MELCHER. Well, then, do you want to reach fair market value by 1980?

Mr. MCGUIRE. Well, we have had two full moratoria and one partial moratorium on increases so far and I believe we will still hit fair market value in 1980.

Mr. MELCHER. 1980, and what would be the grazing fee then?

Mr. MCGUIRE. The grazing fee in 1980 under the present system would be $1.23 plus an increment for inflation.

Mr. MELCHER. Well, I don't suppose you can project those increments, but can you give us an idea?

Mr. MCGUIRE. The private land index which is used to indicate inflationary prices has gone from $3.47 in 1966 to $5.82 in 1975. So that would be about a 50, 60 percent increase in 8 years. Another 5 years, I would estimate another 35, 40 percent, if it continues at that rate.

Mr. MELCHER. You mean then—you increase the calculated fair market value in 1975 from $1.96 under the current procedures to $2.03 under the proposed procedures.

Now, I am not sure from your testimony whether you think a fair market value for 1975 is somewhere between $1.96 and $2.03 or whether you think in 1975, the current year, the fair market value in the appropriate place for Forest Service grazing fees per AUM would be $1.25 or $1.32 or whatever you had in mind. Your testimony confuses me because I don't know what you mean here on page 6.

Mr. MCGUIRE. Well, our preference is in the last paragraph on page 6 and all we are saying there is that, sure, $2 is approximately what fair market value is now, and if you continue to have a statutory floor of $2, it might be all right.

Mr. MELCHER. Yes.

Mr. MCGUIRE. But there could be times when we would want to go below $2 and we would like to retain the flexibility to go that way.

Mr. MELCHER. Well, I understand that, but you think $2 is about fair market value now?

Mr. MCGUIRE. Yes, sir.

Mr. MELCHER. But you are not going to charge that for 1975 permits.

Mr. MCGUIRE. That is correct.

Mr. MELCHER. So maybe there is a reason for putting it into law rather than leaving it to the discretion of the Secretary.

Mr. MCGUIRE. But if you do, we would like to——

Mr. MELCHER. Have it go down.

Mr. MCGUIRE. We may have to come back at some time and say $2 is too much.

Mr. MELCHER. You would rather have a formula so it can go down.

Mr. MCGUIRE. That is correct.

Mr. MELCHER. Something to do with the cost of doing business and price of cattle.

Mr. McGUIRE. And the comparable cost of grazing on private lands.

Mr. STEIGER. Mr. Chairman——

Mr. MELCHER. The gentleman from Arizona.

Mr. STEIGER. I would just like the record to reflect at this point that given the present state of the cattle market it is entirely conceivable that the $1.11, if you used the combined index of the grasslands value and the price of cattle, $1.11 could well be too high because the grasslands price as I am sure you are aware is also declining now under great pressure, and so all I can say to the Chair, I hope we stay with the concept of what it is that we are going to do after we set the base price and, of course, I think the up or down has never been better justified than the present market conditions.

I thank the Chair.

Mr. MELCHER. I thank the gentleman. Thank you very much, Chief McGuire.

Mr. CLAUSEN. Mr. Chairman, I would like to ask unanimous consent that I be permitted to place a statement in the record on this point and also to include extraneous material. What I had in mind, Mr. Chairman, is, as you know, I mentioned to you informally that the late Jerry Pettis had a great interest in the California desert conservation area, and was working very closely with you in an attempt to advance that section into the Organic Act and incorporate it into law. Recently his wife, Mrs. Shirley Pettis, came back here to me asking for an indication of the progress of the legislation. I stated that we were in the process of holding hearings and that the chairman had scheduled hearings which are now being held here today. She expressed her strong interest in this, and I am sure, Mr. Chairman, she would like to submit to you a letter indicating continuing interest on her part as a follow-on to the efforts of her husband, Jerry Pettis.

Mr. MELCHER. Without objection, the gentleman from California's request will be accepted and it will become part of the record at this point.

I would also like to place in the record immediately following, a letter from Congressman Norman Y. Mineta, California, dated March 12, 1975.

[The material referred to follows:]

MARCH 21, 1975.

Hon. JOHN MELCHER,
Chairman, Public Lands Subcommittee, Interior and Insular Affairs Committee, Longworth House Office Building, Washington, D.C.

DEAR CHAIRMAN MELCHER: As you know, during my most recent stay in Washington, I discussed the progress of the California Desert Conservation area legislation with Congressman Don Clausen of your Committee and with other Members of Congress. You were most gracious and cooperative, Mr. Chairman, in your relationship with my late husband as he attempted to establish and protect this invaluable area. You undoubtedly know that over 40 Members from throughout the nation joined Jerry in this effort, and I am delighted that your Committee is now considering the matter as part of your hearings on the Organic Act, Title IV of which will establish a California Desert Conservation Area.

Although many people consider it only a barren wasteland, in the past 25 years the California Desert has become a recreation area for millions, a source of livelihood for many and a home for others. Having held hearings in the 37th Congressional District last year, you know the wide range of uses made

of the desert, the fragility of the ecology and the historic and archeological relics it contains.

Time is running out for the California Desert. Last December about 3,000 people participated in a motorcycle race over a 168 mile course near near Barstow. We cannot yet completely assess the damage this race caused, but we are all aware of some of the disastrous results. The race clearly demonstrated the need to establish a multiple-use plan to allow the most judicious management and conservation of all desert resources.

Lacking sufficient manpower, resources, and authority, the Bureau of Land Management cannot do an effective job of protecting this irreplaceable area. I think it is especially important that the B.L.M. have enough personnel to carry out its role of providing information to the thousands of visitors to the Desert each year. Last October 26th, the first of ten B.L.M. Way Stations in the desert was opened. This Barstow Way Station has most impressive facilities. It provides a means of communication between the managers and the users of the national resource lands. It provides information on the various uses of the desert: camping, off-road vehicles, rockhounding and sightseeing.

Mr. Chairman, the desert contains not just flora and fauna and conservation and recreation areas, it has one of the largest and richest concentrations of pre-historic art in the world, Indian rock carvings, known as petroglyphs. Some of them are thought to be at least 5,000 years old. These carvings are being carried away by souvenir hunters and obliterated by vandals using cans of spray paint. As my late husband used to say, "The destruction of the petroglyphs is analogous to the plundering of the Egyptian pyramids by grave robbers.

Again, Mr. Chairman, my sincere appreciation to you and the committee for your invaluable efforts not only on behalf of the people of the 37th District, but for all Americans who will use and enjoy the California Desert Conservation Area in the years to come.

Sincerely yours,

SHIRLEY N. PETTIS.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 12, 1975.

HON. JOHN MELCHER,
Chairman, Subcommittee on Public Lands, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for providing me with the opportunity to speak in behalf of H.R. 3038, the California Desert Protection Act which has been referred to your Subcommittee.

I have joined our good friend and late Colleague, the Honorable Jerry L. Pettis, in cosponsoring this bill since I believe, as did he, that the California Desert is a part of this country's historical heritage and, as such, should be preserved and protected from the disregard of vandals and profiteers.

Indian rock carvings known as petroglyphs, exist in the Desert in rich concentration, a wealth of prehistoric art, some of which are estimated to be 5,000 years old. Vandals and souvenir hunters presently are destroying this treasure by enffacing them with spray paint and using them for target practice. More significantly, the Bureau of Land Management predicts that 80% of the carvings will be lost in fifteen years due to their removal and sale as decorative pieces.

Presently the Bureau of Land Management is ill equipped to do an effective job in protecting the Desert. Circumstances as they now exist require the BLM to control the 15.6 million-acre desert with only a $923,000 annual budget. This bill, H.R. 3038 would establish a multifaceted program which would encourage the most judicious use and management of the Desert. The requirement of public hearings in the formation and regulation of the conservation area represents an important step, by involving the public in what otherwise has been a wholly bureaucratic decision-making process.

Additionally, the bill will correct the present inadequacies of the Bureau of Land Management's administration by providing sufficient manpower, resources and authority necessary to secure the protection of the petroglyphs and the desert environment generally.

Once again I am pleased to have had this opportunity to address your Subcommittee, Mr. Chairman, on this important matter. I urge your immediate consideration.

Very truly yours,

NORMAN Y. MINETA,
Member of Congress.

Mr. MELCHER. I might say for the record that title IV of the committee print is specifically the California designate.

Mr. CLAUSEN. I will relay that information to her.

Mr. MELCHER. Thank you.

[The full printed statement of Mr. McGuire follows:]

STATEMENT OF JOHN R. MCGUIRE, CHIEF, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and Members of the Committee: Thank you for this opportunity to discuss the grazing programs on National Forest System lands. We understand that you would like to have us discuss present grazing authorities and policies as they compare to grazing provisions as contained in the proposed "Public Land Policy and Management Act of 1974" which the Committee was developing in the 93rd Congress. I will limit my remarks to the effect of such provisions if applied to the National Forest System, deferring to the Department of the Interior for any comparison of their authority and policies.

Grazing of commercial livestock on National Forest System lands dates back to before National Forests were established. grazing continues to be a major use of these lands. Of the 187 million acres in the National Forest System approximately 105 million acres are subject to grazing. This grazing involves 16,000 permittees. In 1974 a total of 1.5 million cattle and 1.6 million sheep grazed on National Forest System lands for a total of 7.2 million animal unit months of grazing. Much of the grazing on National Forest System land is seasonal with permittees grazing stock for part of the year on public lands and the balance of the year on adjacent private lands.

The basic authority for permitting grazing use on the National Forests emanates from the Organic Administration Act of June 4, 1897, and basic authority for permitting grazing use on the National Grasslands emanates from the Bankhead-Jones Farm Tenant Act of July 22, 1937. The Granger-Thye Act of April 24, 1950, supplements those authorities by providing that the Secretary of Agriculture may, upon such terms and conditions as he may deem proper, issue permits for the grazing of livestock for periods not exceeding ten years and renewals thereof. The Multiple Use-Sustained Yield Act of June 12, 1960, affirms that the National Forests are established and shall be administered for multiple purposes, including range purposes.

DURATION OF GRAZING PERMITS

Pursuant to the Act of April 24, 1950, the Forest Service issues grazing permits on either an annual basis or for a term of 10 years. Nationally, approximately 85 percent of the grazing is now administered under 10-year term permits. In the West the amount is in excess of 90 percent. These permits are normally renewed for subsequent 10-year terms. The term permit applies to ranges where a long-term commitment to grazing is appropriate. On other ranges, grazing is authorized under temporary permits on an annual basis and these may be extended or reissued where appropriate. Temporary permits are common on eastern National Forests and in other areas where grazing occurs on transitory ranges. Also, in the East, we find that grazing can often be effectively handled through short-term permits, because permittees in the East often have a greater management flexibility and a larger number of feed sources than usually occurs in the West.

The provisions on duration of grazing permits as contained in the legislation permits be issued for periods of 10 years, except shorter permits could be granted where land is pending disposal or will be devoted to a public purpose prior to the end of the 10-year term.

To facilitate our efforts to balance grazing with the available range resource, and to coordinate grazing with other resource uses, we believe it is important that we continue to have authority that provides flexibility in determining the duration of grazing permits. This includes flexibility to issue a term or temporary permit to fit a broader range of situations than provided for by the proposed legislation. Another concern is that the wording of the proposed legislation implies that land disposal is an inherent policy and that grazing lands are not considered as lands devoted to public purposes. Both implications are inconsistent with the purpose for which National Forests are established and maintained.

RENEWAL OF GRAZING PERMITS

As a matter of policy and regulation, permits are renewable based on the continued availability of the forage resource. The season of use and number of livestock permitted on an allotment may be adjusted annually. Regulations of the Secretary of Agriculture provide that term permits are renewable at the end of each term period provided the provisions and requirements under which they are issued continue to be met and as long as it is in the public interest to renew them.

The provisions on renewal of grazing permits as contained in the legislation proposed in the 93d Congress, would guarantee the renewal of a permit if the following conditions were met: (1) the lands remain available for grazing, and (2) the permittee has complied with the Secretary's regulations and terms of the permit.

By guaranteeing renewal if certain conditions are met, the proposed legislation departs from all other authorities relating to the occupancy and use of National Forest System lands. The proposed legislation also places limitations on the discretion of the Secretary in determining whether it would be in the public interest to renew a permit.

CANCELLATION OF GRAZING PERMITS AND PERMITTEE COMPENSATION IN THE EVENT OF CANCELLATION

Although the Secretary has the authority to revoke or suspend a permit at any time if a determination is made that this would be in the public interest, such actions are very rare.

Range improvements on National Forest and Grassland allotments are normally constructed cooperatively with the permittee and Forest Service sharing the cost. Permanent improvements such as earthdams or stock trails are considered part of the land on which they are located and are considered the property of the Government. However, the calculation of grazing fees reflects that the permanent improvements are considered the property of the government and cannot be removed after the term of the permit. Other improvements such as fences or windmills which could be moved may be either Government owned or permittee owned depending on how they were constructed. Title to improvements is vested in the Government where any part of the construction cost is borne by the Government. In the event that a permit is not renewed or is evoked or suspended within its term, the permittee may remove temporary improvements in his ownership. Under the terms of the permit he is not entitled to compensation for any improvements, or to any other compensation.

Provisions contained in the legislation proposed in the 93rd Congress require that a permittee receive compensation in the event a permit is cancelled to devote the lands to another public purpose. Such compensation would be for any authorized permanent improvement placed or constructed on Federal lands by the permittee.

We believe that it is important that the Federal Government not be placed in the position of having to compensate permittees for range improvements. We are also greatly concerned that the legislation, where it reads "permittee's interest therein," could be interpreted to also compensate the permittee for "permit value." Such obligations would limit the administering Federal agency in its ability to devote the lands to a higher public use or uses. The provisions under consideration in the 93rd Congress concerning compensation and permit renewal could also convert a grazing permit into a property right. This would seriously alter the existing relationships between the United

States and the permittees. Historically, the use of land owned by the United States and administered by the Forest Service has been considered a privilege and not a right. This position has been upheld by the courts.

GRAZING FEES

The present fee schedule for grazing use is developed in accordance with regulations prescribed by the Secretary of Agriculture in common with regulations prescribed by the Secretary of the Interior and in accord with Government-wide principles of charges for use of public resources. The present fee schedule was developed in the 1960's as a result of an extensive interdepartmental study and public participation. The study was premised on congressional direction that fees be uniform for all agencies and represent fair-market value for western National Forests and public lands administered by the Bureau of Land Management in the western States. An incremental schedule was developed to bring existing grazing fees up to fair-market value. The 1966 base rate of $1.23 is also subject to an annual adjustment based on the index of private grazing land lease rates for the 11 western States. Grazing fees will reach fair-market value in 1980 based on the incremental schedule. In 1974 the National Forest average fee was $1.11. The increase in 1975 was postponed because of general economic conditions in the livestock industry.

The legislation proposed in the 93rd Congress would have created a statutory requirement that fees be computed in accordance with the current formula as modified by the addition of an index of prices received for beef cattle. It would also require that in no event would a fee be set at less than $2 per animal unit month of grazing.

We prefer that the present grazing fee adjustments be allowed to continue, bringing the grazing fees to fair market value by 1980. Shifting from the present index of private grazing land lease rates to a proposed combined index of prices received for beef cattle and the private grazing land lease rate would increase the calculated fair market value for 1975 from $1.96 under the current formula to $2.03 under the proposed procedures. Implementation of the proposed procedures in 1975 would have increased the average National Forest grazing fee from $1.11 to $2.03, an increase of 83% in fees. We believe the adminstering agencies should retain the authority to establish the method for computing grazing fees. We believe this affords greater opportunity to accommodate unforeseen developments that affect the economic condition of the livestock industry.

SEPARATE ACCOUNTS FOR RANGE IMPROVEMENTS

The Act of April 24, 1950, provides that amounts equivalent to 2 cents per animal-month for sheep and goats and 10 cents per animal-month for other kinds of livestock under permit may be appropriated for certain range improvements from monies received from grazing on the National Forest. This emphasis on range improvements is not tied to a special account or fund.

A provision of the legislation proposal in the 93rd Congress would have credited 50 percent of all monies received as fees for domestic livestock grazing into a special account as a range improvement fund.

If grazing fees were set at the proposed $2.00 per animal unit month, 50 percent of the fees from National Forest System lands would be approximately $7.2 million. Although the proposal states that monies appropriated from the fund would be in addition to regular appropriations, this is not likely to occur. Grazing receipts now go into the General Fund of the Treasury. Establishment of the range improvement fund would not change the total revenues available to the Federal Government, nor the demands that are made on these revenues. The improvement fund represents an "earmarking" approach to funding which limits overall Federal priority setting and budget flexibility. Earmarking of funds decreases the amount initially available for all national programs and can impede the careful and objective balancing of the many worthy public projects. We prefer that the present approach of seeking range management funds as part of our regular appropriations process be continued.

National Forest allotments contain more than 60,000 miles of range fences. However, the condition and extent of both boundary and internal fences varies widely. There is also a wide variety in the nature and extent of other

range improvements such as water development and vegetative improvement. The current Forest Service budget provides $17.9 million for range management of which $8 to $10 million will be used for range improvements. Our budget request for 1976 is $18.4 million. We recognize that there are opportunities to increase grazing capacities with more intensive range management and that this intensified management would require the construction of additional improvements.

GRAZING ADVISORY BOARDS

Another feature of the proposed legislation of the 93rd Congress pertained to Grazing District Advisory Boards. This provision was applicable to Bureau of Land Management administered lands and related boards; however, I would like to briefly summarize the status of National Forest Advisory Boards.

National Forest Grazing Advisory Boards have been in existence for many years and in 1950 were specifically authorized under the Granger-Thye Act. Grazing boards must now be established by the Secretary of Agriculture under the Federal Advisory Committee Act. Separate charters will be prepared for each of the fifty-four Grazing Advisory Boards. The purpose of Grazing Advisory Boards is to provide National Forest System grazing permittees within a designated area a means for expressing their recommendations concerning grazing management and administration. In order to obtain equitable representation of all grazing permittees, the Board members will be elected by the graziing permittees in the area for which the Board is established. We believe the Grazing Advisory Boards created under the Federal Advisory Committee Act can and will function as well as earlier Boards created under the Act of April 24, 1950.

IN CONCLUSION

About one year ago, we testified before this Committee in support of legislation to provide ogranic authority for the Bureau of Land Management. We again express our support of such legislation. The Administration's proposal for an organic act has been transmitted to the Congress. It does not, however, include any revision of grazing authorities. We believe that present grazing authorities are sound. We do not recommend that legislation affecting National Forest System grazing authorities be included in the organic act.

This concludes my prepared statement. I will be happy to answer questions.

Mr. MELCHER. The subcommittee will stand adjourned until Monday morning next, March 24, 10 a.m.

[Whereupon, at 12:15 p.m., the subcommittee recessed to reconvene at 10 a.m. on Monday, March 24, 1975.]

PUBLIC LAND POLICY AND MANAGEMENT ACT OF 1975

MONDAY, MARCH 24, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON PUBLIC LANDS OF THE
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:05 a.m. in room 1302, Longworth House Office Building, Hon. John Melcher presiding.

Mr. MELCHER. The subcommittee will come to order.

This is the second day in this Congress for holding public hearings on the Public Land Policy and Management Act of 1975. We are working from Subcommittee Print No. 1, which is dated March 18, 1975. I wonder if we have before the subcommittee—has the bill introduced by Congressman Ruppe at the request of the administration been referred to this subcommittee yet?

Mr. SHAFER. It has not come back from the printing office yet, Mr. Chairman.

Mr. MELCHER. I am getting some letters on a bill that I do not recognize. The writers believe that the bill has been referred to this subcommittee. Have we gotten anything that might have been introduced by Congressman Udall?

Mr. SHAFER. I understand he is working on a bill, but it has not been introduced as yet.

Mr. MELCHER. He mentioned it to me about 2 weeks ago, that he is thinking about introducing a bill on the subject, and I have not heard yet whether it has been. So, we are just working off our Subcommittee Print No. 1 so far. Our first witness today will be Mr. John Weber, Public Lands Council; and he is accompanied by Mr. D. G. Freed, American National Cattlemen's Association. Mr. Weber and Mr. Freed, welcome to the committee.

How are we starting here? Am I to assume that this is a joint presentation? It is, is it not?

Mr. WEBER. That is right, with the Public Land Council and the American National Cattlemen's and the American National Wool Grower's Associations.

Mr. MELCHER. Combined with the wool growers?

Mr. WEBER. Right.

Mr. MELCHER. We have a three-in-one statement. Please proceed.

54-005—75——4

STATEMENT OF JOHN WEBER, PUBLIC LANDS COUNCIL, ACCOMPANIED BY D. G. FREED, AMERICAN NATIONAL CATTLEMEN'S ASSOCIATION; AND THOMAS CAVANAUGH, PUBLIC LANDS COUNCIL

Mr. WEBER. Mr. Chairman. Mr. Melcher, my name is John Weber. I am a livestock operator from California, and I presently represent the chairman of the Public Lands Council, which is public land users from the Western States. Mr. Freed is with me from the National Cattlemen's Association, and Thomas Cavanaugh from the Public Lands Council in Washington.

Mr. Chairman, this statement is made on behalf of the Public Lands Council, a voluntary organization of livestock operators who hold permits and leases to graze livestock on the public lands, the American National Cattlemen's Association, and the National Wool Growers' Association.

We are pleased to note that Subcommittee Print No. 1 of the proposed Natural Resource Lands Management Act of 1975 is much more comprehensive than other measures pending before the subcommittee which purport to establish new policy for the management of lands under the jurisdiction of the Bureau of Land Management. It has always been our position that such legislation should limit, rather than extend, the discretionary authority of the Secretary of the Interior by providing more precise congressional guidelines for public land management.

This bill would, for example, provide guidelines for public land withdrawals and limit the Secretary's authority to make such withdrawals. On a number of occasions in the past, we have suggested just such limitations on that authority. The bill would also limit the Secretary's authority to expend Federal moneys for public land management, unless the moneys were appropriated pursuant to a specific authorization enacted after the passage of the proposed act. This provision will, in effect, require greater congressional oversight of the activities of the land management agency, and we are pleased to endorse the proposal.

In proposals submitted to the last Congress, the administration sought a broad condemnation power. In the subcommittee print No. 1, this power has been limited to the acquisition of necessary access to the public lands. While we are pleased that earlier proposals for a broad condemnation power have been limited in such a manner, we would like to bring to the committee's attention the belief of some of our members that the power to condemn for any purpose should only be granted through special legislation when an actual need therefore can be demonstrated by the acquiring agency.

Section 202 (f)(2) provides that the Secretary shall insert in permits, licenses, leases and other authorizations to use public land authorization for the revocation or suspensions of such permits, licenses, leases, or other authorizations upon a final administrative finding of a violation on such lands of any applicable state or Federal air or water quality standard or implementation plan. We question whether or not the Secretary, or his delegate, is qualified

to determine whether a statute or regulation not administered by him, but by some other State or Federal agency, has been violated. We believe that, as a precondition to the exercise of the authority to revoke or suspend an authorization to use the public lands, there ought first to be a finding by a court of competent jurisdiction, or by the State or Federal agency having primary responsibility for enforcement of the statute or regulation alleged to have been violated, of such a violation.

Sections 210, 211, and 212 relate directly to the administration of domestic livestock grazing on public lands. They relate not only to the lands administered for grazing by the Secretary of the Interior, but also to those administered for this purpose by the Secretary of Agriculture.

It has long been the desire of the livestock grazing industry to have an equitable statutory formula for public land grazing fees, a formula which would be fair to both the livestock operator and to the Government. Presently, grazing fees are fixed by administrative action under rather broad and imprecise statutory directives. Although there is no stautory directive that the grazing fees should represent fair market value, a cooperative effort was made during the years 1966–68 by the livestock industry and the Federal agencies to determine the fair market value of public land grazing. It was determined that the fair market should represent the differences between the cost of doing business on private lands, including the lease rate, and the cost of doing business on public lands, excluding the fee. The industry and the agencies agreed on all cost items with the exception of one. The industry believed that because a public land permittee is required to own or control private properties—or water sources in arid areas—known as base property in order to qualify for a public land grazing permit, the investment which must be made in such base property ought to be recognized in computing the cost of doing business on public lands. The Federal agencies disagreed with the industry position.

Between 1966 and 1968, a survey was made to determine the average cost of doing business on the public lands and the average cost of doing business on private lands in order to compute the fair market value of public land forage, according to the formula adopted by the Federal agencies. After making some statistical adjustments, the Federal agencies determined that the fair market value of public land forage for the surveyed years was $1.23 per animal unit month grazing. It was then determined that the fees will be fixed in subsequent years by using the sum of $1.23 per AUM as the fair market value for the base period, 1966–68, and adjusting this amount each year either upward or downward according to an index of private lease rates. It was also decided that the fair market value fee would be achieved over a period of 10 years.

Although the industry has never abandoned its position that the investment the operator is required to make in base properties ought to be recognized as a cost of doing business on the public lands, it has accepted $1.23 per AUM as fair market value for the base years 1966–68, for the purpose of computing grazing fees. It does not accept the index of private lease rates as an equitable method

of adjusting the base fee, primarily because the private lands used in the computations and the public lands available for grazing are not compatible. This is an important part, and I might expand on that—private land leases versus public land leases; if you remember a year ago, livestock prices were at an all-time high as recent as this fall. Early last fall, the prices took a dive, and a lot of cattlemen were faced with either financial ruin or holding their livestock over, and they were looking for feed for these livestock. They usually sell these cattle, these calves, in the fall. They come in off the ranges and range 450 pounds at that time. But this fall's market was so bad that they figured that they had to hold these cattle over or go bankrupt in their business, so they were looking for all kinds of available feed possible.

This spring, private grazing lands in California are selling all the way up from $10 AUM. So you can see where this index, this range forage index in this permit, is a very dangerous thing, we feel, and we are real concerned about this part of the formula in this permti.

Last year the industry proposed a change in the formula to the Federal agencies. Our proposal was that an index of prices received combined with an index of operating costs be substituted for the index of private lease rates in adjusting the base fair market value of grazing each year. This formula would not only reflect the rancher's ability to pay, but would more precisely reflect the economic conditions which bear upon fair market value. Under the proposal, the government would have started charging the full $1.23 per AUM, adjusted by the combined cost-price index, immediately.

It is our understanding that the management agencies accepted the proposal, but that it was rejected by the Office of Management and Budget. We believe that the formula we proposed is a fair and workable formula, and apparently the agencies having the direct responsibility for grazing management on public lands agree.

The subcommittee print number 1 of the proposed Natural Resource Lands Management Act does have a formula for determining public land grazing fee. Unfortunately, it is not a formula which is acceptable to our industry, the principal reason being that the formula contained in section 210(a) provides for a minimum fee of $2 per AUM. To provide for either a minimum or a maximum fee would defeat the purpose of any formula which seeks to achieve fair market value as an equitable fee. Obviously, fair market value of any commodity fluctuates. An arbitrary floor, or an arbitrary ceiling, on grazing fees could work an undue hardship on the livestock operator in the one case, and could be unfair to the Government in the other.

Under present economic conditions in the western range livestock industry, few if any operators could afford the increase in fees which the enactment of this bill, as now written, would require. The result would be that many operators might well have to abandon the Federal range and their ranching operations, creating an additional depressing effect upon the economics of many local communities. We hope that the committee will either revise the formula

in the bill substantially, and particularly by removing the arbitrary minimum from the fee formula, or delete the provision for the time being, leaving the matter to be dealt with by more specal legislation at a later time.

We appreciate the fact that the subcommittee print No. 1 of the proposed Natural Resources Lands Management Act is designed to give permittees and lessees better tenure. Obviously, if the Government has need of its lands for another public purpose, the lands must be available. However, when the lands are available for livestock grazing, the permittee or lessee should have some assurance that he will be able to renew his permit or lease, and that the permit or lease will be for a sufficient length of time to enable him to make economic use thereof in connection with the ranching operation. In many areas, the extent of the public lands is so great that an economc ranching operation could not be conducted without the use of the public lands. The provisions of section 211 which provide that permits shall be issued for a term of 10 years, under normal circumstances, and that they shall be renewed so long as the lands for which the permit or lease is issued remain available for livestock grazing will help to achieve one of the principal objectives of the Taylor Act—the stabilization of the industry. In addition, such provisions will encourage greater private investment in range improvements.

As we have pointed out, under existing law and regulation, a permittee must own or control base properties in order to qualify for a grazing permit. Qualifying base properties have a value over and above similar properties which do not qualify the owner for public land grazing privileges. The additional investment which must be made in these properties can be partially, or even totally, destroyed by the cancellation of all, or a part, of the public land grazing privileges which attach to them. In many instances, base properties to which public land grazing privileges attach simply cannot be operated as an economic ranching unit without the public land privileges.

The requirement that a permittee own or control base properties helped to assure that bona fide operators, interested in the long-term productivity of the land, rather than short-term profits, would be the persons to whom permits and leases would issue. The requirement also protected the smaller operators who frequently found themselves literally pushed off the public range by large operations, many of which, in earlier times, were controlled by foreign interests.

We are pleased that section 211(e) provides for some compensation for the lost of authorized improvements placed upon the public lands by permittees and lessees when a permit or lease is canceled in order to devote the public lands covered thereby to another public purpose. We believe, however, that the provision ought to be extended to recognize the economic loss which can be sustained by an operator who loses his permit or lease in such an event. We believe that the permittee or lessee should be granted a reasonable compensation, to be determined by the Secretary, for the loss of the grazing privilege, when the lands are devoted to another public purpose, just as is already provided in those cases when the lands are devoted to a defense purpose.

We have some concern about the provision of section 211(e), which provides that permits and leases shall incorporate an allotment management plan, if available, which has been developed for the public lands only, after consultation with permittees. We believe that the allotment management plan should be created by cooperative agreement, where it is demonstrated that such a plan has merit. We do not agree that such a plan should be imposed unilaterally by a Federal employee who may be unfamiliar with the total ranching operation. The unilateral imposition of a management plan by an unknowledgeable official could actually be counterproductive to good conservation by disrupting good ranch management practices and procedures already instituted by the permittee.

This bill would correct a situation about which we have been most concerned by providing that the provisions of section 14 of the Federal Advisory Committee Act of 1972 would not be applicable to grazing district advisory boards created under section 18 of the Taylor Grazing Act. Last year, the Department determined that the grazing district advisory boards established under the Taylor Act would terminate as of January 5, 1975, pursuant to the provisions of the Federal Advisory Committee Act. The Secretary has apparently decided not to recharter these boards.

The grazing district advisory boards perform a specialized function. They advise the Secretary and the district managers on the allocation of the forage resource. They advise the Secretary on regulations relating to the administration of the Taylor Act and assist the district managers in making initial decisions on protests filed in connection with forage allocations. In addition, subsequent to the enactment of the Taylor Act, several of the Western State legislatures enacted statutes which provide for the return of a portion of the State's share of grazing fee receipts to the district boards for use for range improvements. These State statutes relate specifically to the advisory boards established under section 18 of the Taylor Act.

We do not oppose the creation of multiple-use advisory boards to advise the Secretary generally on the management of the public lands. However, we believe that the allocation of forage is a specialized function and that the advice of the Secretary and the district managers receive in respect to that function ought to come from those who possess the expertise necessary to properly advise those officials on forage allocation.

We have consistently opposed the grant of broad new discretionary authority to the Secretary of the Interior in the management of the public lands. And, while we cannot agree with all of the provisions of the Subcommittee Print No. 1 of the proposed Natural Resource Lands Management Act of 1975, we are pleased that the bill places some needed limitations upon the Secretary's discretionary authority.

Mr. Chairman, that concludes my statement. We would be pleased to answer any questions.

Mr. MELCHER. Mr. Weber, where I live, which used to be the Northern Pacific, and which had a great deal of land holding since they were land grant, the board of directors sat down in St. Paul and said they were going to get some sort of fair market value out of the lands they rent out, and they are. And it does not have anything to

do with talking about 10 years and providing land use. They just whooped it up. Everything that you have been criticizing public lands for as being unstable in ranching operations you could say six times for land that the Burlington Northern owns and rents because all of the disadvantages you have mentioned that the rancher has using public lands is extended doubled and trebled if you are a rancher that leases the Burlington Northern. They do not argue with you. If you do not like it, they feel they can find somebody else that does like it. And Congress really sits, I guess, as a board of directors over public lands and we are not getting much return on grazing.

I happen to think it is one of the real important parts of the multiple-use practice, and if we are to downgrade it or start to phase it out, this country is going to lose a lot.

So I am really concerned about people within the livestock industry continuing to talk about maintaining some tremendously low fees, whether it is forest or BLM or whatever, on public lands. I see your joint testimony with the woolgrowers and cattlemen association is to belabor that point about keeping these fees way down.

I do not kid myself or my consistituency on this. I know that ranchers in Montana, in my district in Montana at least, have permits or leases on public lands and are hopeful they will not see much rise in the price of it. But the bulk of my constituency, of course, is not fortunate enough to have any public lands, and if they have any, it is a very small amount, so they know all about paying interest on purchasing the land or leasing it from people like the Burlington Northern or somebody else. Of if they bought it and paid for it, they do have to pay the taxes on it.

So I think we might as well put this in the proper perspective for the record. You talk about some operator going broke. While you were talking the thought occurred to me that most operators, I guess, are going to have to pay 10 percent on their bank loans or PCA loans, and probably they have those cows valued at $250. They should not have, but they do, and that is $25 a year just for the interest. And that would compare if you had a permit for $1.25, somewhere in there, like getting the grass for a cow-calf for $7.50 for 6 months.

So the interest just in a few years has gone up from $15 to $16 per head. If they are valued at $2.50, if they had been the same valuation, given the money at 7 percent, would be about $16–$17. Now it is $25. So we have had, really, a jump in interest rates and machinery.

You know I have a rule of thumb. I think a guy with a 300-cow outfit, even if he operates pretty conservatively, he probably has $60,000 worth of machinery, trucks, pick-ups, hay baler, hay stacker, something, and the interest on that at 10 percent is $6,000. And that sure has gone up, not only the value on the machinery. I do not need to tell you this, Mr. Weber, but I want to get it in the record because I want to counterbalance some other things that your statement said. Not only has the machinery gone up but the interest to pay for that machinery has gone up tremendously and we are talking about stabilizing only one thing or holding it down, and that is the grazing fees.

Now if we had gone in 1966 as we should have, and as you people started out to do with the Secretary of Interior and the Secretary of

Agriculture, and had these fees up there, let them climb in a 10-year period rather than stalling them off, we would not be talking about establishing them by statute to a much higher rate than they are now.

Well, I agree. You seem to advocate statutory fees. Frankly, I am not too upset about it going up or down. I do not know if we do have to have a minimum or maximum. I am sure we are not even thinking of a maximum. But I think we better get them up and I think we better get a formula that gets them up or we are going to find an awful lot of people on this board of directors in Congress that are going to be like the Burlington Northern board of directors were a few years ago when they said, "Get some value out of those lands or do something else with them," and we are going to find that right here in Congress. Those of us who know how important the livestock industry is for the Nation and really believe that it is of tremendous significance in the multiple-use concept are going to find it very hard to preserve that, but we better be talking realistically to our people here in Congress about grazing fees, or we are going to start to have a lot of trouble.

I want to point out, in your testimony you talk about unilateral decisions of the Secretaries, particularly Interior, on the so-called allotment management plan. We do not envision that. If you will turn to page 34, line 6, you will see that we have carefully designated that it will not be a unilateral decision. It will be in consultation with the permittees before they adopt allotment management.

What about this idea of one-half of the fee for range improvements, Mr. Weber?

Mr. WEBER. Do you mean our position?

Mr. MELCHER. Yes.

Mr. WEBER. Certainly we have always felt that any range fees or part of it should come back into the range management program.

Mr. MELCHER. One-half or what amount?

Mr. WEBER. Yes.

Mr. MELCHER. At least one-half?

Mr. WEBER. At least.

Mr. MELCHER. Mr. Freed.

Mr. FREED. I would like to speak to that, if I may. I think the range improvements have been sorely neglected for the last, I do not know how many years. This is something that is a going on improvement that helps every single year. Some people say to me, "This improvement may cost $1,000. You will only get $100 a year back out of it." Maybe it is $100 a year for 30 years and it is a continuing thing in our area. Seventy-two percent of the State of Utah is federally owned.

So we feel in using these lands to get these improvements on the land, and so many of them are so far behind in keeping up with the times that we feel that this is a very sad thing. So this 50-percent thing we think is badly overdue and we want to endorse it very, very strongly. We think these range improvements, as I said, are sorely neglected and need bringing up to date in a hurry.

Mr. MELCHER. I do not get that in your testimony, though. We talk about in this bill that we feel that fencing and water development the types of range improvements we need. They are sadly lack-

ing, and I am glad we are bringing it out in questions because I find that your testimony touched on it only very briefly.

You did mention—I should not just say Mr. Weber because it is a joint testimony—the testimony did say that you are in favor of the policy as is suggested or as is provided in the committee print. If the lease is terminated or the permit is terminated, that the permittee or lessee would be compensated on a pro rata basis for his share of the permit improvement.

Now we have had a lot of criticism in this subcommittee, a lot of criticism from the administration, from the environmental groups, on specifying that the usual lease period would be 10 years.

Now I do not see any magic in 10 years. I think what the subcommittee is trying to enunciate in this language is if there is land available for grazing, that the permittee or lessee that has it will continue to get a chance to have it, as long as it remains available for grazing and as long as he abides by the regulations of the Secretary of Interior or Secretary of Agriculture.

Is that acceptable?

Mr. WEBER. Do you mean in lieu of the 10-year tenure?

Mr. MELCHER. Yes.

Mr. WEBER. We have always been for tenure on public lands and I think it makes a better partnership with public land management. If you are going to put improvement on your land and work cooperatively with the plan and you see 10 years down the road where you are going to be assured that you are going to have the use of this land, I think it makes a better cooperative agreement with the committees and the people who are supervising the land management.

Mr. MELCHER. I am not talking about 10 years. I am talking about an indefinite arrangement under these circumstances, that the permittee or the lessee abide by the regulations of the Secretary and that the land is not retracted or the land is not designated for a higher use by either Secretary.

Mr. WEBER. Of course this has been what we have been operating under for many years.

Mr. MELCHER. You have been operating under annual renewal.

Am I wrong?

Mr. WEBER. That is right. You are right.

Mr. MELCHER. We are talking about an annual renewal. I just somehow have the feeling that the subcommittee and both the director of the BLM who testified on Friday and the chief of the Forest Service, Mr. McGuire, who testified, and they have all been striving to do the same thing, put it into law, what has been the practice of both the Forest Service and the BLM—that is that once you have the permit or lease, as long as you follow the regulations, as long as that permit or lease was not withdrawn for some other higher use, that you have to continue.

Now we do not see any magical—I do not see any magic in saying 10 years. In fact, I do not see any particular desirability because what we have said here in the bill very carefully and very definitely that the Secretary still retains discretion to determine, first of all, conditions of the lease. He can cut down the AUM's if he thinks it is necessary, and being taken away from the permittee or the lessee if he finds that it is needed for a higher use.

I guess what I am asking you, do you find under those circumstances, do you find any disadvantage if we structure the language to say that as long as it remains available for public grazing the permittee or lessee will continue to get it?

Mr. WEBER. That is all right.

Mr. MELCHER. That is all right. Thank you.

The gentleman from Arizona.

Mr. STEIGER. Thank you, Mr. Chairman.

I just find myself in mild disagreement with the chairman on two points. One, he is absolutely right. All of the costs have gone up. But of course this bill does not address all of the costs. This is the only chance that the industry has to attack this particular cost of grazing.

So I think it is entirely appropriate for the industry to attack the question of grazing fees at this time. Obviously this bill does not address itself to interest rates, the cost of machinery, the cost of feeding. So the chairman and I have never agreed that it is necessary to take a figure to appease the complainants. I think it has to be honest, it has to be realistic, it also has to be flexible.

I hope that you retain your insistence that there either be a minimum or a maximum, that, indeed, whatever equitable formula is devised be allowed to fluctuate in the marketplace.

I just offer that for the record.

As far as the 10-year limit, I feel very strongly about this and I am entirely in sympathy with what the chairman was trying to do. He wants to cooperate with the administration, the people that administer this program. Believe me, that is a very important situation. But we had a good expression here that you fellows were not privileged to hear from Mr. Turcott of the BLM the other day on this matter, and I think it best personifies the human attitude of the people who administer the permits. That is, that they really know best and have got to have some kind of a lever and a 1-year permit or 2- or 3-year permit is a good lever.

If you get the indefinite term you are going to suffer in the long run. I think the 10-year term, my reason of describing this bill is not only important but very important. I hope that you will consider carefully your support of the indefinite term. Maybe we can devise some language that will make it acceptable. At this point I have not seen the language.

Mr. WEBER. Of course under the Forest Service permit system they do have 10-year permits.

Mr. STEIGER. The way they have used it, they have experienced no problems with it. They use it rather selectively, but I know of instance in which they have regretted the issuance of it. Again, it is a very tight permit.

In this you have to do what we tell you to do or you are in violation. There is a grandfather clause in all of them. It does not refer to anything. If you do not stand up and salute the ranger when he comes for coffee, we can cancel the permit.

So I fail to see where we place the Government in jeopardy. I do see where we give the kind of security that is necessary for the kind of investments that are necessary, the range improvements, the long-term investment, that there has to be some stability and I think the 10 years gives us stability.

Mr. CAVANAUGH. Mr. Steiger, I listened to the testimony of the Government the other day. I think maybe if their testimony was, the way I understood it, the situation might be satisfactory, the section might be made satisfactory to them. The very first sentence of section 211, if this were added, some language to this effect—as long as the lands to which the permit or lease is issued remain available for domestic livestock grazing.

I think what frightened them was that there was no qualification in that section 211 as it is written in the committee print.

Mr. STEIGER. Would you mind repeating that language?

Mr. CAVANAUGH. That you would, at the very beginning of the first sentence in section 211(a), so long as the lands for which a permit or lease is issued remain available for domestic livestock grazing, permits and leases and so forth shall be issued for a term of 10 years.

Mr. STEIGER. I would have no objection to that, but that would not mollify them, I will tell you. What concerns them is the "shall be issued for 10 years." It is a prerogative they have had up to now. It is a lever that they have had. I think it is an unnecessary level. I do not think it really probably deserves the moment that was made of it even. I suppose it is my natural instinct that if they are fighting that hard against it, it must be good.

Mr. MELCHER. Will the gentleman yield?

Mr. STEIGER. Yes.

Mr. MELCHER. I want to point out that it is very important that we do have range improvement and the best range improvement we can have is a cooperative one between the Government and the individual permittee or lessee. We all agree with that. There is no quarrel with any of us or anybody in industry, nor with. I think. anybody in BLM or the Forest Service.

But if it is on a 10-year basis, we really should not be planning for the 10 years either because in practice the permits and the leases continue on year after year, generation after generation, and there is nothing wrong with that. It has not hurt us.

What has hurt us is we have not devised any means of having ongoing range improvements on public lands. So if you just have it set up for 10 years, by the time you get to the end of the last 3 years out of 10, the guy in making the permanent investment for range improvements would say, "Well, we only have 3 more years on those 10 years. We better wait until we get the new 10 year rates." And during that period there are 3 years, 3 or 4 years of the last 10 years, where there would be the tendency on the part of the permittee or lessee to do that, where there should not be.

If he is going to continue to use it as long as it is available for grazing, if any of us are smart enough to know which land will be removed from grazing by either the Secretary of Interior or the Secretary of Agriculture, we would have crystal balls. We do not know. We assume, frankly we assume that most of this land, the bulk of it, way over 90 percent of it, as long as we continue to improve it, is going to be available for grazing because it is going to enhance the other values.

I am convinced if we improve grazing we enhance wildlife values, we enhance recreational values. As long as we see down the road we are going to continue this sort of policy.

Mr. STEIGER. I am going to destroy my friends' argument with one deft and telling bit of logic.

One of the reasons that the Forest Service 10-year permit system has been so successful, my friend is absolutely right when he says that there is only a few years remaining. There is a reluctance in this.

What the Forest Service has done, as I read this language, is they come in and say, "All right, if you will make these investments, then at this point in the 7th year of your tenure issue you a new 10-year permit"—that is done on a regular basis. It is done as an incentive to range improvement. It is a very positive incentive. In fact, it really strengthens the absolute, essential cooperation that the chairman discussed, which is absolutely essential. It strengthens that relationship. Again, the 10-year permit I really believe is very useful to achieve exactly the ends that the chariman would like to achieve.

I yield back the balance of my time. I yield to you.

Mr. MELCHER. I thank the gentleman for making that observation. it does make some sense.

The gentleman from Oregon.

Mr. WEAVER. Mr. Weber, you say there is a difference between public and private permits. Would you explain briefly what you see as the major difference between these two?

Mr. WEBER. Mr. Weaver, you are talking about in a formula?

Mr. WEAVER. You lease land from private owners to graze your cattle or do you lease lands from the Government?

Mr. WEBER. In our proposed formula of grazing fees of our own that I talked about, there is a provision. I will go back and say the formula that we are using now: private land leases and computed by a formula, what private land leases are going for versus public lands. And this is a dangerous thing that we see in this kind of formula. Of course, the Government—sure, they could put this out for bids, if there is that much competition. But I think we have to go further down the line about why instead of—and study the history a little bit of why these permits were set up.

Mr. WEAVER. Mr. Weber, I appreciate that. What I am interested in is the economic differences between leasing public grazing land and private grazing lands. One has established a much higher rate than the other, and you say this is the way it should be. You even go back as far as to say that they should not even be compared. Why should they not be compared in economic terms? What is the difference between an AUM on public land and AUM on private land?

Mr. WEBER. There is totally a lot of difference. Usually, a private land permit is managed by the owner of that private land, and usually it is irrigated land that we are talking about. And we figure there is no comparability within the two permits, private land or public land permits.

Mr. WEAVER You mean the lease fee you pay the private landholder includes his management services?

Mr. WEBER. Right; fencing, fence upkeep, and the loss, too.

Mr. WEAVER. You are less likely to lose animals on private lands, as opposed to public lands?

Mr. FREED. There was a study made by Utah State University that there were 11 other costs accrued to the person using the public domain, as compared with private land. That is what we are talking about?

Mr. WEAVER. Can you cite a couple?

Mr. FREED. Yes. This loss of animals, salting, herding, fencing—you have much better control, whereas we have to turn them loose on the public domain, and trust to the problems we get into with vandals, that sort of thing. They have them under fence, they have them under control. There are all these things that come into it.

Mr. WEAVER. Is this typical of private lands?

Mr. FREED. Yes.

Mr. WEAVER. That they have all these services?

Mr. FREED. Yes. In my own case, I have leased private lands rather than where I could have gotten some public domain.

Mr. WEAVER. Thank you very much.

Mr. MELCHER. The gentleman from Nevada.

Mr. SANTINI. If I could follow up, because it is a fair economic question, the comparative evaluation of those kinds of lands, as subject themselves to ready fees in the commercial market, are usually prime A bargain. In comparison, quality grazing areas, they are plush meadowlands, irrigated, maintained with fence control, and go down in gradation to the public domain lands that are typically made available for grazing. That may be prime XYZ land by characterization. It is of much inferior quality, and it would be, I think, a very deceptive sort of formula to try and incorporate the two.

Mr. WEAVER. If the gentleman would yield.

Mr. SANTINI. Certainly.

Mr. WEAVER. An AUM is an AUM. Where there is XYZ land, it may take 100 acres per animal unit. Your prime land would only take 3 acres, or 1 acre. Is that not compensated in the size of the land?

Mr. SANTINI. The size factor may be compensated for, but not the managerial and additional facilities. I would like the gentlemen to respond to whether or not you do or do not approve of the content in general of this particular proposed legislation.

Mr. WEBER. I think we say in our statement here that generally we do, except the one item that is the grazing fee formula, which is our main objection to the proposal.

Mr. SANTINI. Overall, then, in summary, you would generally support Subcommittee Print No. 1?

Mr. CAVANAUGH. I think the answer is, if there is going to be a BLM bill, so-called Organic Act, certainly this one is preferable to anything that has been before the committee in the previous Congress. We question to some degree whether the bill is really that necessary, or that much of an emergency measure, certainly because they now have authorities under which they have been operating for many years—the Taylor Grazing Act, the Mineral Leasing Act, and others. Certainly, the public lands need some revision, and I think

this bill comes closer to the suggestions that were made, perhaps, by the Public Land Law Review Commission in its report in 1970, I think that we have testified.

We did not cover everything in this bill, Mr. Santini, because we felt that at this point the committee was particularly interested in our comments on the grazing section. We did testify last year on a bill that was very similar in nature—16800, I think—and we did make some comments. We have also testified previously that perhaps the Bureau does need greater enforcement authority in some areas. We were not quite convinced that they ought to be running around, the employees running around carrying guns. We had some objection to that, but certainly in some areas down in southern California, in some areas they have particular problems of enforcement. They do not have sufficient authority at this time.

I think, generally speaking, that we supported most of the provisions in those previous bills, and I think our prior testimony will show that we support most of the provisions in this bill.

Mr. SANTINI. Then, to capsulate again, do you find this a preferable form of legislation, but you will not give an unqualified endorsement of this?

Mr. CAVANAUGH. Well, again I think we are probably in a position to do that, but I think we certainly find it preferable to the proposals that have been made, and I have not seen the administration proposal. It is not printed yet, but I suspect it is very similar to the bill that was passed by the Senate last year, and certainly this is preferable to that.

Mr. SANTINI. Do you suggest that there is one other area that the association has any objection—that is, to the law enforcement powers? that were conferred in the proposed legislation last year to the BLM?

Mr. CAVANAUGH. What we objected to primarily, we questioned the need. The bill permitted the Secretary to authorize, and I think this one does, too, to authorize employees to carry firearms in enforcement, and we are a little concerned about that. I think this bill does provide that they have to be specially trained, which of course is better. We do feel that they need more enforcement power, but we felt, when it came to a situation where an employee had to use arms to enforce it, that he would be better off if he went to the U.S. Marshal or the Federal Bureau of Investigation on it. But that, perhaps may be a nitpick. I do not think it is a nitpicking objection, it is a minor objection. They do need, in some areas, some enforcement authority they have not got, or they need the authority in lieu thereof to cooperate with local officials. Perhaps this bill provides that by perhaps making a cooperative agreement, under which local enforcement officials would receive money to supplement their own budgets, because the problem is in a lot of the areas where you have these vast public lands, the local enforcement officials that also have concurrent jurisdiction perhaps just do not have the funds to police the public lands, too.

Mr. SANTINI. Would you prefer a legislative proposition that would require, as a matter of a first instance, that BLM would go to local law enforcement, State or county law enforcement, and seek their assistance, rather than attempting to implement or enforce the laws as an independent law enforcement body?

Mr. WEBER. This very thing that you are talking about is done. The Forest Service does this now, in a lot of counties. They go to the local law enforcement agencies, and they police Federal lands. It works very well.

Mr. SANTINI. There is a provision in section 303 that suggests cooperation with local and State law enforcement officials. But I am at least considering something stronger in that direction that would mandate, in the matter of first instance, and say look and consider the capacity of local law enforcement, rather than having a member of the Bureau having to assume the dubious distinction of becoming Matt Dillon in these areas, as well as attempting to be Smoky the Bear's assistant. And I think, although the Bureau has, I believe, in some instances practiced this in the past, they felt a sort of frustration and never-never-land about exactly what authority they did have, and could they move it at all. There had been some unfortunate incidents where apparently they were not able to do anything, but I have great apprehensions about either a biology or law graduate running around the force with a firearm. I think it could create far more unfortunate instances than it would rectify.

Mr. STEIGER. Would the gentleman yield?

Mr. SANTINI. Yes.

Mr. STEIGER. Of course, we could prohibit lawyers from carrying firearms. I would tell the gentleman there have been cooperative arrangements in violation of nothing between the Forest Service and local county enforcement, and sheriff's departments, where the Forest Service actually absorbed the costs of whatever extra deputies were required to police a given area. It is a problem; the gentleman is absolutely right in addressing the problem. I happen to feel very strongly with the gentleman that that is the proper approach, but you are against the desires of the bureaucracy again, that they envision a small enforcement army. So, if the gentleman intends to propose mandatory funding and mandatory cooperative enforcement with local law enforcement, you are right on target, and I would be happy to support that. I would hope the industry would understand the efficacy of that, because that is the way to answer the problem.

Mr. SANTINI. Thank you.

Mr. SHAFER. May I make a point of clarification on this enforcement provision that we have in here? It is almost identical to the present authority that the Forest Service has. There may have been one or two words that are changed, but it is almost identical to the present authority that the Forest Service already has. I would also point out the Park Service has similar authority. The fish and wildlife agencies have similar authority. It certainly was not the committee's intention that every clerk in BLM would go around posing as Matt Dillon or anything like that, Mr. Santini. But there are certain circumstances where, if a Bureau employee comes upon a violation of the law, by the time he goes back and rounds up the county sherriff, that individual is long gone, and there is no way of apprehending him.

So, this is a proposal to give very carefully selected BLM employees a very limited authority, and then only after adequate training.

Mr. SANTINI. I would disagree, to this extent. Please correct me if my instruction is incorrect. Any private citizen has the right to affect an arrest for a misdemeanor committed in his presence. With the sort of infractions that we are talking about, they are of the misdemeanor order. I can understand the natural resistance of someone without a clearly delineated source of authority for jumping in there and asserting the right of arrest. Most private citizens would be rather reluctant to pull over a speeder and place him under arrest, and take him to jail, but I think that authority exists now, and I just do not know.

Mr. SHAFER. I would agree with you entirely that that exists. But I think it would be a very bold Federal employee that would exert that type of general authority, Mr. Santini. I think it is more than you could really logically ask of them, that they would place someone under a citizen's arrest without any more protection than they have under that general authority. But I certainly recognize and understand your concern, and this was expressed to us very, very forcibly in hearings that we held in both Las Vegas and Reno in the last session of Congress.

Mr. SANTINI. It is a very sensitive arena, and I think it has been explored by the chairman and the gentleman from Arizona previously. But I think it does—needs, at least, clarification for this record. There is a great apprehension, for example, in Utah, where you have 77 percent public lands, I believe.

Mr. FREED. Seventy-two percent.

Mr. SANTINI. In Nevada, we have 86 percent public land. Perhaps the fears and apprehensions are unfounded. Nevertheless, they are very real, and they do exist. We are superimposing a Federal police force that is nonexistent in almost every other State in the Union, with the exception of Alaska. For example, the State of Utah, part of Idaho, I believe, Colorado, Arizona, Nevada—the western Rocky Mountain States, essentially—to create a Federal gendarme in the backyards of the smaller Rocky Mountain States of this country, where no other State in the Union is required to, and to accept this Federal police force.

Now, there is a problem; that is, some enforcement authority. The solution, I believe, lies in the implementation of the local law enforcement agencies wherever possible. The gray area— that is what we are going to do, when a BLM officer comes upon someone committing an infraction. But I would urge the committee, and say for the record now, that I think there is no need to throw out the baby with the bath water, and essentially creating an overextending law enforcement arm that could be misconstrued or misinterpreted, or perhaps represent a potential abuse of power 20 years from now, after these committee hearings have been burned.

Mr. MELCHER. Would the gentleman yield?

Mr. SANTINI. Yes.

Mr. MELCHER. The subcommittee really dwelt long on this very point during the last year, and it was only after receiving the testimony from officials in California and in Utah that the committee sought, in this language, to pattern for the BLM the opportunity for helping the sparsely settled areas in law enforcement, patterned after what the Forest Service has done. The Forest Service has de-

veloped a plan for having law enforcement complementing law enforcement in a sparsely settled areas, and what we have sought to do in this committee print is pattern for BLM that opportunity; because as the gentleman from Nevada knows better than anybody, the counties which are almost entirely public lands do have a very difficult time in providing law enforcement officers to cover all of the area. So we are only attempting to do no more or less than that, and I say to the gentleman from Nevada, before we are done with this committee print, before we report it out, the proposed bill in the full committee, I am sure that we will all satisfy the gentleman that we are not going to set up any type of forceful, overbearing staff to enforce laws that would be offensive to people. We only want a cooperative effort with them.

We found in last year's testimony, and in last year's review, that the Forest Service did this in certain areas, and we thought about something like that for the BLM in other areas, but only where it is acceptable to people in that area, where it will complement the regular law enforcement officials.

Mr. SANTINI. Thank you, Mr. Chairman.

Are there any other specific sections to which the cattle industry has objections, as contained in the bill, so we might clarify these at the outset?

Mr. CAVANAUGH. Well, of course, we mentioned in our statement some.

Mr. SANTINI. Outside your statement.

Mr. CAVANAUGH. Well, no. But if we could, we would like an opportunity, because this print just came into our hands, although it is similar to 16800, we just got it last Friday. If we might, we would like to go over it, and submit for the record if we do have any more specific objections. We have not had that much time to study it and disseminate it, certainly, to our membership for comment, So, if we may, we would like to reserve any outright endorsement of anything we have not talked about.

Mr. SANTINI. Can you say, in summary, any other specific objections or comments that you wish. All of it will be included as a matter of record in this proceeding, with the leave of the chairman. You will incorporate those observations?

Mr. CAVANAUGH. With permission of the committee, we will submit any additional comments.

I might say one thing. Mr. Chairman. what Mr. Weber perhaps overlooked, that is, we ought to make it a matter of record that under the industry-proposed fee formula, which was rejected by OMB after having been accepted by the Forest Service and BLM, the grazing fees would have one up substantially this year; more than 50 percent, as a matter of fact—and I would like to make that just a matter of record.

Mr. MELCHER. I am glad you brought it up. What were you advocating?

Mr. CAVANAUGH. We are simply advocating accepting the $1.23 as fair market value for the base period 1966–1968, and varying that by a combined cost index, rather than the range forage index that is now being used. And we also propose——

Mr. MELCHER. When you say you want a 50 percent——

Mr. CAVANAUGH. It would have.

Mr. MELCHER. It would have gone up 50 percent. Are we to assume, then, that you are recommending $1.85?

Mr. CAVANAUGH. I do not recall the exact figure. I believe it was $1.51.

Mr. MELCHER. I do not know what 50 percent is—50 percent of what?

Mr. CAVANAUGH. It was more than 50 percent, if we went up 51 cents.

Mr. STEIGER. It was a lousy formula, let us face it.

Mr. MELCHER. At any rate, you are testifying that you did recommend a formula that would have established it for 1975 at $1.51?

Mr. CAVANAUGH. I believe that was the figure, yes, which would be 51 cents more.

Mr. WEBER. This is what we say in our formula; that the price of cattle is up, we can no more afford to pay that higher grazing fee. It is escalating up and down, fair to the government and fair to the livestock growers.

Mr. MELCHER. I think you gentlemen are all aware that we have been struggling for a year or so on this subcommittee to arrive at some sort of a formula that would, through these factors, thoroughly reflect an ability to pay, as well as find the fair market values we have always considered having as one of the factors in the price of livestock.

The gentleman from Colorado?

Mr. JOHNSON of Colorado. I have no questions.

Mr. MELCHER. The gentleman from Massachusetts?

Mr. TSONGAS. I have no questions.

Mr. MELCHER. I want to thank you all very much for being with us, Mr. Weber, Mr. Freed, and Mr. Cavanaugh.

Now, our next witness this morning is Mr. George Alderson, director of Federal affairs, The Wilderness Society. George, welcome to the committee.

[The prepared statement of George Alderson follows:]

STATEMENT OF GEORGE ALDERSON, DIRECTOR OF FEDERAL AFFAIRS, THE WILDERNESS SOCIETY

I am George Alderson, Director of Federal Affairs of The Wilderness Society, an organization devoted to the conservation of our nation's remaining wilderness resources and to proper use of the public lands. Our offices are at 1901 Pennsylvania Avenue, N.W., in Washington, D.C. We appreciate the opportunity to testify today on the livestock grazing provisions of organic legislation for the national resource lands.

The Wilderness Society strongly supports the use of appropriate public lands for livestock grazing, so long as it is done as part of a well balanced multiple-use program, under principles of conservation and sustained yield. Grazing on these lands is important to the stability of many small towns throughout the West. Therefore it is vital to improve the management of grazing on the public lands. The continued lack of good management threatens to undermine the contribution of livestock grazing to these communities by depleting the long-term productivity of the land, which also means a decline in other public values of the land, such as wildlife, watershed, recreational and wilderness values. In the long run, all these uses depend on the health of the land. If one is threatened, all are threatened.

Current figures provided by the Bureau of Land Management indicate that, as of December 1, 1974, the grazing lands of the public domain were in the following condition categories:

RANGE CONDITION

	Percent	Million acres
Excellent	2	3.2
Good	15	24.4
Fair	50	81.5
Poor	28	45.6
Bad	5	8.2

Range trend figures as of the same date were as follows:

RANGE TREND

	Percent	Million acres
Improving	19	31.0
Static	65	105.9
Declining	16	25.7

The present inadequate management also is severely harming wildlife, watershed and recreational values. This has long been the observation of citizen conservationists, and it was confirmed by BLM's 1974 Nevada grazing report. When he released the Nevada report in September, Director Curt Berklund stated that similar problems existed in other states as well.

We therefore commend members of the Public Lands Subcommittee for seeking to develop legislative provisions to improve the management of livestock grazing on the public lands. Better management will benefit grazing permittees, and it will benefit the public at large.

However, in the comments that follow, we will caution the subcommittee against several concepts that were proposed in the 93rd Congress which would have granted to grazing permittees unprecedented new rights or privileges and would have abrogated the multiple-use concept. In our view, livestock grazing must never be allowed to assume a status above all other land uses. It is only one of the multiple uses, and it must be kept on an equal footing with the others.

GRAZING FEES

The Wilderness Society has no objection to the enactment of a statutory grazing fee formula, so long as the formula results in fees comparable to or greater than the fees paid for the grazing of equivalent private rangeland. The objective here must be to avoid a subsidy to those who happen to have federal grazing privileges.

We do not object to the inclusion of national forest grazing under these provisions, but we recommend that the grazing provisions be placed in a separate title of the bill. We do not favor inclusion of national forests in any other parts of this bill.

RANGE IMPROVEMENTS

A proposal was made in last year's bill to allocate 50 percent of grazing fee receipts to range improvements. Our objection to that provision as originally proposed was that it lacked sufficient flexibility to respond to the diverse needs of different rangelands. In some areas, structures such as water developments or fences may be needed and proper. But in many cases, what is needed is non-structural management techniques aimed at improving livestock distribution on the range. Some of the techniques now in use, but not nearly as much as they should be, are the proper placement of salt or the daily visit of a mounted employee to drift the stock away from water, where they intend to congregate, and into areas of unused forage.

The BLM's Final Environmental Impact Statement on the grazing program, dated December 31, 1974, estimates that a 27 percent increase in available grazing could be achieved just by completing and implementing allotment management plans (AMPs) for the 82 percent of BLM grazing land that is

not yet covered by AMPs. Completion of the AMPs, which are not normally considered range improvements, clearly should be a high-priority objective under this legislation, and funding should be assured for the necessary work.

GRAZING PERMITS

The Wilderness Society favors a variable term for grazing permits and leases, with up to ten years as the maximum. We do not favor a mandatory ten-year terms as proposed in last year's H.R. 16676.

We recommend that no provision be included which grants or implies the automatic, indefinite renewal of grazing permits. Such language as appeared in H.R. 16676 comes close to establishing a vested right, and it gives a specially privileged status to grazing permittees that is enjoyed by no other users of the public lands. We recognize that the present practice is to renew the permits at each expiration, and we do not object to this in general. However, we are strongly opposed to establishing the renewal as a statutory right.

We recommend against any language that would allow compensation for the value of cancelled grazing permits, or any similar compensation. Language of this kind resurrects a long-standing controversy. Grazing on the public lands has always been regarded, in law and in principle, as a privilege rather than a right. This is appropriate because the permittee is using publicly owned resources for private gain. This concept of grazing as a privilege was specifically confirmed in the Taylor Grazing Act in the following words, which appear at the end of Section 3: "The creation of a grazing district or the issuance of a permit pursuant to the provisions of this Act shall not create any right, title, interest, or estate in or to the lands." It would be extremely unwise to reopen this age-old issue by attempting to allow compensation in this legislation.

GENERAL COMMENTS

When The Wilderness Society testified before this subcommittee last year, we generally endorsed organic legislation for the national resource lands, with certain reservations. Today, however, we bring to you a message of concern for what such legislation will do to the public domain lands. We raise serious questions as to whether the land itself will be properly administered under legislation of this kind. And we will recommend a basic change in the thrust of this legislation.

The Wilderness Society strongly favors more effective management of the public domain lands, under conservation and multiple-use principles. That is our objective in the context of the Public Land Policy Act.

The crucial question at this juncture is: If new mandates are enacted, will they be properly carried out? Do we have an agency that will conscientiously implement this multiple-use conservation mandate?

The Wilderness Society has been hopeful that the Bureau of Land Management would respond well to this organic act. It has long been common belief that BLM has been handicapped by the conflicting statutory policies governing the public domain and by lack of funds and personnel. We believed that BLM had the commitment and the will to correct these long-standing problems, if given the means to do so.

However, the events of the past year have led The Wilderness Society to reconsider these long-held beliefs, and we have come to a different conclusion: As presently organized, the Bureau of Land Management is fundamentally incapable of managing the public lands under conservation principles.

Recent events, some of which we will enumerate, show that BLM is dominated by an overwhelming bias toward exploitation of energy resources at the expense of other land values. This bias would not be changed by the bill. Even if it required BLM to follow multiple-use and sustained-yield principles, the agency would still have its present major responsibilities for energy exploitation, including offshore oil leasing, coal leasing and geothermal leasing. These alone establish a fundamental conflict between the mandate of this organic act and the mandates of the energy exploitation laws.

Some of the recent actions of BLM which have led us to this conclusion are:

1. On October 1, 1974, BLM released a proposed "Primary Corridor System" for Alaska, consisting of 10,046 miles of highway and pipeline routes which

BLM asked Secretary Morton to set aside, without any prior study of their environmental or social impact. Several of these routes would breach Secretary Morton's proposed National Interest Lands units, while other would cross Alaska Natives' land selections in an attempt to renege on the Alaska Native Claims Settlement Act of 1971. The routes were justified in BLM's memorandum as being "keyed essentially to tapping a variety of identified energy resources of high prospective value."

2. On February 15, 1975, BLM announced that Secretary Morton had decided to turn over to BLM three great national wildlife ranges, comprising more than 2 million acres of prime wildlife habitat. This was the culmination of a long-standing effort by BLM to oust the U. S. Fish and Wildlife Service from these ranges—the Charles M. Russell National Wildlife Range (Montana), Charles Sheldon Antelope Range (Nevada) and Kofa Game Range (Arizona)—in violation of the intent of Congress in the National Wildlife Refuge System Administration Act of 1966. The long-range implications of this action may involve future BLM attempts to take over other units of the National Wildlife Refuge System and subject them to intensified exploitation for energy and other commodities. Twenty-five national conservation organizations have united in opposition to this transfer of the wildlife ranges, in a telegram to President Ford, which we are submitting for the record.

3. BLM has also succeeded in its attempt to gain control over millions of acres of the National Interest Lands in Alaska. Although the Alaska Native Claims Settlement Act did not call for any proposals involving BLM, the agency talked Secretary Morton into giving it primary control over two of the greatest scenic and wildlife area—the proposed 8-million-acre Noatak National Arctic Range and the proposed 3-million-acre Illiamna National Resource Range.

Like the case of the three wildlife ranges, this points up an extremely ill-advised trait of BLM to assert itself as an all-purpose land management agency. If it is a wildlife area, they say they can manage it as well as the Fish and Wildlife Service. If it is scenic, they say they can manage it as well as the National Park Service. This must stop. BLM should realize that it has its own role among the Interior Department agencies—to manage lands that are best suited to multiple-use management.

4. In its administration of outer continental shelf oil leasing, BLM has shown the same exploitation bias. Even if we acknowledge that Secretary Morton made the decision to expand the leasing program, it is BLM that is to blame for the incompetent environmental impact statement on the program and for completely inadequate baseline studies of the areas to be open for nomination. As a result, next to nothing is known about other resources in the areas to be leased. These are the criticisms made not only by conservationists, but by state and local governments affected by the program. BLM did not even hire a marine science staff in connection with the OCS leasing, but put its major efforts into influencing public opinion.

5. BLM has also been involved in a headlong drive to lease federal coal, and was only stopped by the moratorium imposed by the Interior Department in 1972–73. Prior to the moratorium, BLM had enthusiastically approved almost every application that was filed for coal leasing or prospecting, with to be strip-mined. Even now, BLM takes the position that another 300,000 the result that 780,000 acres of federal coal are now under lease, most of it acres will have to be leased, claiming that their issuance of prospecting permits binds them to lease these.

6. With phosphate leasing, the story is similar. BLM claims that, because they issued prospecting permits for about 25 percent of the Osceola National Forest, in Florida, they must grant leases for this. It will be open-pit mined, destroying all other land values of that portion of the National Forest.

7. BLM also handles the leasing of geothermal energy under the Geothermal Steam Act of 1970. The regulations issued by BLM under this law in January, 1974, incredibly allow geothermal leasing in wilderness areas of the National Forests.

8. BLM has failed to carry out the intent of Sec. 17 (d)(1) of the Alaska Native Claims Settlement Act, which was to classify the remaining public domain lands in Alaska for multiple-use management. Instead, BLM has focused its energies on interfering with the National Interest Lands, which were never intended to involve BLM.

Mr. Chairman, these are some of the actions that have opened our eyes to deep-seated problems in the Bureau of Land Management. They reveal a bias toward unmitigated exploitation that is absolutely unacceptable on the part of a public land management agency.

There is no easy solution to this dilemma. We believe that an organic act is not the answer, although we are steadfast in our support for its concepts. But to give BLM such a mandate now will not solve the problems of mismanagement that result from the conflicts with BLM's energy exploitation functions. We believe a basic reorganization is needed.

We would favor establishment of an agency devoted solely to management of the renewable resources of the public domain lands under the provisions of an organic act for the national resource lands. The energy and minerals functions should be assigned elsewhere in the executive branch.

We appreciate the opportunity to testify here today.

STATEMENT OF GEORGE ALDERSON, DIRECTOR OF FEDERAL AFFAIRS, THE WILDERNESS SOCIETY

Mr. ALDERSON. I am George Alderson, director of Federal Affairs of The Wilderness Society. I would like to say we appreciate the opportunity to testify this morning on the grazing provisions of this bill.

Before presenting my statement, Mr. Chairman, I would like to ask for a clarification of my understanding of the way these hearings are organized on this bill. My understanding is that this particular hearing today is devoted only to the grazing provisions of the bill, and that there would be an opportunity at a later date for our organization to present our comments on the other aspects of the bill. Is that correct?

Mr. MELCHER. That is correct.

Mr. ALDERSON. Thank you.

If my statement could be included in full, I will merely present some of the highlights.

The Wilderness Society strongly supports the use of appropriate public lands for livestock grazing, so long as it is done as part of a well-balanced multiple-use program, under principles of conservation and sustained yield.

In the longrun, as the chairman stated, all of the values of the public lands—grazing, wildlife, watershed, recreation, and the rest—depend on the health of the land; if one is threatened, all are threatened.

Current figures provided by the Bureau of Land Management indicate that, as of December 1, 1974, 83 percent of the grazing lands administered by the Bureau is in fair, poor, or bad condition. The details are in my statement and in the BLM presentation to the Senate Appropriations Committee this January. The range trend figures show that only 19 percent of this land is improving in condition.

The present inadequate management affects the livestock value of the land and affects wildlife, watershed and recreational values. This has long been the observation of citizen conservationists, and it was confirmed by BLM's 1974 Nevada grazing report. We also note that when Director Berklund released the draft of that report in September, he stated that similar problems existed in other States as well.

We commend the members of this subcommittee in seeking to develop legislative provisions that would improve livestock grazing and other values on the public lands. Better management will benefit grazing permittees, and it will benefit the public at large.

However, in the comments in our written statement we caution the subcommittee against several concepts that were proposed in the 93d Congress which would have granted to grazing permittees unprecedented new rights or privileges and would have abrogated the multiple-use concept. In our view, livestock grazing must never be allowed to assume a status above all other land uses. It is only one of the multiple uses, and it must be kept on an equal footing with the others.

Mr. Chairman, I do not desire to read the specific comments that are enumerated in my statement on the grazing provisions. I would like to stress in the case of the range improvement provisions that we basically believe it is unwise to set up an earmarked fund of this kind which ties the range improvements and range rehabilitation to receipts from the grazing program itself. This could create a strong bias towards heavier grazing on the part of the agency administering the program, to the detriment of the land. This situation, namely that we are going to get more money for range improvements, if we allow more grazing this year, creates an incentive that could seriously bias the judgment of the personnel in the agency who are making these decisions. So we would like to sound that cautionary note.

Turning to a more basic question, Mr. Chairman, when The Wilderness Society testified before this committee last year, we generally endorsed organic legislation of the national resource lands with certain reservations. Today, however, we bring to you a message of concern for what such legislation will do to the public domain lands. We raise serious questions whether the land itself would be properly administered under legislation of this kind. We will recommend a basic change in the thrust of this legislation. We believe it is preferable to defer this bill until a reorganization of the Bureau of Land Management can be carried out to eliminate the basic conflict of interest that is now biasing many of BLM's decisions.

Our objective in the context of the Public Land Policy Act is to foster more effective management of the public domain lands under conservation and multiple-use principles.

The question at this juncture is if these new mandates are enacted, will they be properly carried out? Do we have an agency in the Bureau of Land Management that will conscientiously implement this multiple-use conservation mandate?

We had hoped for many years since this legislation was developed that the Bureau of Land Management would respond well to this act. It has long been common belief that the BLM has been handicapped by conflicting statutory policies governing the public domain, by lack of funds, and by lack of personnel. We still think this is true. We believed that BLM had the commitment and the will to correct these longstanding problems, if given the means to do so.

However, the events of the past year have led The Wilderness Society to reconsider these long-held beliefs, and we have come to a different conclusion. As it is presently organized, we believe that the

Bureau of Land Management is fundamentally incapable of managing the public lands under conservation principles.

These recent events, which are enumerated in my written statement, show that the Bureau of Land Management has come to be dominated by an overwhelming bias toward exploitation of energy resources at the expense of other land values. This bias would not be changed by the bill. Even if the bill required BLM to follow multiple-use and sustained-yield principles, the agency would still have its present major responsibilities for energy exploitation, including offshore oil leasing, coal leasing and geothermal leasing. These alone establish a fundamental conflict between the mandate of this organic act and the mandates of the energy exploitation laws.

I do not want to read all the specifics that we cite, but we believe that the eight points are indicative of a bias that has resulted primarily from the energy responsibilities being united in a shotgun marriage with land management responsibilities. There is no easy solution to this dilemma. We believe that an organic act is not the answer, although we are steadfast in our support for the concept of the Organic Act.

To give BLM such a mandate now will not solve the problems of mismanagement that result from the conflicts with BLM's energy exploitations. We believe a basic reorganization is needed to separate the management of the renewable resources of the public domain lands from the energy and mineral functions that we believe should be assigned elsewhere in the executive branch.

We have not come up with a specific reorganization proposal, but we believe that deferral of this bill would allow time for the subcommittee and all concerned citizen groups to explore this and see if there is not a better way to organize this agency so that the energy functions are not going to continue to dominate the land management functions.

Thank you.

Mr. MELCHER. Thank you.

Part of your testimony was to the effect of how much land was in poor range condition, and you testified, repeating from the BLM source, which would mean that you agree with, that 45.6 million acres are in poor condition; 8.2 million acres are in bad condition; range trend was 65 percent static and 16 percent declining.

So I do not see why we should view our responsibility here in Congress to defer action. We better get with it, do you not think, on some of these things?

Mr. ALDERSON. We certainly should on the land management functions. It is not going to help the range condition any if BLM is out there leasing the land for coal, either, and that kind of problem deserves consideration. Here we have an agency that is gung ho for all the coal leasing, and they finally had to be restrained by the department leadership. And they still feel they have 300,000 acres that have to be leased. Our conservation lawyers disagree with them. But that is a bias of BLM that is going to cause great damage too.

We certainly agree that we have to move on the land management functions.

Mr. MELCHER. I do not know. You know, 300,000 acres to be leased is a two-way street. Where would this land be added? I mean, somebody wants to lease it for coal; who wants to lease it?

Mr. ALDERSON. I do not know exactly where that is, but this is land on which BLM issued prospecting permits earlier under the Mineral Leasing Act.

Mr. MELCHER. Of course, you understand the Mineral Leasing Act is not under the jurisdiction of this subcommittee, and Chairperson Patsy Mink has already opened hearings for revision of the Mineral Leasing Act. Those remarks would be more appropriate in that subcommittee, and I am sure The Wilderness Society is testifying there, too, on these points, are you not?

Mr. ALDERSON. Yes, we are.

The same agency is in charge of administering both programs.

Mr. MELCHER. That is right.

You are talking about 300,000 acres of coal leases, right?

Mr. ALDERSON. Yes.

Mr. MELCHER. I refer you to the northern Great Plains resources study, a study which has come up with three projections of possible coal mining in the Fort Union coal deposit, which would include BLM lands and some Indian reservation lands and, of course, private lands and State lands. There are three different sets of figures, but using the greater set of figures, the greatest amount of land that might be mined is 396,000, virtually 397,000 acres. They are talking about the year 2000. Now this would provide 977 million tons of coal per year. The reason I am pointing this out is we are only using 600 million tons of coal per year now in this country, and the projection is that we will use more coal; but no one really has projected that we will take almost 1 billion tons of coal per year out of the Fort Union coal deposit.

So this profile, taking their third profile, which is probably high, by the year 2000 they are talking about disturbing 390,000 acres of land. Now, this is all types of land, a portion of which would be BLM land. If there is somebody who is interested in coal leases in that area, it hardly seems to me to be likely under any set of circumstances that all of those leases will lead to coal production.

Now, I am not so sure that we should blame the BLM for somebody wanting to lease coal. The moratorium is in effect, and I think before the moratorium ends we should have a revision of the Mineral Leasing Act. Congress is striving to do that.

I think we will have to make sure Congress gives the guidelines as to how we are going to have this natural resource developed rather than leaving it up to the judgment of the administrators, whether it is the Secretary of the Interior, or the Director of the BLM, or some other Federal agency that you might recommend to Congress to take charge of this.

I really believe that the time has come for Congress itself to make more decisions on what we are doing with our natural resources. That is where the responsibility lies anyway, and we should establish by statute, just what we want done in developing the public lands.

I am increasingly disturbed by the fact that I hear too much of what I view as rather loose statements coming out about coal develop-

ment in my part of the West, because almost all of these statements are being made in the press by organizations. When they talk about Western coal developments they are talking about coal development in Wyoming, Montana, and North Dakota, and we have a great concern with what has been said there. We want it properly understood by the people who are there what might happen.

On the other hand, we do not want them misled, our constituencies misled, by some statements that are not very accurate. I am not saying you are making inaccurate statements. I am saying that there have been inaccurate statements in the press by some of the national organizations. I am not placing any of the blame for those statements.

Mr. ALDERSON. Mr. Chairman, the coal leasing is only one of the things that we think is wrong, where the energy functions are overwhelming the land management functions of the agency. You can tell from the personnel figures in the BLM during the last 2 years. While other natural resource agencies have only been able to hold even on their personnel ceilings at OMB, BLM has been given 800 new positions, and I just saw that they were adding dozens in Montana during this year. I forgot whether is was 20 or 40, covering Montana and the Dakotas, and that is for this energy function.

So when you get an agency with a large staff devoted to energy at the same time that you are trying to carry out the multiple-use and sustained-yield mandate, you have two basically opposed concepts of resource management in the same agency, and we do not think they will fit together.

Mr. MELCHER. You mentioned Montana. Of course, I have a great concern about what we are doing with BLM-administered lands in Montana. I do not really find that the projection from the State director's offices is for a great deal of mining on public lands—their estimate is 5,000 acres will be mined during the next 10 years on BLM-administered lands. When you are striving to determine under some sort of system what will be the best areas to mine that will lend themselves to reclamation without any danger of disturbing the land by stripmining and then not being able to reclaim it, or what areas of BLM-administered lands will be stripmined; it is true that even 5,000 acres will have at least social impact upon the area.

I think you need some study, and I think this is all new to the BLM, and I think that they should proceed with it. I do not think, at least in their minds, at the State level, that they are looking for much acreage of BLM coal leases, to be executed to the extent that there would be an improved mining policy.

The gentleman from Nevada.

Mr. SANTINI. Thank you, Mr. Chairman.

Mr. Alderson, this is our initial acquaintance, and I am endeavoring to get a clear understanding of your position, if I may be permitted, by way of summary, and then you could comment to amend, alter, or add to, as you see fit.

It seems to me it is a bit frustrating, from my posture here as a new member, that you are coming before the committee, you are suggesting you support general objectives contained in the so-called Organic Act, but you are opposed to the BLM as an adminstrating agency, and you recognize that a need exists for the legislation but,

in the final analysis, propose that we do nothing. From my meager analytical resources, that is a useless sort of advocacy to assume. We have a problem, what is the solution, and it seems that your position is untenable. I do not mean to offer that by way of argumentation.

What are your thoughts on that?

Mr. ALDERSON. We would be delighted to see the committee move as fast as possible and see if we can come up with a way that will separate the energy functions out. I do not think that would necessarily take very long, a matter of a few weeks, to try to come up with some concept that would do that. But it is frustrating for us, too.

Last year we testified strongly in support of organic legislation for the natural resource lands, and we spent many, many hours discussing this with the committee staff and others last year. So a lot of our thought has gone into the legislation that is before you here. We finally went back and looked at all the things that were happening and came to the realization that there has to be a new concept. We advocate a new concept in this bill that will lead to a separation of the two functional areas.

Mr. SANTINI. What is that new concept?

Mr. ALDERSON. To set up a new agency for renewable resources on the public lands and have energy functions placed elsewhere. The question I cannot answer is, should those be placed in some other agency that is now in the entire Department, such as the Bureau of Mines, or should there be a new agency, or should it be a part of FEA?

Those are questions that we have not come to a conclusion on yet, but I hope that we may be able to propose something more concrete by the time that the hearings are called on the other aspects of the bill.

Mr. SANTINI. Being an advocate of an interest, you should have the burden of proof or burden of persuasion. And I think you fall short at this point in carrying that burden. I would urge you strongly, whatever the concepts are in a negative form, that at this time they be translated into concrete action. Otherwise the testimony is of absolutely no use to this committee.

Thank you, Mr. Chairman.

Mr. MELCHER. The gentleman from Arizona.

Mr. STEIGER. Thank you Mr. Chairman.

I would like to pursue the point raised by the gentleman a little further. You give some lip service to multiple use concepts in at least three points in your statement, and yet, your advocacy of a separate energy department, of course, is in complete violation of the multiple use concept. I know that you understand the multiple use concept means that the land is used to accommodate as many uses as is compatible with the ability to support them, sustained yield, and appropriate conservation practices.

I would like you to explain at least—since your association has not come to any conclusion—but at least in your own mind, what possible benefit it could be to develop, in your own words, another advocacy division outside of the borders of the purview of the Land Management Agency itself. You have come up with a bit of logic that escaped me and the gentleman from Nevada. I would be interested to hear it.

Mr. ALDERSON. I would be glad to respond to that.

I want to go back though to the question of energy as being a part of multiple use. This concept of multiple use management included minerals and energy as well as nonrenewable resources. My recollection is it originated with last year's bill. It is not in the Multiple Use Sustained Yield Act, which governs the Forest Service operations, and the Forest Service does not have energy as part of its charge.

My recollection is those previous laws were based upon multiple use of renewable resources.

Mr. STEIGER. I am going to interrupt you there, since you are apparently confused, and the record should not be. The reason the Forest Service, under its multiple use program as originally devised, did not address the minerals question—again it was because of an arbitrary administrative decision to place all mineral development under the Department of the Interior. So it would have been in violation of the law, as well as the structure, to include mineral responsibility in the Forest Service.

Mineral responsibility is inherent in the bill mandate because of the compatibility with the Interior mandate. So really, I understand your desires—it is a very worthwhile desire you want to protect the land. I really think you ought to go home and do your homework, and recognize that if the suggestion is just to change titles or to change players or fraction advocacies, historically that only compounds the problems. It does not minimize——

Mr. SANTINI. Would the gentleman yield?

Mr. STEIGER. I would be happy to.

Mr. SANTINI. If I understand the concept that is in the formulation stage here, what you are proposing is fractionalizing the interest or commitment of the administrative agency confronting the problem of energy use of the land; set off the Department and keep it isolated or removed from what you consider to be inherently a contradictory ambition. But the danger implicit to that is—what you are proposing is the total breakdown of what has taken so many years to formulate and obtain acceptance for—that is, the multiple use concept.

Why then, could not those who look at the land for livelihood come in and say, I think our interests are unique and there is an inherent conflict in the Department; we want a separate Department, and so on down the line. A fisherman could come in and say, our interests are unique and different and there is inherent conflict in the Department and we want a separate Department.

Can you see the sort of disintegration of any possible, realistic administration of the multiple use concept if at least one extension of your reasoning is taken to its logical conclusion?

Mr. ALDERSON. I see what you mean.

To answer both your point and Mr. Steiger's, we see the energy extraction functions as being basically different in nature, and the management of energy resources as being basically different from the management of the renewable resources, because in the case of grazing and in the case of timber and the case of watershed, wildlife values and recreation, we are talking about managing a resource

for a sustained yield over a long period of time. You are managing it so that in any use that you allow, it will be restored over the coming years or over the coming season. You are also dealing with a natural biological ecosystem. On the other hand, when you take energy out once, then it is gone. The best you can do is put the land back into shape after that has been done.

The reason for our advocating a division of these basic functions is so that you are able to retain an advocacy for the health of the ecosystem—the grazing ecosystem and all of the other values that come from that ecosystem. We would like to see an agency that is basically charged with these renewable resources so that when the proposal is made that the land out there be leased for coal, this agency has a director who does not have energy responsibilities. His responsibility is for the renewable resources, so he says, "We recommend that you do not lease from these particular areas, and we recommend that these are more acceptable." He is coming from the expertise of his agency and the responsibiiity of his agency to advise the Government on the renewable resources functions.

Of course, the energy people carry a great deal of weight. But that way, they are carrying out their program under their mandates, and you also have a renewable resource agency that is going to carry out its mandate to retain the health of the land and the long-term productivity of that land. That is the basic division. What is the alternative?

The way the Bureau of Land Management is now——

Mr. STEIGER. I am going to have to interrupt you, Mr. Alderson. I am sorry. We do have other witnesses; we are out of time. I would like to take note of the competiveness about your effort. I am going to point out—or attempt to drive the final nail in the coffin of your statement. You described the benefits to be derived from, if you will, differentiating advocacies. And yet, on page 7 of your statement, item 2, one of the evidences that you offer to the new rapacious bent of the Bureau of Land Management when Secretary Morton transferred three areas to the sole administrative responsibility of BLM. What you failed to mention was that prior to this transfer, there was a joint administration of the U.S. Fish and Wildlife, not only of these three mentioned, but a fourth in Arizona.

The decision was made to transfer that area entirely to the Fish and Wildlife, and these others to BLM. Now that offends you, yet it is entirely in keeping with the broad overview of what you say ought to be the approach vis-a-vis energy. The Secretary made a judgment that approximating dual management was not in the best interests of efficiency or the operation itself. You object to it; I presume that you object to it because you need a cause—even as obscure as this cause is; this will do something to rally the troops around.

I only hope in the pursuit of a most excellent goal that you do not continue to delude the membership and prod them into whatever action you feel is appropriate. But rather, stay with the rather basic principle of the Wilderness Society as they originally intended. As I understand it, that was in the passage of the Wilderness Act to sustain—to be sure the act itself is properly administered. And now

those opportunities that exist for lands that ought to be in it, call those to the attention of the appropriate folks. That is probably a very worthy and positive effort, but it is obvious, when you stray from your own range, you are lost. And I think you do the Wilderness Society a great disservice when you do that because you mitigate the valuable suggestions that they frequently have.

I will yield back the balance of my time.

Mr. ALDERSON. Mr. Chairman, may I respond to the question?

Mr. STEIGER. There was no question.

Mr. MELCHER. The gentleman from Massachusetts.

Mr. TSONGAS. Thank you Mr. Chairman. I am just going to ask an informational question if I can.

Although I consider myself a strong conservationist, I have never set foot on grazing land—probably would not know it if I did. On page 2 you refer to range condition and range trend. My question—being not familiar with the area—what point in the breakdown between excellent, good, fair, poor, and bad—what is one future point of deterioration—which of the five categories is the point of deterioration?

Mr. ALDERSON. The deterioration would be a change over time. So if you were asking what land is deteriorating, you would look at the range trend data, you would see 16 percent of the land is what they call declining in trend. So that is land that is currently deteriorating according to the samplings done by the BLM personnel.

The range condition is a static measurement. It tells you what relative condition class the land is in at the time. I do not have with me the descriptions of the criteria they use to distinguish between those categories, but I believe they would be in BLM's report to the Senate Appropriations Committee, which should be available to members of the subcommittee.

Mr. TSONGAS. One experience that I had in regards to Walden Pond in Massachusetts—a statement that was made at the time was that the land had deteriorated to such a point that unless something was done, in essence it would become useless. I think that was a reasonable kind of classification. So the statement, for example, that land is poor has absolutely no meaning to me whatsoever. Or it is bad—does not mean that no matter what you do to the land, it will always be bad?

That particular land, if properly managed, can probably become fair 10 years from now, and so forth. So the categorization, I think, perhaps there is a purpose, but with someone who is not familiar with the area, it has no purpose whatsoever.

A final question, if I may. You say that 19 percent of the land is improving; 16 percent of the land is declining. What factors cause land to improve, and to decline, beyond that which is obvious? Is this improvement because of something the Federal Government is doing, something the Federal Government is not doing, or what?

Mr. ALDERSON. It can be a variety of factors. The things that the range management profession aims to do is improve the land. For one thing, you could adjust the grazing of the land to the capacity it can stand year after year. Of course, the number of cattle or sheep

you allow on it, the time of year you allow them on it, how long you allow it, the range improvements that have been talked about earlier can result in improvement. You can do things with rest rotation grazing systems that distribute cattle use and give the land a time to rest at seed time or other appropriate time; the placement of water in places to get the cattle distributed better around the range in unused areas; the distribution of salt; the drifting of the cattle—to have an employee go out there and drift them away from the water where they always congregate.

There are many, many techniques that can be used to improve it.

Mr. TSONGAS. Who is imposing the techniques? Private enterprise? The government? At which level, government?

Mr. ALDERSON. Since it is public land, it is the responsibility of Bureau of Land Management to make sure that these things are done But some of them, such as the salt placement and the drifting of the cattle out, would be done by the permitee.

In other cases, such as range improvements, they can be done by the government. But many are done under a cooperative program where the costs are shared between the Federal Government and the permittee.

Mr. TSONGAS. Thank you.

Mr. STEIGER. I just cannot let the record stand. I think the gentleman asked some excellent questions. The witness's response of deterioration is the result of many factors is a fair response. The gentleman's specific question about who is responsible, the Federal Government or private enterprise, is really at the heart of our effort here. Everybody, with the apparent exception of the Wilderness Society, agrees that the improvements are the result of absolute cooperation between the two segments that you mentioned. And even with that cooperation, some areas—as you anticipate—the range will continue to be bad, or poor, or whatever.

But what is absolutely essential is the combination of the stewardship of the Government and the practical on-site management by private enterprise. That is why it is a delicate relationship, and I do not think anybody can say absent one that one or the other is deficient. That is one reason why the particular area is deficient.

Clearly without the equal input of both——

Mr. ALDERSON. We do not disagree with that. My statement was that the Bureau of Land Management is the agency charged with the basic responsibility to make sure it is done.

Mr. Chairman, I really request an opportunity——

Mr. MELCHER. Does the gentleman from Massachusetts have any more questions?

Mr. TSONGAS. No.

Mr. MELCHER. I have some questions.

The point that you speak of on page 7, item 2—would you consider the Secretary's decision to change the land with C. M. Russell Game Range and others from the jurisdiction of the Fish and Wildlife Service to the BLM—would you consider that to be a withdrawal?

Mr. ALDERSON. I do not consider it a withdrawal by itself, no.

Mr. Chairman, Mr. Steiger misrepresented the views——

Mr. MELCHER. Do you see any relevancy between that decision on the part of the Secretary, and what the subcommittee was trying to address itself to in section 204 of the committee print when we said that withdrawals or changes in the pattern of land management over 5,000 acres would be subject to congressional review? You do not see any relevancy between the two actions and what we are trying to address ourselves to in section 204?

Mr. ALDERSON. I do not believe that the Secretary's action on the game ranges qualifies under that provision as a withdrawal. It is certainly relevant.

Mr. MELCHER. I think we are going to have some problems then in communication, because that is specifically what we were talking about, and that is specifically what I described to you and many others representing the environmental groups when we met on at least two occasions last summer. And I was assured by your organization and other environmental groups that you had no fear of this and had no problem with it.

Now we would be interested, when we get into subsequent hearings, what your organization which had protested about this decision made by the Secretary—what your organization will recommend in the bill. But I can assure you that that is exactly what the subcommittee was addressing itself to in this section—the very point that you are now objecting to.

When the Secretary makes a decision, we say it should be the responsibility of Congress. The Committee is at least going to agree that that is the responsibility of the Congress. We are going to have changes of the land management policy on public lands. We think they should be directed by Congress and reviewed by Congress, and the decision not made by the executive branch alone.

I know you wanted to say something in response to the gentleman on my right.

Mr. ALDERSON. Thank you.

I wanted to clarify our position on that. We also do not favor the dual administration of those wildlife ranges, but our solution is different than Mr. Steiger's. Our proposal is to assign those to the Fish and Wildlife Service instead of BLM.

Mr. MELCHER. I think our solution in the subcommittees was that we think we ought to have congressional direction on broad, sweeping land management decisions.

Well thank you very much. We will be looking forward to further testimony from you when we take up the hearings on all aspects later on. Hopefully, early in April.

Mr. ALDERSON. Thank you.

Mr. MELCHER. Our next and last witness this morning, since Mr. Garrett cannot be here, is Karl Landstrom. Without objection, the statements of Mr. Spencer Smith, representing the Citizens Committee on Natural Resources, and Mr. Charles Clusen, representing the Sierra Club, will be made a part of the record at this point.

Hearing no objection, so ordered.

[The prepared statements of Mr. Spencer Smith and Mr. Charles Clusen follow:]

STATEMENT BY DR. SPENCER M. SMITH, JR., CITIZENS COMMITTEE ON NATURAL RESOURCES, WASHINGTON, D.C.

Mr. Chairman and Members of the Committee: I am Spencer M. Smith, Jr., Secretary, Citizens Committee on Natural Resources, a national conservation organization with offices in Washington, D.C.

The present grazing fee system was established by the 1966 Western Wide Livestock Grazing Survey to be effective in 1969. This survey used a ten increment schedule to adjust the actual 1966 fee to the 1966 fair market value. The specific fee adjustments resulted in a fee of $1.23 per AUM, a raise of 72 cents (.072 per increment), for all National Forest Lands and 90 cents (.09 per increment) for all BLM lands.

Each year an adjustment will be made based on the index of Private Grazing Land Lease rates for 11 Western States. By 1980 a fee for sheep and cattle will be the same for both National Forest Lands and BLM lands. The system was implemented as scheduled in each year, starting in 1969 and concluding in 1974 with the exception of 1970, which found a moratorium placed on any increases and in 1972, which found an increase of 30% above the 1971 schedule.

Both the consideration of the Public Lands Act and the recommendation by Secretaries Morton and Butz to reduce the grazing fees for the next season has focused attention again upon the means and equity of such fees.

Our own attitude is that no reduction of such fees is in order. The difficulty of grazers is real and in all probability should be seriously considered but in another context. A subsidy to the grazers by reducing fees creates more inequities than it corrects. It benefits only a few and then by reason of location not on the basis of need. Additionally the benefits can be extended to only a small percentage of grazers. Some have contended that the reduced fees in reality would constitute a regressive tax.

Actually the parameters are more extensive than just the above. Any fee must be fair to the public not only because a fair return to the property owner (the public) is in order, but to maintain the public lands to a standard required for long term use. Additionally, the permittee should not be placed in a competitive advantage with non permittees.

A summation of equity in this matter perhaps was most succinctly put by a Forest Service release: "Fair market value is a measure of equity between permittees and the public and between permittees and those ranchers who use private grazing land."

STATEMENT OF CHARLES M. CLUSEN, A WASHINGTON REPRESENTATIVE OF THE SIERRA CLUB

The Sierra Club and other conservation groups have pointed to the critical condition of the public lands due to improper use and overgrazing for many years as one of the most crucial public land management problems. At times some people have not believed the problem to exist. However, the Bureau of Senate Committee on Appropriations and the report entitled "Effects of Livestock Grazing on Wildlife, Watershed, Recreation and Other Resource Values Land Management has in the past few months prepared and released two reports which document this problem. While the declining condition of these lands was cited in the Public Land Statistics as far back as 1955, the "Range Condition Report" prepared by the Bureau of Land Management for the in Nevada have both documented the problem and brought great public attention to it. The "Range Condition Report" indicates that only 28 million acres or 17 per cent of the public grazing lands are in satisfactory or better condition. Some 135 million acres, or 83 per cent, are in some unsatisfactory category. In fact, 54 million acres, or 33 per cent, are in poor or bad condition—an area roughly the size of the entire state of Utah. Further analysis shows that 16 per cent of range conditions are declining with only 19 per cent improving. While the general rangeland condition reached its most critical level at about the time of the passage of the Taylor Grazing Act in the 1930's, subsequent management has only slowed the rate of decline and has only reversed it on the 16 per cent, or 25 million acres. According to the "Range Condition Report," the rangeland will continue to deteriorate—"projections

indicate that in 25 years productive capability could decrease by as much as 25 per cent . . . losses will be suffered in terms of erosion, water quality deterioration, downstream flooding, loss of wildlife and recreation values, and decline in basic productive capability."

Of tremendous concern to some people in the western states is "the possible loss of livestock grazing privileges resulting in local economic disruption" as a result of this land deterioration.

The report further states, "Stabilization of the basic soil mantle from which all renewable resources are permeated is of primary importance in management of surface use of the public lands. At present only slightly more than half of the public lands is in satisfactory erosion condition." The report goes on to say that the remainder, over 60 million acres, is in an "unacceptable condition because of depleted vegetation and excessive runoff." It is estimated that another 11 or 12 million acres will deteriorate to an unacceptable condition within 25 years.

One of the findings of the Nevada report states, "Full consideration was not given to wildlife in the subsequent development of range management plans and facilities." Another finding found that of 883 miles of streambank riparian habitat identified "livestock grazing is having an adverse effect." Furthermore, another finding states, "Protection and enhancement of wildlife, aesthetic, recreation and cultural values have not had sufficient emphasis in the past during range improvement construction." The discussion of this finding starts by saying, "Range improvement projects, such as fencing, water development, vegetative manipulation projects and roads, have had an adverse effect on wildlife, aesthetic, recreation and cultural values." When Director Berklund issued the first printing of the report, he stated that similar problems existed in other states as well.

Between 1968 and 1973 increases in the amount of unsatisfactory habitat occurred as follows:

	Percentage of unsatisfactory habitat	
	1968	1973
Big game	38	47
Small game	21	38
Waterfowl	14	37
Streams	30	41

Clearly poor grazing management has been especially severe on wildlife as these statistics show. There has been a very rapid decline in wildlife habitat. These statistics come from a paper entitled "The BLM's Wildlife Program Missions, Challenges, and Funding Levels."

This very poor situation exists in spite of the fact that BLM lands have, potentially, extremely significant wildlife values. Thirty-three endangered species are found on BLM lands. But less than one cent per acre is spent by BLM on all wildlife—the average area each BLM professional biologist must cover in seven million acres.

Because of these deplorable conditions we commend the Public Lands Subcommittee for examining this area. While the Sierra Club strongly supports the use of appropriate public lands for livestock grazing, it must be done as part of a well-balanced multiple use program under the principles of sustained yield and conservation. It is absolutely vital to improve the management of these lands—environmental quality and local economies are at stake. All uses of these lands in the long run are dependent on the health of the land.

I now would like to address the provisions of the grazing section of Subcommittee Print #1. The Sierra Club has no objection to the enactment of a stautory grazing fee formula, if resulting fees are comparable or greater than fees paid for the grazing of equivalent private rangeland. We do not believe that the federal government should be subsidizing those who happen to have federal grazing privileges. The fee formula in Subcommittee Print #1 likely will fluctuate widely with the rather varying price of beef. We oppose the inclusion of the beef price index in the fee formula.

We very strongly object to the mandatory issuance of 10-year permits and their automatic renewal. The program the BLM is embarked with of granting longer permits where the Allotment Management Plan is instituted we believe to be a good system. To do it before lands are changed over to the AMP program in any case will likely result in great confusion. Furthermore, the granting of a longer permit is an additional special privilege that now serves a critical role of being an incentive to livestock operators to cooperate with proper land management programs.

The automatic renewal of permits is in effect granting a 20-year permit and is untenable. This is granting a "right" to livestock operators which no other user of the public lands has. These are public lands, and no proprietary right should be granted to any private interest. We vigorously oppose this provision.

We also oppose the section on Grazing District Advisory Boards, Section 212, which exempts the district advisory boards from Section 14 of the Federal Advisory Committee Act. This provision would insure that these boards continue to be pressure lobbies for solely the livestock industry's concerns. We feel BLM has recently made significant progress in reforming these boards by better balancing the various public interests. If district boards are to continue to exist, they must reflect a balance of all the interests in the public lands from the local, regional, and national level.

We appreciate this opportunity to present our views.

Mr. MELCHER. We are glad to have you before the subcommittee again.

Mr. LANDSTROM. Thank you, Mr. Chairman.

If you have no objection, I would appreciate that the whole statement would be put in the record and I will cite several points.

Mr. MELCHER. Without objection, Mr. Landstrom's entire statement will be part of the record at this point.

Without objection, so ordered.

Please proceed.

[The prepared statement of Karl S. Landstrom follows:]

STATEMENT OF KARL S. LANDSTROM OF ARLINGTON, VA.

In accordance with the Subcommittee's announcement, my statement at this time will be confined mainly to the grazing resources aspects of the pending legislation. At a later time I shall ask permission to testify on other aspects, including the matter of the proposed "recordable disclaimers of interest in land". This subject is vital to the interests of a group of my clients whom I represented as legislative counsel before this Subcommittee last year when this legislation was being considered.

The fact that the legislation would leave much of the "Taylor Grazing Act" intact undoubtedly should be attributed to the wisdom of the author of that Act and his colleagues who were instrumental in enacting it into law. This phenomenon arises largely from the fact that the Act is not merely a "Grazing Act" but also a conservation Act. The Act included provisions which have operated reasonably well for certain non-grazing matters such as (1) protection of the basic land resources from deterioration; (2) withdrawal of district lands from the operation of the land disposal laws; (3) inventory and classification of the lands; (4) land sales and exchanges; and (5) continuation of public hunting and fishing.

The new legislation would declare new policies and principles for the BLM-administered lands. (Incidentally it is not clear whether the "O&C" and Coos Bay Wagon Road lands in Oregon would be included). However its repeal sections fail, I believe, to repeal all of the existing policy declarations that would be superseded. Among those existing statements is the "preamble" to the Taylor Act (the first few words of Sec. 1 of the Act). These words ("in order to promote the highest use of the public lands pending its final disposal") have caused untold controversy. My recommendation is that they be expressly repealed in the pending bill.

The pending legislation, wisely in my judgment, relies upon the standard concept of "multiple use management" as the keystone in its structure for public land administration. Grazing use is recognized, as it should be, as one of many purposes for which the system as a whole, or any planning unit therein, may be managed.

(I note in passing that in Committee Print No. 1, the definition of "multiple use"—which should read "multiple use management"—makes reference to "mineral resources of the National Forest System". This seems to be in error, inasmuch as the Print's definition of public lands to which the legislation will generally apply omits any coverage of any national forest lands).

May I now turn to the specific sections of the legislation which would apply to grazing.

The grazing fees section would arbitrarily set the so-called "fair market value" of grazing use on the far-flung and extremely varied BLM range lands at a price, not less than $2 per animal unit month, to be fixed according to a price-index adjustment upon a base consisting of the 1966 valuation established in the Interior-Agriculture grazing fee study. I say that any such legislation would amount to a prostitution of the term "fair market value." I say this for two main reasons.

The first reason is that "fair market value"—at least in the professional sense in the appraisal profession—means a value fixed professionally, based on consideration of the most recent actual market transactions which are representative of the value being appraised. The 1966 survey is too far out-of-date to satisfy this criterion and its obsolete character cannot be compensated for by the proposed system of adjustment.

The second reason is that "fair market value" does or should refer to valuations which take regional, district, local or individual differences of value into account. No single grazing fee, established in Washington, D.C. for nationwide application can possibly meet this very essential criterion.

My advice is to amend the grazing fees sections so as to require that the charges to be collected shall be set professionally by qualified appraisers at periodic intervals, based on market evidence of value under grazing situations which are similar to those for which the appraisals are being made. I have long believed that, at least for some situations, BLM should be authorized and directed to enter into long-term grazing contracts and that the level of the grazing fees should be subject to negotiation, after appraisal, along with the other elements in the negotiation of the grazing contract. Only in this way can the grazing management system be adapted to fit the vastly differing circumstances which are found upon the lands, rather than attempting to adapt the actual situations on the land to some preconceived and arbitrary formula enunciated in Washington.

The grazing fee section also would earmark 50 pct. of the grazing receipts to be spent for range rehabilitation, protection and improvement. I believe that the exsiting arrangement under which a portion of the grazing receipts is treated as a "use fee" and another portion is treated as a "range improvement fee" is derived from a faulty concept of governmental finance. The basic idea seems to have been that by earmarking some of the receipts, such receipts can be guaranteed to be used for the designated purposes as an extension or enlargement of the base rate at which such purpose theretofore had been or otherwise would be financed. My. experience and observation is, that all too often the earmarked funds have amounted to a ceiling on the over-all rate of spending for the particular purpose. All to often the purpose supposedly favored with the earmarked funds ends up with less over-all funds than would otherwise be the case. At least the existence of earmarked funds complicates the accounting for funds, and, much more importantly, the management and budgeting processes.

I would rather see all grazing receipts go into the general Treasury funds and rely upon the modernized budgeting processes in which the Congress will now play a larger and perhaps predominant part.

One of the grazing sections of the Print provides limits on the duration of grazing permits and leases. These proposed limits, as in the case of the fees, would apply to national forest lands as well as BLM lands. The language wisely requires that any permit or lease incorporate an allotment management plan if one is available. It is also wise that the agencies are to be authorized to cancel, suspend or modify a grazing permit or lease for cause.

In respect to the course of events that will be followed in case the grazing use must be terminated in order to accommodate some other use, including title disposal, the language of the Print seems to be unclear. Specifically, it is not clear—at least not to me—whether the compensation to be paid to the permittee is to be limited to the market value of his loss of interest in authorized permanent improvements which he has constructed, or whether it shall also include the market value of the loss of the grazing use. If it is to include only the former—loss of improvements—then I heartily endorse the proposal, as I have similar proposals going back at least to 1961. (As the Subcommittee knows, a provision requiring a new permittee to reimburse the former permittee for improvements, in case of a sale of base property, has been in the Taylor Act right along; and the Department, by regulation, has extended this same principle to cases where usable grazing improvements pass to the title of homesteaders or others who acquire title to public lands).

If it is the intention of the Print to allow payments for loss of grazing use, I oppose such intention. The main reason for my opposition is that under the law and the regulations the grazing use has been subject to termination "for a higher use" at all times—and this fact has been acknowledged repeatedly by leaders of the grazing industry. Any expectation that the contrary was the case, or that the Government would or should reimburse the user in case of such termination, was and is, in my judgment, mainly wishful thinking which is not justified in the circumstances. Consequently I believe that the use of Federal funds for this purpose is not warranted.

The better solution to this problem of termination, as well as to the grazing fee question, is as I have indicated above—that is, to authorize and direct the Departments, wherever feasible, to enter into long-term negotiated grazing contracts which are binding upon the Government as well as upon the grazing user. Under such a contract, the terms would provide for payment of damages by the Government in case of premature termination, without cause. To be sure, such a system of contracts might not fit all of the highly varied grazing situations. But I believe it would fit at least some of them, and I believe the time is long since come to give it a trial.

Turning finally to the advisory board question, I have a great deal of respect for the Taylor Act style of district board. It has been successful and it has historical importance. However it was based on the limited concept of the grazing use of the public lands—not on the more modern or current concept of multiple use management. I am convinced that the basic advisory organizational unit at each level—district, State, regional or national—must be representative of all important land uses. There can be no objection of which I am aware to setting up subgroups within the basic boards, such as for grazing; and I offer this idea as a way to proceed in the Committee Print.

Before closing, I have a few remarks regarding the current controversy as to the proper bureau-level administration of several of the game ranges—the Kofa Game Range, the Charles Sheldon Antelope Range, and the Charles M. Russell National Wildlife Range. I have visited the Russell area, and I have some background of personal experience concerning its management.

I recall that a campaign was under way about 1962 to transfer the grazing management of the Russell Range from BLM to the Bureau of Sport Fisheries and Wildlife. Some vicious and unfounded charges were made against some of the BLM offices and personnel in Montana. I was personally attacked by some of the Wildlife Service personnel and their supporters when I pointed out the falsity of some of the charges.

Secretary Morton and his staff have made a good case for consolidation and simplification of administration without essential change in legal status or policy of management. About the only substantive argument that has been made on the other side is that BLM might not protect the wildlife resources because its people have not been "particularly noted for zealously conserving and protecting wildlife." I would say this *ad-hominen* type of argument is inapplicable now as it was in 1962. The BLM management people by and large come from educational backgrounds similar to those of the FWS people. Many of them belong to the same professional organizations. I know of no valid reason they cannot carry out the laws, regulations and policies effectively and faithfully.

Demand has been made that the reorganization be withheld pending the issuance of an environmental impact statement. This seem far-fetched inasmuch as the impact on the environment should be nil. But we know that the environmental impact requirement of NEPA is being generally perverted.

Thank you, Mr. Chairman, for considering my statement.

STATEMENT OF KARL S. LANDSTROM

Mr. LANDSTROM. I have seven points here, and I will list them and say a few words. The statement speaks for itself on it.

The first really is that I would like to see several words in the Taylor Grazing Act repealed. That is the so-called preamble to the act. I do not think your bill does that. As I say, those 15 words have caused untoward controversy. They would be totally superceded by the policy declarations you are making. I think that you ought to, therefore, do that. There should be a search of other like obsolete policy statement in other statutes. So to make sure that we do not have a conflict in a statutory statement of policy.

I made a study along those lines on the subject of mineral resources a couple of years ago for the Mineral Policy Commission and found repeatedly that there had been new declarations piled on the top of old ones without the efforts to repeal the old ones, and I draw that to your attention.

The second is I think it is very wise to rely upon the standard concept of multiple-use management. I have to differ with my friend, George Alderson. I think that concept should and does include all resources, both mineral and nonmineral, and it is proper that they be integrated.

The third point on grazing fees, I think that it would be wrong to use the term "fair market value" as the committee print in last year's bill does, and perverted, or, shall I say, abused it in making it into an arbitrary finding by the Congress, as I say, or by the administrator on a uniform basis across the country. I just do not think that that can be so. I think a fair market value must be individually appraised by a professional appraiser to take into account all the differences. I realize that is a pretty large order.

I just feel that you cannot have a single rule for all the conditions in West and have it be fair and reputable.

The third point is on the allocation of the grazing receipts. On page 3 in my statement about halfway down, I think that it would be better not to earmark any of these receipts for any particular purpose. I think this is something sort of fundamental with me, that the Government, generally, should not form a practice of earmarking any of its receipts. I think that it would be much better, from a budgetary and financial management viewpoint, to have the receipts come into the Treasury. I see that the Congress is now making more control of the budgeting and financial side, and one of the benefits——

Mr. STEIGER. Excuse me, I do not mean to interrupt.

What was the first evidence of that?

Mr. LANDSTROM. It is in the future. It is in process. It is supposed to work that way, and if it does work that way, one of the benefits should be that we can do away with the notion of earmarking receipts for certain purposes which prevents the operation of Congress in managing the financial affairs of the Government.

My experience is, when you earmark funds for something, you do not really help it get above its preexisting base, or the base that would otherwise be established. What you would do is put a ceiling on the amount that is available, and you prevent the allocation of other funds that should be made available because they will point to this ceiling that you have already established. This was certainly true of the grazing improvement fund.

The fourth point has to do with tenure. The bill is not too clear to me; I do not know whether the compensation would be only for the loss of the rancher's contribution to range improvements at its fair value, or whether it would go ahead and give compensation for the loss of the use privilege. As far as compensation for improvements, I am all for that and have been for years.

When I was director of BLM in 1961–1963, we sponsored a proposal to do exactly that, which was not passed by the Congress. Now, it comes to compensation for loss of use; I am opposed to that because I do not think there is any basis of that, inasmuch as the laws, alone, have provided that there can be a termination of the privilege at any time for so-called high use and the leaders in the grazing industry have always recognized this.

It would be kind of wishful thinking to expect expectations of a war emergency or some drastic change of that type, totally unforeseen, to give such compensation.

So the solution I suggest perhaps goes even beyond Congressman Steiger's idea of the 10-year permit. I have preferred for many years—and I have said so when I used to be Bureau Director—a firm grazing contract. I am saying along the lines, much like a mineral lease, or any other kind of commercial use you can think of, of Federal property where we have a firm contract, which has a definite period of use. I think 20 or 30 years, not 10; because I think you cannot properly manage a ranch on even a 10-year schedule. It must be longer than that to provide adequate management responsibility, and if there is a premature cancellation of a contract, of course, you should be compensated for the amount that is owed, and the fee, I suggest, should be negotiated as part of the long-term contract.

Turning now to the advisory board's question, I offer kind of a compromise here, which is that you have basically a multiple-use advisory board at each level, but that you allow subgroups or subcommittees, so to speak, one of those may specialize on grazing. That might be a way to get around the dilemma that is facing you.

Now, the last page of my statement does deal with this change of administration of these various game rangers that has been alluded to already this morning. Again, I differ with my good friend, George Alderson, completely. I had some personal experience with this sort of thing, because I was victimized when I was Director of the Bureau in 1962, and I was personally attacked along with BLM personnel and some of subordinates in Montana who were managing grazing lands at that time on what I style an ad-hominen basis, and I suspect that there is a renewal of that same kind of argument, based upon some notion that people in one bureau, although they come from the same backgrounds, have had the same college training, belong to the

same professional societies, you could not tell them apart, really, like peas in a pod, but somehow, because they are in BLM, they are incompetent. I just reject that.

Furthermore, both bureaus are under the same Secretary, the same Secretariat, and I think are capable, either one of them, of performing the functions. So, I, therefore, support the proposal by Secretary Morton to consolidate and simplify the administration.

Thank you very much.

Mr. MELCHER. I respect your long years of experience in matters of government, particularly with the BLM. I am a little bit amazed to hear you say that as far as getting money for a specific purpose, you would rather rely on the ordinary budgeting process to provide that for you. My experience is very much contrary to that if it is for a purpose that is to benefit a geographic area without very many votes, and if it is for a purpose that is not readily understood by very many people, and, frankly, only a handful, a couple of handsful of people from the House of Representatives.

I wonder why you would think, under the restraints that we have on finding appropriations, why you would feel confident that there would be appropriations for range improvements outside of the earmarking process?

Mr. LANDSTROM. I suppose it comes from my own experience testifying before the Appropriations Committees. There were times where it was pointed out to me that if we had the range improvement fund, that is all we were going to get, and we needed several more thousands, and it took representatives from Western States from both Houses to break that ice jam in 1968 and supersede it. Now, that you are going to have 50 percent or some such percentage of a much larger fund, you may raise it. I do not know the financial numbers. If you do, then, perhaps, you have it made. But perhaps my makeup is more fundamental than that. But I just do not believe in earmarking funds, generally.

Mr. MELCHER. Having lived in a sparsely populated county and in a large State and serving in the legislature, I long ago learned through my experience, that unless you put something down for your area, you did not get it in the House. That is still true in the Congress; if you want anything in this Nation, I do not think you will find it in the appropriations process, at least to the extent that we need it.

I do want to point out that it is the intention, that the bill is drafted that all the range improvements funds will be used for actual range improvements not for salaries, not for overhead, expenses, et cetera.

The gentleman from Oregon.

Mr. WEAVER. Yes, Mr. Landstrom, I would just like to point out, regarding your testimony, that the lands of Oregon are extricated from these provisions.

No further questions.

Mr. MELCHER. The gentleman from Arizona.

Mr. STEIGER. Thank you, Mr. Chairman. Just one question.

I agree that the compensation for the unused portion of the lease is new ground, and I will stipulate to that. I note, on the other hand,

personally, that you are not opposed to new ground, per se. The rationale is not belief; it has some very real, I think, rationale for it; that is, in order to encourage the greatest financial involvement in range improvement and to make the stewardship fiscally feasible that this particular provision is a valuable one. As a practical matter, as you realize, it will only be invoked when the cancellation is for some unforeseen event. It will not be invoked if the cancellation is in violation of the permit.

So, as a practical matter, it is not going to be invoked very often, but it will give, of course, a whole spectrum of permits. It will encourage investment that might not be encouraged otherwise. So, in effect, it will do no harm and could do a great deal of good. At least, that is the thinking of the committee.

Mr. LANDSTROM. As I say, I will go along with it fully with the compensation for investment in range improvement.

Mr. STEIGER. I understand.

Mr. LANDSTROM. Because of certain reasons.

Mr. STEIGER. Thank you, Mr. Chairman.

Mr. MELCHER. The gentleman from Nevada.

Mr. SANTINI. No questions.

I would like to commend the gentleman for his keen interest and involvement in this subject of vital concern to all of us on the committee, and many pass from the administration into oblivion. You obviously are using your considerable talents in this area, and I appreciate it.

Mr. MELCHER. Anything but oblivion. You are very much in evidence, and we very much appreciate your testifying before us this morning. We look forward to hearing again from you when we take up other aspects.

Mr. LANDSTROM. Thank you, Mr. Chairman.

Mr. MELCHER. The subcommittee will adjourn until 10 a.m. tomorrow.

[Whereupon, at 12:15 p.m., the subcommittee recessed to reconvene at 10 a.m., March 25, 1975.]

PUBLIC LAND POLICY AND MANAGEMENT ACT OF 1975

TUESDAY, MARCH 25, 1975

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON PUBLIC LANDS OF THE
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice at 10 a.m. in room 340, Cannon House Office Building, Hon. John Melcher presiding.

Present: Representative Melcher (presiding), Johnson, Santini, Udall, and Young.

Also present: James Rock and Irving Senzel.

Mr. MELCHER. The subcommittee will come to order. We are going to continue our public hearings on the Land Management Act.

We now have before us H.R. 5224 introduced by our colleague on the full committee, Mr. Ruppe, which I understand is the administration bill Mr. Ruppe introduce by request. Of course, we are also working off of subcommittee print No. 1.

Might I ask, are there more copies of subcommittee print No. 1?

Mr. JOHNSON. I think there are about 50. We ordered some more but they are not back yet.

Mr. MELCHER. There are 50 available and there will be more coming?

Mr. JOHNSON. That is right.

[H.R. 5224 and subcommittee print No. 1, follow:]

94TH CONGRESS
1ST SESSION

H. R. 5224

IN THE HOUSE OF REPRESENTATIVES

MARCH 19, 1975

Mr. RUPPE (by request) introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To provide for the management, protection, and development of the national resource lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Resource Lands Management Act".

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Sec. 504. Repeal of laws relating to administration of national resource lands.
Sec. 505. Repeal of laws relating to rights-of-way.

DEFINITIONS

SEC. 2. As used in this Act:

(a) "The Secretary" means the Secretary of the Interior.

(b) "National resource lands" means all lands and interests in lands (including the renewable and nonrenewable resources thereof) now or hereafter administered by the Secretary through the Bureau of Land Management, except the Outer Continental Shelf.

(c) "Multiple use" means the management of the national resource lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, and harmonious and coordinated management of the various resource without undue impairment of the productivity of the land and the quality of the environment, with consideration being given to the relative values of the resources and not necessarily

to the combination of uses that will give the greatest dollar return or the greatest unit output.

(d) "Sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of land without permanent impairment of the quality and productivity of the land or its environmental values.

(e) "Areas of critical environmental concern" means areas within the national resource lands where special management attention is required when such areas are developed or used to protect, or where no development is required to prevent irreparable damage to, important historic, cultural, or scenic values, or natural systems or processes, or life and safety as a result of natural hazards.

(f) "Right-of-way" means an easement, lease, permit, or license to occupy, use, or traverse national resource lands granted for the purposes listed in title IV of this Act.

(g) "Holder" means any State or local governmental entity or agency, individual, partnership, corporation, association, or other business entity receiving or using a right-of-way under title IV of this Act.

DECLARATION OF POLICY

SEC. 3. (a) Congress hereby declares that—

(1) the national resource lands are a vital national asset containing a wide variety of natural resource values;

(2) sound, long-term management of the national resource lands is vital to the maintenance of a livable environment and essential to the well-being of the American people;

(3) the national interest will be best realized if the national resource lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process coordinated with other Federal, State, and local planning efforts; and

(4) except where disposal of particular tracts is made in accordance with title II, and other applicable laws, the national interest will be best served by retaining the national resource lands in Federal ownership.

(b) Congress hereby directs that the Secretary shall manage the national resource lands under principles of multiple use and sustained yield in a manner which will, using all practicable means and measures, assure consideration of: (i) the environmental quality of such lands to assure their continued value for present and future generations; (ii) such uses as provision of food and habitat for wildlife, fish, and domestic animals, minerals, materials, and energy production, supplying the products of trees and plants, human occupancy and use, and various forms of outdoor recreation, or other uses; (iii) scientific, scenic, historical, archeologi-

cal, natural ecological, air and atmospheric, water resource, and other public values; (iv) continuation of certain areas in their natural condition, and to assure; (v) evaluating of various demands on such lands in light of national goals; (vi) payment of fair market value by users of such lands except as otherwise provided by law; (vii) opportunity for the public to participate in decisionmaking concerning such lands; and (viii) consultation, cooperation, and, to the maximum extent practicable, coordination of his activities with other interested Federal agencies.

RULES AND REGULATIONS

SEC. 4. The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this Act. The promulgation of such rules and regulations shall be governed by the Administrative Procedure Act (5 U.S.C. 553). Prior to the promulgation of such rules and regulations, the national resource lands shall be administered under existing rules and regulations concerning such lands.

PUBLIC PARTICIPATION

SEC. 5. In exercising his authorities under this Act, the Secretary, by regulation, shall establish procedures, including public hearings where appropriate, to give the Federal, State, and local governments and the public adequate notice and an opportunity to comment upon the formulation of

standards and criteria for the preparation and execution of plans and programs concerning, and in the management of, the national resource lands.

ADVISORY BOARDS AND COMMITTEES

SEC. 6. In providing for public participation in planning and programing for the national resource lands, the Secretary, pursuant to the Federal Advisory Committee Act (86 Stat. 770) and other applicable law, may establish and consult such advisory boards and committees as he deems necessary to secure full information and advice on the execution of his responsibilities. The membership of such boards and committees shall be representative of a cross section of groups interested in the management of the national resource lands and the various types of use and enjoyment of such lands.

ANNUAL REPORT

SEC. 7. The Secretary shall prepare an annual report which he shall make available to the public and submit to Congress no later than one hundred and twenty days after the close of each fiscal year. The report shall describe, in appropriate detail, activities relating or pursuant to this Act for the fiscal year just ended, any problems which may have arisen concerning such activities, and other pertinent information which will assist the accomplishment of the provisions and purposes of this Act. The report shall contain a detailed

list and description of all transfers of national resource lands out of Federal ownership for the fiscal year just ended. It shall include such tables, graphs, and illustrations as will adequately reflect the fiscal year's activities, historical trends, and future projections relating to the national resource lands.

DIRECTOR

SEC. 8. Appointments made on or after the date of the enactment of this Act to the position of the Director of the Bureau of Land Management, within the Department of the Interior, shall be made by the President, by and with the advice and consent of the Senate.

APPROPRIATIONS

SEC. 9. There is hereby authorized to be appropriated such sums as are necessary to carry out the purposes and provisions of this Act.

TITLE I—GENERAL MANAGEMENT AUTHORITY

MANAGEMENT

SEC. 101. The Secretary shall manage the national resource lands in accordance with the policies and procedures of this Act and with any land use plans which he has prepared, pursuant to section 103 of this Act, except to the extent that other applicable law provides otherwise. Such management shall include—

(1) regulating, through permits, licenses, leases, or such other instruments as the Secretary deems appro-

priate, the use, occupancy, or development of the national resource lands not provided for by other laws: *Provided, however,* That no provision of this Act shall be construed as authorizing the Secretary to require any Federal permit to hunt or fish on the national resource lands;

(2) requiring appropriate land reclamation as a condition of use, and requiring performance bonds or other security guaranteeing such reclamation in a timely manner from any person permitted to engage in an extractive or other activity likely to entail significant disturbance to or alteration of the national resource lands;

(3) the prompt development of regulations for the protection of areas of critical environment concern.

INVENTORY

SEC. 102. (a) The Secretary shall prepare and maintain on a continuing basis an inventory of all national resource lands, and their resource and other values (including outdoor recreation and scenic values) giving priority to areas of critical environmental concern. Areas containing wilderness characteristics as described in section 2(c) (1), (2), and (4) of the Act of September 3, 1964 (78 Stat. 890) shall be identified: *Provided,* That such areas be comprised of fifty thousand contiguous, roadless acres or more.

The inventory shall be kept current so as to reflect changes in conditions and in identifications of resource and other values. The preparation and maintenance of such inventory or the identification of such areas shall not, of itself, change or prevent change in the management or use of national resource lands.

(b) The Secretary, where he determines it to be appropriate, may provide (i) means of public identification of national resource lands, including signs and maps, and (ii) State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in the proximity of national resource lands.

LAND USE PLANS

SEC. 103. (a) The Secretary shall, with public participation, develop, maintain, and, when appropriate, revise land use plans for the national resource lands consistent with the terms and conditions of this Act and coordinated so far as he finds feasible and proper, or as may be required by law.

(b) In the development and maintenance of land use plans, the Secretary shall:

(1) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and social sciences;

(2) give high priority to the designation and protection of areas of critical environmental concern;

(3) rely, to the extent it is available, on the inventory of the national resource lands, their resources, and other values;

(4) consider present and potential uses of the lands;

(5) consider the relative values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(6) weigh long-term public benefits; and

(7) consider the requirements of applicable pollution control laws including State or Federal air or water quality standards, noise standards, and implementation plans.

(c) Any classification of national resource lands in effect on the date of enactment of this Act is subject to review in the land use planning process and such lands are subject to inclusion in land use plans pursuant to this section.

(d) Wherever any proposed change in the classification of, or permitted uses on, any national resource lands would affect authorization for use of such lands, persons holding leases, licenses, or permits concerning the use to be affected shall be given written notice by the Secretary of such proposed change at least sixty days before it is put into effect.

(e) Areas identified pursuant to section 102 as having wilderness characteristics shall be reviewed pursuant to the procedures set forth in subsections 3 (c) and (d) of the Act of September 3, 1964 (78 Stat. 892–893). The review procedures shall include mineral resource surveys by the United States Geological Survey and the Bureau of Mines: *Provided, however,* That such review shall not, of itself either change or prevent change in the management or use of the national resource lands.

TITLE II—CONVEYANCE AND ACQUISITION AUTHORITIES

AUTHORITY TO SELL

SEC. 201. Except as otherwise provided by law, and subject to the requirements of section 3 of this Act, the Secretary is authorized to sell national resource lands. The national resource lands may be sold if the Secretary, in accordance with the guidelines he has established for sale of national resource lands and after preparation, pursuant to section 103 of this Act, of a land use plan which includes any tract of such lands identified for sale, determines that the sale of such tract will not cause needless degradation of the environment and meets the disposal criteria of section 202 of this Act.

DISPOSAL CRITERIA

SEC. 202. (a) A tract of national resource lands may be transferred out of Federal ownership under this Act only

where, as a result of land use planning required under section 103, the Secretary determines that—

(1) such tract of national resource lands, because of its location and other characteristics, is difficult to manage as part of the national resource lands and is not suitable for management by another Federal agency; or

(2) such tract of national resource lands was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(3) disposal of such tract of national resource lands will serve objectives which cannot be achieved prudently or feasibly on land other than such tract and which outweigh public objectives and values which would be served by maintaining such tract in Federal ownership.

SALES AT FAIR MARKET VALUE

SEC. 203. Sales of national resource lands under this Act shall be at not less than the appraised fair market value as determined by the Secretary.

SIZE OF TRACTS

SEC. 204. The Secretary shall determine and establish the size of tracts of national resource lands to be sold on the basis of the land use capabilities and development requirements of the lands.

COMPETITIVE BIDDING PROCEDURES

SEC. 205. Except as to sales under section 208 hereof, sales of national resource lands under this Act shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper (i) to assure equitable distribution among purchasers of national resource lands, or (ii) to recognize equitable considerations or public policies, including but not limited to a preference to users, he is authorized to sell national resource lands with modified competitive bidding or without competitive bidding.

RIGHT TO REFUSE OR REJECT OFFER OF PURCHASE

SEC. 206. Until the Secretary has accepted an offer to purchase, he may refuse to accept any offer or may withdraw any land or interest in land from sale under this Act when he determines that consummation of the sale would not be consistent with this Act or other applicable law. The Secretary shall accept or reject, in writing, any offer to purchase, made through competitive bid at his invitation, no later than thirty days after the submission of such offer.

RESERVATION OF MINERAL INTERESTS

SEC. 207. Where the United States owns a mineral estate, all conveyances of title issued by the Secretary under this Act, except conveyances under the exchange authority provided in section 213, shall reserve to the United States all

minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe: *Provided*, That, where reservation of the mineral interest to the United States would interfere with or preclude the appropriate use or development of such land, the Secretary may convey the minerals in the conveyance of title in accordance with the provisions of section 208 of this Act.

CONVEYANCE OF RESERVED MINERAL INTEREST

SEC. 208. (a) The Secretary may convey mineral interests owned by the United States where the surface is in non-Federal ownership, regardless of which Federal agency may have administered the surface, if he finds (1) that there are no mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral development of the land and that such development is a more beneficial use of the land than mineral development.

(b) Conveyance of mineral interests pursuant to this section shall be made only to the record owner of the surface upon payment of administrative costs and the fair market value of the interests being conveyed.

(c) Before considering an application for conveyance of mineral interests pursuant to this section, the Secretary shall require the deposit of a sum of money which he deems suffi-

cient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the date obtained under the exploratory program to determine the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance. If the administrative costs exceed the deposit, the applicant shall pay the outstanding amount; and if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess.

(d) Moneys paid to the Secretary for administrative costs pursuant to subsection (d) of this section shall be paid to the agency which rendered the service and deposited to the appropriation then current.

TERMS OF PATENT

SEC. 209. The Secretary shall insert in any patent or other document of conveyance he issues under this Act such terms, covenants, conditions, and reservations as he deems necessary to insure proper land use and protection of the public interest.

NOTIFICATION TO STATES

SEC. 210. At least ninety days prior to offering for sale or otherwise conveying national resource lands under this Act, the Secretary shall notify the Governor of the State within which such lands are located and the head of the gov-

erning body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located, in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning, the use of such lands prior to such conveyance.

AUTHORITY TO ISSUE AND CORRECT DOCUMENTS OF CONVEYANCE

SEC. 211. Consistent with his authority to dispose of national resource lands, the Secretary is authorized to issue deeds, patents, and other indicia of title, and to correct such documents where necessary. In addition, the Secretary is authorized to make corrections on any documents of conveyance which have heretofore been issued on lands which would, at the time of their conveyance, have met the description of national resource lands.

RECORDABLE DISCLAIMERS OF INTEREST IN LAND

SEC. 212. (a) After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines (1) a record interest of the United States in lands has terminated by operation of law; or (2) the

lands lying between the meander line shown on a plat of survey approved by the Bureau of Land Management or its predecessors and the actual shoreline of a body of water are not lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

(b) No document of disclaimer shall be issued pursuant to this title unless the applicant therefor has filed with the Secretary an application in writing and notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer and until the applicant therefor has paid to the Secretary the administrative cost of issuing the disclaimer as determined by the Secretary. All receipts shall be credited to the appropriation from which expended.

(c) Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as a quitclaim deed from the United States.

ACQUISITION OF LAND

SEC. 213. (a) The Secretary is authorized to acquire, by purchase, exchange, donation, or otherwise, lands or interests therein where necessary for proper management of the national resource lands.

(b) Acquisitions pursuant to this Act shall be consistent with applicable land use plans prepared by the Secretary under section 103 of this Act.

(c) In exercising the exchange authority granted by subsection (a) of this section, the Secretary may accept title to any non-Federal land or interests therein and in exchange therefore he may convey to the grantor of such land or interests any national resource lands or interests therein which, under section 202 of this Act, he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land to be acquired. The values of the lands so exchanged either shall be equal, or if they are not equal, shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require, provided that payment does not exceed 20 per centum of the total value of the lands transferred out of Federal ownership.

(d) Lands acquired by exchange under this section or section 301 (c) which are within the boundaries of units of the National Forest System may be transferred to the Secretary of Agriculture for administration as part of, and in accordance with laws, rules, and regulations applicable to, the National Forest System. Lands acquired by exchange under this section or section 301 (c) which are within the boundaries of national park, wildlife refuge, wild and scenic rivers, trails, or any other system established by Act of Con-

gress may be transferred to the appropriate agency head for administration as part of, and in accordance with the laws, rules, and regulations applicable to, such system.

(e) Lands and interests in lands acquired pursuant to this section or section 301 (c) shall, upon acceptance of title, become national resource lands, and, for the administration of public land laws not repealed by this Act, shall become public lands. If such acquired lands or interests in lands are located within the exterior boundaries of a grazing district established pursuant to section 1 of the Taylor Grazing Act (48 Stat. 1269), as amended, they shall become a part of that district.

TITLE III—MANAGEMENT IMPLEMENTING AUTHORITY

STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS

SEC. 301. (a) The Secretary may conduct investigations, studies, and experiments, on his own initiative or in cooperation with others, involving the management, protection, development, acquisition, and conveying of the national resource lands.

(b) The Secretary may enter into contracts or cooperative agreements involving the management, protection, development, acquisition, and conveying of the national resource lands.

(c) The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the national resource lands, including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function, toward the administration of which the contributions were made, and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

SERVICE CHARGES, REIMBURSEMENT PAYMENTS, AND EXCESS PAYMENTS

SEC. 302. (a) Notwithstanding any other provision of law, the Secretary may establish filing fees, service fees, and charges, and commissions with respect to applications and other documents relating to national resource lands and may change and abolish such fees, charges, and commissions.

(b) The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for extraordinary costs with respect to applications and other

documents relating to national resource lands. The moneys received for extraordinary costs under this subsection shall be deposited with the Treasury in a special account and are hereby appropriated and made available until expended as the Secretary directs. As used in this subsection, "extraordinary costs" include but are not limited to the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities.

(c) In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of the national resource lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

WORKING CAPITAL FUND

SEC. 303. (a) There is hereby established a working capital fund for the management of national resource lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and regulations promulgated thereunder, supplies and equipment services in support of

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Bureau of Land Management programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Bureau of Land Management.

(b) The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

(c) The fund shall be credited with payments from appropriations and funds of the Bureau of Land Management, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

(d) There is hereby authorized to be appropriated not to exceed $3,000,000 as initial capital of the working capital fund.

DEPOSITS AND FORFEITURES

SEC. 304. (a) Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary, or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to national resource lands shall be credited to a separate account in the Treasury and are hereby appropriated and made available, until expended as the Secretary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on the national resource lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

(b) The Secretary may require a user or users of roads, trails, lands, or facilities under the jurisdiction of the Bureau of Land Management to maintain such roads, trails, lands, or facilities in a satisfactory condition commensurate with the particular use requirements and the use made by each, the extent of such maintenance to be shared by the users in

proportion to such use or, if such maintenance cannot be so provided, to deposit sufficient money to enable the Secretary to provide such maintenance. Such deposits shall be credited to a separate account in the Treasury and are hereby appropriated and made available until expended, as the Secretary may direct, to cover the cost to the United States of the maintenance of any road, trail, lands, or facility under the jurisdiction of the Bureau of Land Management: *Provided,* That nothing in this subsection shall be construed to require the user or uses to provide maintenance or deposits to repair any damages attributable to general public use rather than the specific use or users of such user or users.

(c) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (50 Stat. 874), as amended, shall be expended for the benefit of such land only.

(d) If any portion of a deposit or amount forfeited under this Act is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the amount in excess shall be transferred to miscellaneous receipts.

CONTRACTS FOR CADASTRAL SURVEY OPERATIONS AND RESOURCE PROTECTION

SEC. 305. (a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and service,

prior to the passage of an appropriation therefor, for airborne cadastral survey and resource protection operations of the Bureau of Land Management. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure.

UNAUTHORIZED USE

SEC. 306. The use, occupancy, or development of any portion of the national resource lands contrary to any regulation of the Secretary or other responsible authority, or contrary to any order issued pursuant to any such regulation, is unlawful and prohibited.

ENFORCEMENT AUTHORITY

SEC. 307. (a) Any violation regulations which the Secretary issues with respect to the management, protection, development, acquisition, and conveying of the national resource lands and property located thereon and which the Secretary identifies as being subject to this section shall be

punishable by a fine of not more than $1,000 or imprisonment for not more than twelve months, or both.

(b) For the specific purpose of enforcing any law or regulation relating to lands or resources managed by the Secretary, the Secretary may designate any employee, while within the national resource lands, to: (i) carry firearms; (ii) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; (iii) make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

(c) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from using the national resource lands in violation of laws or regulations relating to lands or resources managed by the Secretary.

COOPERATION WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES

SEC. 308. In connection with administration and regulation of the use and occupancy of the national resource lands, the Secretary is authorized to cooperate with the regulatory and law enforcement officials of any State or political

subdivision thereof. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of national resource lands.

RECORDATION

SEC. 309. (a) All mining claims under the Mining Law of 1872, as amended and supplemented (30 U.S.C. chapters 2, 12A, and 16 and sections 161 and 162) shall be recorded with the Secretary of the Interior (hereinafter referred to as the Secretary) within one year after the effective date of this Act or within thirty days of location of a claim, whichever is later. Any mining claim not so recorded shall be conclusively presumed to be abandoned and shall be void. Such recordation will not render valid any claim which was not valid on the effective date of this Act, or which becomes invalid thereafter.

(b) Any claim recorded pursuant to subsection (a) of this section, for which the claimant has not made application for a patent within three years from the date of recordation, shall be presumed to be invalid and shall be void.

(c) The Secretary is authorized to issue such rules and regulations as are necessary to carry out the purpose of this section. They shall include, but need not be limited to, regulations prescribing the form and substance of the informa-

tion submitted by claimants pursuant to subsection (a) of this section.

(d) Notwithstanding any provision of the Mining Law of 1872, as amended and supplemented (30 U.S.C. chapters 2, 12A, and 16 and sections 161 and 162), the Secretary is authorized to issue such rules and regulations pertaining to prospecting and mining as he deems necessary to protect the environmental quality of lands administered by him. Such regulations shall include, but need not be limited to, requirements for either notification to the Secretary or registration by prospectors or miners prior to commencement of any activity undertaken pursuant to the Mining Law of 1872, and reclamation of affected lands.

TITLE IV—AUTHORITY TO GRANT RIGHTS-OF-WAY

AUTHORIZATION TO GRANT RIGHTS-OF-WAY

SEC. 401. (a) The Secretary is authorized to grant, issue, or renew rights-of-way over, upon, or through the national resource lands for—

(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) pipelines and other systems for the transportation or distribution of liquids and gases, other than oil,

natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom, or water and for storage and terminal facilities in connection therewith;

(3) pipelines, slurry, and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Power Commission under the Act of June 10, 1920, as amended (16 U.S.C. 796, 797);

(5) systems for transmission or reception of radio, television, telegraph, and other electronic signals, and other means of communication;

(6) roads, trails, highways, railroads, canals, tramways, airways, livestock driveways, or other means of transportation; and

(7) such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, or through the national resource lands.

(b) (1) The Secretary shall require, prior to granting, issuing, or renewing a right-of-way, that the applicant submit and disclose any or all plans, contracts, agreements, or other

information or material reasonably related to the use, or intended use, of the right-of-way which he deems necessary to a determination, in accordance with the provisions of this title, as to whether a right-of-way shall be granted, issued, or renewed and the terms and conditions which should be included in such right-of-way.

(2) If the applicant is a partnership, corporation, association, or other business entity, the Secretary, prior to granting a right-of-way pursuant to this title, may require the applicant to disclose the identity of the participants, in the entity. Such disclosure shall include, where applicable: (1) the name and address of each partner; (2) the name and address of each shareholder owning 3 per centum or more of the shares, together with the number and percentage of any class of voting shares of the entity which such shareholder is authorized to vote; and (3) the name and address of each affiliate of the entity together with, in the case of an affiliate controlled by the entity, the number of shares and the percentage of any class of voting stock of that affiliate owned, directly or indirectly, by that entity, and, in the case of an affiliate which controls that entity, the number of shares and the percentage of any class of voting stock of that entity owned, directly or indirectly, by the affiliate. Failure to make the disclosures required by this section shall result in rejection of the application.

RIGHT-OF-WAY

SEC. 402. (a) After the Secretary has submitted the report required by section 28 (s) of the Mineral Leasing Act of 1920, as amended by the Act of November 16, 1973 (87 Stat. 576), he shall, consistent with applicable land use plans, designate transportation and utility corridors on national resource lands and require that rights-of-way be confined to them where practical and appropriate. In determining whether to require that rights-of-way be confined to them, the Secretary shall take into consideration National and State land use policies, environmental quality, economic efficiency, national security, safety, and good engineering and technological practices. The Secretary shall issue regulations containing the criteria and procedures he will use in designating such corridors. Any existing transportation and utility corridors may be designated as transportation and utility corridors pursuant to this subsection without further review.

(b) In order to minimize adverse environmental impacts and the proliferation of separate rights-of-way across national resource lands, the use of rights-of-way in common shall be required to the extent practical, and each right-of-way or permit shall reserve to the Secretary the right to grant additional rights-of-way or permits for compatible uses on or adjacent to rights-of-way granted pursuant to this title.

GENERAL PROVISIONS

SEC. 403. (a) The Secretary shall specify the boundaries of each right-of-way as precisely as is practicable. Each right-of-way shall be limited to the ground which the Secretary determines: (1) will be occupied by facilities which constitute the project for which the right-of-way is given, (2) to be necessary for the operation or maintenance of the project, and (3) to be necessary to protect the environment or public safety. The Secretary may authorize the temporary use of such additional lands as he determines to be reasonably necessary for the construction, operation, maintenance, or termination of the project or a portion thereof, or for access thereto.

(b) The Secretary shall determine the duration of each right-of-way or other authorization to be granted, issued, or renewed pursuant to this title. In determining the duration the Secretary shall, among other things, take into consideration the cost of the facility and its useful life.

(c) Rights-of-way granted, issued, or renewed pursuant to this title shall be given under such regulations or stipulations, in accord with the provision of this title or any other law, and subject to such terms and conditions as the Secretary may prescribe regarding extent, duration, survey, location, construction, maintenance, and termination.

(d) The Secretary, prior to granting a right-of-way pursuant to this title for a new project which may have a significant impact on the environment, shall require the applicant to submit a plan of construction, operation, and rehabilitation for such right-of-way which shall comply with stipulations or with regulations issued by the Secretary. The Secretary shall issue regulations or impose stipulations which shall include, but shall not be limited to: (1) requirements to insure that activities on the right-of-way will not violate applicable air and water quality standards or applicable transmission, powerplant, and related facility siting standards established by or pursuant to law; (2) requirements designed to control or prevent (A) damage to the environment (including damage to fish and wildlife habitat), (B) damage to public or private property, and (C) hazards to public health and safety; and (3) requirements to protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes. Such regulations shall be regularly revised. Such regulations shall be applicable to every right-of-way granted pursuant to this title, and may be applicable to rights-of-way to be renewed pursuant to this title.

(e) Mineral and vegetative materials, including timber, within or without a right-of-way may be used or disposed of

in connection with construction or other purposes only if authorization to remove or use such materials has been obtained pursuant to applicable laws.

(f) No right-of-way shall be issued for less than the fair market value therefor as determined by the Secretary. The Secretary may, by regulation or prior to promulgation of such regulations, as a condition for consideration of a right-of-way, require reimbursement to the United States for all reasonable administrative and other costs incurred in processing the right-of-way including processing the application, and in inspection and monitoring of construction, operation, and termination of the facility pursuant to such rights-of-way. However, rights-of-way may be granted, issued, or renewed to State or local governments or agencies or instrumentalities thereof, or to nonprofit associations or nonprofit corporations which are not themselves controlled or owned by profit-making corporations or business enterprises, for such lesser right-of-way charge or cost reimbursement charges as the Secretary finds equitable and in the public interest.

(g) The Secretary shall promulgate regulations specifying the extent to which holders of rights-of-way under this title shall be liable to the United States for damage or injury incurred by the United States in connection with the rights-of-way. The regulations shall also specify the extent to which such holders shall idemnify or hold harmless the

United States for liabilities, damages, or claims arising in connection with the rights-of-way

(h) Where he deems it appropriate, the Secretary may require as a condition for consideration of a right-of-way that there be furnished a bond, or other security, satisfactory to the Secretary to secure all or any of the obligations imposed by the terms and conditions of the right-of-way or by any rule or regulation of the Secretary.

(i) The Secretary shall grant, issue, or renew a right-of-way under this title only when he is satisfied that the applicant has the technical and financial capability to construct the project for which the right-of-way is requested, and in accord with the requirements of this title.

TERMS AND CONDITIONS

SEC. 404. Each right-of-way shall contain such terms and conditions as the Secretary deems necessary to (1) carry out the purposes of this Act and rules and regulations hereunder; (2) protect the environment; (3) protect Federal property and monetary interests; (4) manage efficiently national resource lands which are subject to the right-of-way or adjacent thereto and protect the other lawful users of the national resource lands adjacent to or traversed by said right-of-way; (5) protect lives and property; (6) protect the interests of individuals living in the general area traversed by the right-of-way who rely on the fish, wildlife, and biotic

resources of the area for subsistence purposes; and (7) protect the public interest in the national resource lands.

SUSPENSION OR TERMINATION OF RIGHT-OF-WAY

SEC. 405. Abandonment of the right-of-way or noncompliance with any provision of this title, condition of the right-of-way, or applicable rule or regulation of the Secretary may be grounds for suspension or termination of the right-of-way if, after due notice to the holder of the right-of-way and an appropriate administrative proceeding pursuant to title 5, United States Code, section 554, the Secretary determines that any such ground exists and that suspension or termination is justified. No administrative proceeding shall be required where the right-of-way by its terms provides that it terminates on the occurrence of a fixed or agreed-upon condition, event, or time. If the Secretary determines that an immediate temporary suspension of activities within a right-of-way for violation of its terms and conditions is necessary to protect public health or safety or the environment, he may abate such activities prior to an administrative proceeding. Prior to commencing any proceeding to suspend or terminate a right-of-way the Secretary shall give written notice to the holder of the ground or grounds for such action and shall give the holder a reasonable time to resume use of the right-of-way or to comply with this title, condition, rule, or regulation as the case may be. Failure of the holder of

the right-of-way to use the right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period shall constitute a rebuttable presumption of abandonment of the right-of-way: *Provided, however,* That where the failure of the holder to use right-of-way for the purpose for which it was granted, issued, or renewed for any continuous five-year period is due to circumstances not within the holder's control, the Secretary is not required to commence proceedings to suspend or terminate the right-of-way. This section does not apply to rights-of-way which are permits or licenses.

RIGHTS-OF-WAY FOR FEDERAL AGENCIES

SEC. 406. (a) The Secretary may reserve for the use of any department or agency of the United States a right-of-way over, upon, or through national resource lands, subject to such terms and conditions as he may impose. The provisions of this title shall be applicable to any such right-of-way.

(b) Where a right-of-way has been reserved for the use of any department or agency of the United States, the Secretary shall take no action to terminate, or otherwise limit, that use without the consent of the head of that other department or agency.

CONVEYANCE OF LANDS

SEC. 407. If under applicable law the Secretary decides to transfer out of Federal ownership, by patent, deed, or

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otherwise, any national resource lands covered in whole or in part by a right-of-way, including a right-of-way granted under the Act of November 16, 1973 (87 Stat. 576), the lands may be conveyed subject to the right-of-way; however, if the Secretary determines that retention of Federal control over the right-of-way is necessary to assure that the purposes of this title will be carried out, the terms and conditions of the right-of-way complied with, or the national resource lands protected, he shall (1) reserve to the United States that portion of the lands which lies within the boundaries of the right-of-way, or (2) convey the lands, including that portion within the boundaries of the right-of-way, subject to the right-of-way and reserving to the United States the right to enforce all or any of the terms and conditions of the right-of-way, including the right to renew it or extend it upon its termination and to collect rents.

EXISTING RIGHTS-OF-WAY

SEC. 408. Nothing in this title shall have the effect of terminating any rights-of-way or rights-of-use heretofore issued, granted, or permitted by the Secretary. However, with the consent of the holder thereof, the Secretary may cancel such a right-of-way and in its stead issue a right-of-way pursuant to the provisions of this title.

STATE STANDARDS

SEC. 409. The Secretary shall take into consideration

and, to the extent practical, comply with State standards for right-of-way construction, operation, and maintenance if those standards are more stringent than Federal standards and if the national resource lands are adjacent to lands to which such State standards apply.

EFFECT ON OTHER LAWS

SEC. 410. (a) After the date of enactment of this Act, no right-of-way for the purposes listed in this title shall be granted, issued, or renewed over, upon, or through national resource lands except under and subject to the provisions, limitations, and conditions of this title: *Provided,* That any application for a right-of-way filed under any other law prior to the date of enactment of this Act may, at the applicant's option, be considered as an application under this title or the Act under which the application was filed. The Secretary may require the applicant to submit any additional information he deems necessary to comply with the requirements of this title.

(b) Nothing in this title shall be construed to preclude the use of national resource lands for highway purposes pursuant to sections 107 and 317 of title 23, United States Code.

SEC. 411. Applicants before Federal agencies other than the Department of the Interior seeking a license, certificate or other authority for a project which will involve national

resouce lands must simultaneously apply to the Secretary of the Interior for the appropriate authority to use national resource lands and submit to the Secretary all information furnished to the other Federal agency.

TITLE V—CONSTRUCTION OF LAW, PRESERVATION OF VALID EXISTING RIGHTS, AND REPEAL OF LAWS

CONSTRUCTION OF LAW

SEC. 501. (a) Except as provided in section 410, the authority conferred upon the Secretary by this Act is in addition to all other authority vested in him by law, and nothing in this Act shall be deemed to repeal any such other authority by implication.

(b) Nothing in this Act shall be construed as limiting or restricting the power and authority of the United States, or—

(1) as affecting in any way any law governing appropriations or use of, or Federal right to, water on national resource lands;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common

agency of two or more States or of two or more States and the Federal Government;

(4) as superseding, modifying, or repealing, except as specifically set forth in this Act, existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto;

(5) as modifying the terms of any interstate compact;

(6) as a limitation upon any State criminal statute or upon the police power of the respective States, or as derogating the authority of a local police officer in the performance of his duties, or as depriving any State or political subdivision thereof of any right it may have to exercise civil and criminal jurisdiction on the national resource lands;

(7) as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in the national resource lands; or

(8) as amending, limiting, or infringing the existing laws providing grants of land to the States.

VALID EXISTING RIGHTS

SEC. 502. All actions by the Secretary under this Act shall be subject to valid existing rights.

REPEAL OF LAWS RELATING TO DISPOSAL OF NATIONAL RESOURCE LANDS

SEC. 503. (a) The following statutes or parts of statutes are repealed:

1. HOMESTEADS

Act of—	Chapter	Section	Statute at large	43 U.S.C.
Revised Statute 2289				161, 171.
Mar. 3, 1891	561	5	26: 1097	161, 162.
Revised Statute 2290				162.
Revised Statute 2295				163.
Revised Statute 2291				164.
June 6, 1912	153		37: 123	164, 169, 218.
May 14, 1880	89		21: 141	166, 185, 202, 223.
June 6, 1900	821		31: 683	166, 223.
Aug. 9, 1912	280		37: 267	
Apr. 6, 1914	51		38: 312	167.
Mar. 1, 1921	90		41: 1103	
Oct. 17, 1914	325		38: 740	168.
Revised Statute 2297				169.
Mar. 3, 1881	153		21: 511	
Oct. 22, 1914	335		38: 766	170.
Revised Statute 2292				171.
June 8, 1880	136		21: 166	172.
Revised Statute 2301				173.
Mar. 3, 1891	561	6	26: 1098	
June 3, 1896	312	2	29: 197	
Revised Statute 2288				174.
Mar. 3, 1891	561	3	26: 1097	
Mar. 3, 1905	1424		33: 991	
Revised Statute 2296				175.
Apr. 28, 1922	155		42: 502	
May 17, 1900	479	1	13: 179	179.
Jan. 26, 1901	180		31: 740	180.
Sept. 5, 1914	294		38: 712	182.
Revised Statute 2300				183.
Aug. 31, 1918	166	8	40: 597	
Sept. 13, 1918	173		40: 960	
Revised Statute 2302				184, 201.
July 26, 1892	251		27: 270	185.
Feb. 14, 1920	76		41: 434	186.
Jan. 21, 1922	32		42: 358	
Dec. 28, 1922	19		42: 1067	
June 12, 1930	471		46: 580	
Feb. 25, 1925	326		43: 981	187.
June 21, 1934	690		48: 1185	187a.
May 22, 1902	821	2	32: 203	187b.
June 5, 1900	716		31: 270	188, 217.
Mar. 3, 1875	131	15	18: 420	189.
July 4, 1884—Only last paragraph of sec. 1.	180		23: 96	190.
Mar. 1, 1933	160	1	47: 1418	190a.

The following words only: "*Provided*, That no further allotments of lands to Indians on the public domain shall be made in San Juan County, Utah, nor shall further Indian homesteads be made in said county under the Act of July 4, 1884 (23 Stat. 96; U.S.C. title 43, sec. 190)."

Revised Statutes 2310, 2311				191.
June 13, 1902	1080		32: 384	203.
Mar. 3, 1879	191		20: 472	204.
July 1, 1879	60		21: 46	205.
May 6, 1886	88		24: 22	206.
Aug. 21, 1916	361		39: 518	207.
June 3, 1924	240		43: 357	208.
Revised Statute 2298				211.
Aug. 30, 1890	837		26:391	212.

The following words only: "No person who shall after the passage of this act, enter upon any of the public lands with a view to occupation, entry or settlement under any of the lands laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate, under all of said laws, but this limitation shall not operate to curtail the right of any person who has heretofore made entry or settlement on the public lands, or whose occupation, entry or settlement, is validated by this act:"

Mar. 3, 1891	561	17	26: 1101	

The following words only: "and that the provision of "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes," which reads as follows, viz: "No person who shall after the passage of this act enter upon any of the public lands with a view to occupation, entry or settlement under any of the land laws shall be permitted to acquire title to more than three hundred and twenty acres in the aggregate under all said laws," shall be construed to include in the maximum amount of lands the title to which is permitted to be acquired by one person only agricultural lands and not to include lands entered or sought to be entered under mineral land laws."

Act of—	Chapter	Section	Statute at large	43 U.S.C.
Apr. 28, 1904	1776		33: 527	213.
Aug. 3, 1950	521		64: 398	
Mar. 2, 1889	381	6	25: 854	214.
Feb. 20, 1917	98		39: 925	215.
Mar. 4, 1921	162	1	41: 1433	216.
Feb. 19, 1909	160		35: 639	218.
June 13, 1912	166		37: 132	
Mar. 3, 1915	84		38: 953	
Mar. 3, 1915	91		38: 957	
Mar. 4, 1915	150	2	38: 1163	
July 3, 1916	220		39: 344	
Feb. 11, 1913	39		37: 666	218, 219.
June 17, 1910	298		36: 531	219.
Mar. 3, 1915	91		38: 957	
Sept. 5, 1916	440		39: 724	
Aug. 10, 1917	52	10	40: 275	
Mar. 4, 1915	150	1	38: 1162	220.
Mar. 4, 1923	245	1	42: 1445	222.
Apr. 28, 1904	1801		33: 547	224.
Mar. 2, 1907	2527		34: 1224	
May 29, 1908	220	7	35: 466	
Aug. 24, 1912	371		37: 499	
Aug. 22, 1914	270		38: 704	231.
Feb. 25, 1919	21		40: 1153	
July 3, 1916	214		39: 341	232.
Sept. 29, 1919	64		41: 288	233.
Apr. 6, 1922	122		42: 491	233, 272, 273.
Mar. 2, 1889	381	3	25: 854	234.
Dec. 29, 1894	14		28: 599	
July 1, 1879	63	1	21: 48	235.
Dec. 20, 1917	6		40: 430	236.
July 24, 1919	26	Next to last paragraph only.	41: 271	237.
Mar. 2, 1932	69		47: 59	237a.
May 21, 1934	320		48: 787	237b.
May 22, 1935	135		49: 286	237c.
Aug. 19, 1935	580		49: 659	237d.
Mar. 31, 1938	57		52: 149	
Apr. 20, 1936	239		49: 1235	237e.
July 30, 1956	778	1, 2, 4	70: 715	237f, g, h.
Mar. 1, 1921	102		41: 1202	238.
Apr. 7, 1922	125		42: 492	
Revised Statute 2308				239.
June 16, 1898	458		30: 473	240.
Aug. 29, 1916	420		39: 671	
Apr. 7, 1930	106		46: 144	243.
Mar. 3, 1933	198		47: 1424	243a.
Mar. 3, 1879	192		20: 472	251.
Mar. 2, 1889	381	7	25: 855	252.
June 3, 1878	152		20: 91	253.
Revised Statute 2294				254.
May 26, 1890	355		26: 121	
Mar. 11, 1902	182		32: 63	
Mar. 4, 1904	394		33: 59	
Feb. 23, 1923	105		42: 1281	
Revised Statute 2293				255.
Oct. 6, 1917	86		40: 391	
Mar. 4, 1913	149	Only last paragraph of section headed "Public Land Service"	37: 925	256.
May 13, 1932	178		47: 153	256a.
June 16, 1933	99		48: 274	
July 26, 1935	419		49: 504	
June 6, 1937	361		50: 303	
Aug. 27, 1935	770		49: 909	256b.
Sept. 30, 1890	J. Res. 59		26: 684	261.
June 16, 1880	244		21: 287	263.
Apr. 18, 1904	25		33: 589	
Revised Statute 2304				271.
Mar. 1, 1901	674		31: 847	271, 272.
Revised Statute 2305				272.
Feb. 25, 1919	37		40: 1161	272a.
Dec. 23, 1922	19		42: 1067	
Revised Statute 2306				274.
Mar. 3, 1893	208		27: 593	275.

The following words only: "*And provided further:* That where soldier's additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate."

Aug. 18, 1894	301	Only last paragraph of section headed "Surveying the Public Lands"	28: 397	276.
Revised Statute 2309				277.
Revised Statute 2307				278.
Sept. 21, 1922	357		42: 990	
Sept. 27, 1944	421		58: 747	279–283.
June 25, 1946	474		60: 308	279.
May 31, 1947	88		61: 123	279, 280, 282.
June 18, 1954	306		68: 258	279, 282.
June 3, 1948	399		62: 305	283, 284.
Dec. 29, 1916	9	1–8	39: 862	291–296.
Feb. 28, 1931	328		46: 1454	291.
June 9, 1933	53		48: 119	291.

Act of—	Chapter	Section	Statute at large	43 U.S.C.
June 6, 1924	274		46: 469	292.
Oct. 25, 1918	195		40: 1016	293.
Sept. 29, 1919	63		41: 287	294, 295.
Mar. 4, 1923	245	2	42: 1445	302.
Aug. 21, 1916	361		39: 518	1075.
Aug. 28, 1937	876	3	50: 875	1181c.

2.—DESERT LAND ENTRIES

Mar. 3, 1877	107	2, 3	19: 377	322–323, 325.
Mar. 3, 1891	561	2	26: 1096	327–329.

Except the words: ". . . all acts and parts of acts in conflict with this act are hereby repealed."

Jan. 6, 1921	12		41: 1086	
Mar. 28, 1908	112		35: 52	324, 326, 333.
Feb. 27, 1917	134		39: 946	330.
Mar. 1, 1921	102		41: 1202	331.
Dec. 15, 1921	3		42: 348	
Aug. 7, 1917	48		40: 250	332.
Apr. 30, 1912	101		37: 106	334.
Feb. 25, 1925	329		43: 982	336.
July 30, 1956	778		70: 715	336a–d.
Mar. 4, 1915	147	5	38: 1161	335, 337, 338.
Mar. 21, 1918	26		40: 458	
Mar. 4, 1929	687		45: 1548	339.
Feb. 14, 1934	9		48: 349	

3. SALE AND DISPOSAL LAWS

Mar. 3, 1891	561	9	26: 1099	671.
Revised Statute 2354				673.
Revised Statute 2355				674.
May 18, 1898	344	2	30: 418	675.
Revised Statute 2365				676.
Revised Statute 2357				678.
June 15, 1880	227	3, 4	21: 238	679, 680.
Mar. 2, 1889	381	4	25: 854	681.
Mar. 1, 1907	2286		34: 1052	682.
June 1, 1938	317		52: 609	682a-e.
July 14, 1945	298		59: 467	
June 8, 1954	270		68: 239	
Revised Statute 2361				688.
Revised Statute 2362				689.
Revised Statute 2363				690.
Revised Statute 2368				691.
Revised Statute 2366				692.
Revised Statute 2369				693.
Revised Statute 2370				694.
Revised Statute 2371				695.
Revised Statute 2374				696.
Revised Statute 2372				697.
Feb. 24, 1909	181		35: 645	
May 21, 1926	353	The 2 provisos only.	44: 591	
Revised Statute 2375				698.
Revised Statute 2376				699.
Mar. 2, 1889	381	1	25: 854	700.

4. TOWNSITE RESERVATION AND SALE

Revised Statute 2380				711.
Revised Statute 2381				712.
Revised Statute 2382				713.
Aug. 24, 1954	904		68: 792	
Revised Statute 2383				714.
Revised Statute 2384				715.
Revised Statute 2386				717.
Revised Statute 2387				718.
Revised Statute 2388				719.
Revised Statute 2389				720.
Revised Statute 2391				721.
Revised Statute 2392				722.
Revised Statute 2393				723.
Revised Statute 2394				724.
Mar. 3, 1877	113	1, 3, 4	19: 392	725–727.
Mar. 3, 1891	561	16	26: 1101	728.
July 9, 1914	138		38: 454	730.
Feb. 9, 1903	531		32: 820	731.

5. DRAINAGE UNDER STATE LAWS

May 20, 1908	181	1–7	35: 171	1021–1027.
Mar. 3, 1919			40: 1321, ch. 113	1028.
May 1, 1958	Public Law 85–387.		72: 99	1029–1034.
Jan. 17, 1920	47		41: 392	1041–1048.

6. ABANDONED MILITARY RESERVATION

Act of—	Chapter	Section	Statute at large	43 U.S.C.
July 5, 1884	214	5	23: 104	1074.
Aug. 21, 1916	361		39: 518	1075.
Mar. 3, 1893	208		27: 593	1076.
The following words only: "*Provided*, That the President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place."				
Aug. 23, 1894	314		28: 491	1077, 1078.
Feb. 11, 1903	543		32: 822	1079.
Feb. 15, 1895	92		28: 664	1080, 1077.
Apr. 23, 1904	1496		33: 306	1081.

7. PUBLIC LANDS: OKLAHOMA

May 2, 1890	182	Last paragraph of sec. 18 and secs. 20, 21, 22, 24, 27.	26: 90	1091–1094, 1096, 1097.
Mar. 3, 1891	543	16	26: 1026	1098.
Aug. 7, 1946	772	1, 2	60: 872	1100–1101.
Aug. 3, 1955	498	1–8	69: 445	1102–1102g.
May 14, 1890	207		26: 100	1111–1117.
Sept. 1, 1893	J. Res. 4		28: 11	1118.
May 11, 1896	168	1, 2	29: 116	1119.
Jan. 18, 1897	62	1–3, 5, 7	29: 490	1131–1134.
June 23, 1897	8		30: 105	
Mar. 1, 1899	328		30: 966	

8. SALES OF ISOLATED TRACTS

Revised Statute 2455				1171.
Feb. 26, 1895	133		28: 687	
June 27, 1906	3554		34: 517	
Mar. 28, 1912	67		37: 77	
Mar. 9, 1928	164		45: 253	
June 28, 1934	865	14	48: 1274	
July 30, 1947	383		61: 630	
Apr. 24, 1928	428		45: 457	1171a.
May 23, 1930	313		46: 377	1171b.
Feb. 4, 1919	13		40: 1055	1172.
May 10, 1920	178		41: 595	1173.
Aug. 11, 1921	62		42: 159	1175.
May 19, 1926	337		44: 566	1176.
Feb. 14, 1931	170		46 :1105	1177.

ALASKA SPECIAL LAWS

Mar. 3, 1891	561	11	26: 1099	732.
May 25, 1926	379		44: 629	733–736.
May 29, 1963	Public Law 88–34		77: 52	
July 24, 1947	305		61: 414	738.
May 14, 1898	299	1	30: 409	270.
Mar. 3, 1903	1002		32: 1028	
Apr. 29, 1950	137	1	64: 94	
Aug. 3, 1955	496		69: 444	270, 687a–2.
Apr. 29, 1950	137	2–5	64: 95	270, 270–5.
July 11, 1956	571	2	70: 529	270–6, 270–7, 687a.
July 8, 1916	228		39: 352	270–8, 270–9.
June 28, 1918	110		40: 632	270–10, 270–13, 270.
July 11, 1956	571	1	70: 528	
Mar. 8, 1922	96	1	42: 415	270–11.
Aug. 23, 1958	Public Law 85–725.	1, 4	72: 730	
Aug. 17, 1961	Public Law 87–147		75: 384	270–13.
Oct. 3, 1962	Public Law 87–742		76: 740	
Apr. 13, 1926	121		44: 243	270–15.
Apr. 29, 1950	134	3	64: 93	270–16, 270–1.
May 14, 1898	299	10	30: 413	270–4.
Mar. 3, 1927	323		44: 1364	687a to 687a–5.
May 26, 1934	357		48: 809	
Aug. 23, 1958	Public Law 85–725.	3	72: 730	
Mar. 3, 1891	561	13	26: 1100	687a–6.
Aug. 30, 1949	521		63: 679	687b to 687b–4.
July 19, 1963	Public Law 88–66		77: 80	687b–5.

10. PITTMAN UNDERGROUND WATER ACT

Sept. 22, 1922	400		42: 1012	356.

(b) Section 7 of the Taylor Grazing Act, 48 Stat. 1272, ch. 865, as amended by section 2 of the Act of June 26, 1936, (49 Stat. 1976, ch. 842, title I, 43 U.S.C. 315f), is further amended to read as follows:

"The Secretary of the Interior is authorized, in his discretion, to examine and classify any lands withdrawn or reserved by Executive order of November 26, 1934 (numbered 6910), and amendments thereto, and Executive order of February 5, 1935 (numbered 6964), or within a grazing district, which are more valuable or suitable for any other use than for the use provided for under this Act, or proper for acquisition in satisfaction of any outstanding lien, exchange, or land grant, and to open such lands to disposal in accordance with such classification under applicable public land laws. Such lands shall not be subject to disposition until after the same have been classified and opened to disposal."

(c) (1) The Act of March 3, 1877, as amended (19 Stat. 377; 43 U.S.C. 321, 322, 323, 325, 327–329), is repealed, except that portion of section 321 of title 42, United States Code, reading as follows: "The water of all lakes, rivers, and other sources of water supply upon the public lands and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining, and manufacturing purposes subject to existing rights.".

(2) Section 321 of title 43, United States Code, is amended as follows: "*Provided, however,* That nothing contained in this Act shall be deemed to abrogate or extinguish any claim to or ownership of rights under, or adjacent to lands withdrawn from the public domain.".

(d) Section 2 of the Act of March 8, 1922 (42 Stat. 416, ch. 96, as amended by section 2 of the Act of August 23, 1958, 72 Stat. 730, Public Law 85–725, 43 U.S.C. 270–12), is further amended to read:

"The coal, oil, or gas deposits reserved to the United States in accordance with the Act of March 8, 1922 (42 Stat. 415, ch. 96, as added to by the Act of August 17, 1961, 75 Stat. 384, Public Law 87–147, and amended by the Act of October 3, 1962, 76 Stat. 740, Public Law 87–742), shall be subject to disposal by the United States in accordance with the provisions of the laws applicable to coal, oil, or gas deposits or coal, oil, or gas lands in Alaska in force at the time of such disposal. Any person qualified to acquire coal, oil, or gas deposits, or the right to mine or remove the coal or to drill for and remove the oil or gas under the laws of the United States shall have the right at all times to enter upon the lands patented under the Act of March 8, 1922, as amended, and in accordance with the provisions hereof, for the purpose of prospecting for coal, oil, or gas therein, upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal, oil, or gas deposits in any such land, or the right to mine, drill for, or remove the same,

may reenter and occupy so much of the surface thereof incident to the mining and removal of the coal, oil, or gas therefrom, and mine and remove the coal or drill for and remove oil and gas upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: *Provided,* That the owner under such limited patent shall have the right to mine the coal for use on the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: *Provided further,* That nothing in this Act shall be construed as authorizing the exploration upon or entry of any coal deposits withdrawn from such exploration and purchase.".

Section 3 of the Act of August 30, 1949 (63 Stat. 679, ch. 521, 43 U.S.C. 678b–2), is amended to read:

"Notwithstanding the provisions of any Act of Congress to the contrary, any person who prospects for, mines, or removes any minerals from any land disposed of under the Act of August 30, 1949 (63 Stat. 679, ch. 521), shall be liable for any damage that may be caused to the value of the land and tangible improvements thereon by such prospecting for, mining, or removal of minerals. Nothing in this section shall be construed to impair any vested right in existence on August 30, 1949.".

REPEAL OF LAWS RELATING TO ADMINISTRATION OF NATIONAL RESOURCE LANDS

SEC. 504. The following statutes or parts of statutes are repealed:

	Act of—	Chapter	Section	Statute at Large	43 U.S.C.
1.	Mar. 2, 1895	174		28: 744	176.
2.	June 28, 1934	865	8	48: 1272	315g.
	June 26, 1936	842	3	49: 1976, Title I	
	June 19, 1948	548	1	62: 533	
	July 9, 1962	Public Law 87-524.		76: 140	315g-1.
3.	Aug. 24, 1937	744		50: 748	315p.
4.	Mar. 3, 1909	271	2d proviso only	35: 845	772.
	June 25, 1910	J. Res. 40		36: 884	
5.	June 21, 1934	689		48: 1185	871a.
6.	Revised Statute 2447				1151.
	Revised Statute 2448				1152.
7.	June 6, 1874	223		18: 62	1153, 1154.
8.	January 28, 1879	30		20: 274	1155.
9.	May 30, 1894	87		28: 84	1156.
10.	Revised Statute 2450				1161.
	Feb. 27, 1877	69	1	19: 244	
	The following words only: "Section twenty-four hundred and fifty is amended by striking out, in the fourth line, the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
	Revised Statute 2451				1162.
	Feb. 27, 1877	69	1	19: 244	
	The following words only: "Section twenty-four hundred and fifty-one is amended by striking out, in the first and second lines, the words 'Secretary of the Treasury' and inserting the words 'Secretary of the Interior' ".				
	Revised Statute 2456				1163.
	Sept. 20, 1922	350		48: 857	
	The words: ". . . and sections 2450, 2451, and 2456 be amended to read as follows:" and all words following in the Act.				
	Revised Statute 2457				1164.
11.	Mar. 3, 1891	561	7	26: 1098	1165.
12.	Revised Statute 2471				1191.
	Revised Statute 2472				1192.
	Revised Statute 2473				1193.
13.	July 14, 1960	Public Law 86-649	101-202(a), 203-204(a), 301-303	74: 506	1361, 1362, 1363-1383.
14.	Sept. 26, 1970	Public Law 91-429		84: 885	1362a.
15.	July 31, 1939	401	1,2	53:1144	

REPEAL OF LAWS RELATING TO RIGHTS-OF-WAY

SEC. 505. (a) The following statutes or parts of statutes are repealed insofar as they apply to National Resource Lands:

Act of—	Chapter	Section	Statute at large	43 U.S.C.
Revised Statutes 2339				661.
The following words only: "and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage."				
Revised Statutes 2340				661.
The following words only: ", or rights to ditches and reservoirs used in connection with such water rights,".				
Feb. 26, 1897	335		29: 599	664.
Mar. 3, 1899	427	1	30: 1233	665, 958 (16 U.S.C. 525).

The following words only: "that in the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoir site when in his judgment the public interests will not be injuriously affected thereby."

Act of—	Chapter	Section	Statute at large	43 U.S.C.
Mar. 3, 1875	152		18: 482	934–939.
May 14, 1898	299	2–9	30: 409	942–1 to 942–9.
Feb. 27, 1901	614		31: 815	943.
June 26, 1906	3548		34: 481	944.
Mar. 3, 1891	561	18–21	26: 1101	946–949.
Mar. 4, 1917	184	1	39: 1197	
May 28, 1926	409		44: 668	
Mar. 1, 1921	93		41: 1194	950.
Jan. 13, 1897	11		29: 484	952–955.
Mar. 3, 1923	219		42: 1437	
Jan. 21, 1895	37		28: 635	951, 956, 957.
May 14, 1896	179		29: 120	
May 11, 1898	292		30: 404	
Mar. 4, 1917	184	2	39: 1197	
Feb. 15, 1901	372		31: 790	959 (16 U.S.C. 79, 522).
Mar. 4, 1911	238		36: 1253	961 (16 U.S.C. 5, 420, 523.)

Only the last two paragraphs under the subheading "Improvement of the National Forests" under the heading "Forest Service".

May 27, 1952	338		66: 95	
May 21, 1896	212		29: 127	962–965.
Apr. 12, 1910	155		36: 296	966–970.

(b) Notwithstanding the provisions of subsection (a) of this section, the following statutes are repealed in their entirety:

Act of—	Chapter	Section	Statute at large	U.S. C.
Revised Statute 2477				43 U.S.C. 932.

[SUBCOMMITTEE PRINT]

MARCH 27, 1975

PUBLIC LAND POLICY AND MANAGEMENT ACT
PRINT NO. 1

[Prepared for the use of the Subcommittee on Public Lands, Committee on Interior and Insular Affairs, House of Representatives, Ninety-Fourth Congress, First Session.]

A BILL

To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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TITLE I—SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

SHORT TITLE

SEC. 101. This Act may be cited as the "Public Land Policy and Management Act of 1975".

DECLARATION OF POLICY

SEC. 102. (a) The Congress declares that it is the policy of the United States that—

(1) the public lands be retained in Federal ownership unless as a result of the land use planning procedure provided for in this Act it is determined that disposal of a particular parcel will best serve the national interest;

(2) the national interest will be best realized if the public lands and their resources are periodically and systematically inventoried and their present and future use is projected through a land use planning process

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coordinated with other Federal and State planning efforts;

(3) all public lands not previously designed for any specific use and all existing classifications of public lands that were effected by executive action or statute before the date of enactment of this Act be reviewed in accordance with the overall land use planning goals set forth in this Act;

(4) the Congress exercise its constitutional authority to withdraw or otherwise designate or dedicate Federal lands for specified purposes and that Congress delineate the extent to which the Executive may withdraw lands without legislative action;

(5) in administering public land statutes and exercising discretionary authority, granted by them, the Secretary be required to establish comprehensive rules and regulations after considering the views of the general public; and to structure adjudication procedures to assure adequate third party participation, objective administrative review of initial decisions, and expeditious decision-making;

(6) judicial review of public land adjudication decisions;

(7) goals and objectives be established by law as guidelines for public land use planning, and that man-

agement be on the basis of multiple use and sustained yield unless otherwise specified by law;

(8) the public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, and archeological values; that where appropriate will preserve and protect certain public lands in their natural condition; that will provide habitat for fish and wildlife; and that will provide for outdoor recreation;

(9) the United States receive fair market value of the use of the public lands and their resources unless otherwise provided for by statute;

(10) uniform procedures for any disposal of public land, acquisition of non-Federal land for public purposes, and the exchange of such lands be established by statute, requiring each disposal, acquisition, and exchange to be consistent with the prescribed mission of the public land management agency involved, and reserving to Congress disposals, acquisitions, and exchanges in excess of a specified acreage;

(11) regulations or plans for the protection of areas of critical environmental concern be promptly developed; and any permit, license, or other authorization to use, occupy, or develop the public lands contain provisions authorizing revocation or suspension of such permit, license, or other authorization upon violation of any

regulation issued with respect to the enforcement of this Act or of any applicable State or Federal air, water, or other environmental quality standard; and

(12) recognize the Nation's need for domestic sources of minerals, food, and fiber from the public lands including implementation of the Mining and Minerals Policy Act of 1970 as it pertains to the public lands.

(b) The policies of this Act are supplemental to and not in derogation of the purposes for which public lands are administered by agencies and departments of the United States in the fulfillment of their statutory obligations.

DEFINITIONS

SEC. 103. As used in this Act—

(a) The term "areas of critical environmental concern" means areas within the public lands where, when such areas are developed or used special management attention is required in order to protect, or where development is excluded to prevent irreparable damage to, important historic, cultural, or scenic values or natural systems or processes, or life and safety which might result from natural hazards.

(b) The term "holder" means any State or local governmental entity or agency or any person receiving a right-of-way under title V of this Act.

(c) The term "multiple use" means the manage-

ment of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without impairment of the productivity of the land, with consideration being given to the relative values of the resources and not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output: *Provided,* That nothing in this definition shall be construed as affecting the responsibilities of the Secretary of the Interior for disposition of mineral resources of the National Forest System.

(d) The term "public involvement" means the opportunity for participation by citizens, including those at the local level, in rulemaking, decisionmaking, and planning with respect to the public lands, including public hearings, ad-

visory mechanisms, and such other procedures as may be necessary to provide public input in a particular instance.

(e) The term "public lands" means any lands owned by the United States within the several States and administered by the Secretary of the Interior through the Bureau of Land Management, without regard to how the United States acquired ownership, except—

(1) lands located on the Outer Continental Shelf; and

(2) lands held in trust for the benefit of Indians, Aleuts, and Eskimos.

(f) The term "right-of-way" means an easement, lease, permit, or license to occupy, use, or traverse public lands granted for the purposes listed in title V of this Act.

(g) The term "Secretary", unless specifically designated otherwise, means the Secretary of the Interior.

(h) The term "sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands without impairment of the productivity of the land.

(i) The term "wilderness" as used in section 312 shall have the same meaning as it does in section 2 (c) of the Wilderness Act.

(j) The term "withdrawal" means the exclusion of an

area of public lands, or of lands within the National Forest System, from management under principles of multiple use in order to protect or favor particular public values in the land, or a withholding of an area of such land from settlement, sale, or entry under some or all of the general land laws.

TITLE II—PLANNING FUTURE PUBLIC LAND USE

INVENTORY AND IDENTIFICATION

SEC. 201. (a) The Secretary shall prepare and maintain on a continuing basis, to reflect changes in conditions and identifications of resource values, an inventory of all public lands and their resources, giving priority to areas of critical environmental concern. The preparation and maintenance of such inventory of the identification of such areas shall not, of itself, change or prevent change of the management or use of public lands.

(b) As funds are made available, the Secretary shall ascertain the boundaries of the public lands, provide means of public identification thereof including, where appropriate, signs and maps, and provide State and local governments with data from the inventory for the purpose of planning and regulating the uses of non-Federal lands in proximity to such public lands.

LAND USE PLANNING

SEC. 202. (a) The Secretary shall develop, maintain, and, when appropriate, revise land use plans which provide by tracts or areas for the use of all public lands. Land use plans shall be developed for all public lands regardless of whether such lands previously have been classified, withdrawn, set aside, or otherwise designated for one or more uses.

(b) In the development of land use plans, the Secretary shall—

(1) use and observe the principles of multiple use and sustained yield set forth in subsections (c) and (h) of section 103;

(2) use a systematic interdisciplinary approach to achieve integrated consideration of physical, biological, economic, and social sciences;

(3) give priority to the designation and protection of areas of critical environmental concern;

(4) consider present and potential uses of the public lands;

(5) consider the relative scarcity of the values involved and the availability of alternative means (including recycling) and sites for realization of those values;

(6) weigh long-term benefits to the public against short-term benefits;

(7) provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans; and

(8) when not inconsistent with the purposes for which the public lands are dedicated and administered, coordinate the land use inventory, planning, and management activities of or for public lands with the land use planning processes of the States and local governments within which the public lands are located.

(c) Any classification of public lands or any land use plan in effect on the date of enactment of this Act is subject to review in the land use planning process conducted under this section, and all public lands, regardless of classification, are subject to inclusion in any land use plan developed pursuant to this section.

(d) With respect to public lands designated for retention in Federal ownership, the Secretary, shall manage such public lands under principles of multiple use and sustained yield, in accordance with the land use plan developed by him under this section when it is available, except that where a tract of such public land has been dedicated to specific uses according to any other provision of law, it shall be managed in accordance with such law.

(e) If as a result of land use planning a management

decision is made to exclude one or more principal or major uses for two years or more, action implementing that decision on tracts of land in excess of fifty thousand acres shall be reported to the House of Representatives and the Senate; however, action implementing that decision on tracts of land of one hundred thousand acres or more shall terminate and become ineffective if before the end of ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the date the Secretary has submitted notice of such implementing action to the Senate and House of Representatives either House has adopted a resolution stating that that House does not approve of such action.

(f) (1) In managing the public lands under a land use plan the Secretary shall regulate, through permits, licenses, leases, or other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands. The Secretary shall permit hunting and fishing on lands and waters under his jurisdiction within the boundaries of the public lands in accordance with applicable laws of the United States and the States wherein the lands and waters are located, except the Secretary may designate zones where, and establish periods when, no hunting and fishing shall be permitted for reasons for public safety, administra-

tion, or public use and enjoyment. Except in emergencies, any regulations of the Secretary pursuant to this section shall be put into effect only after consultation with the appropriate State fish and game department. Nothing in this Act shall modify or change any Federal law relating to migratory birds. No provision of this section or any other section of this Act shall in any way amend the Mining Law of 1872 or impair the rights of any locators or claims under that Act, except as provided in section 207 of this Act.

(2) The Secretary shall insert in any permit, license, lease, or other instrument providing for the use, occupancy, or development of the public lands a provision authorizing revocation or suspension, after notice and hearing, of such permit, license, lease, or other document upon a final administrative finding of a violation of any regulation issued by the Secretary under any Act applicable to the public lands or upon final administrative finding of a violation on such lands of any applicable State or Federal air or water quality standard or implementation plan. The Secretary may order an immediate temporary suspension prior to a hearing or final administrative finding if he determines that such a suspension is necessary to protect public health or safety or the environment. When other applicable law contains specific provisions for suspension, revocation, or cancellation of

a permit, license, or other document authorizing use, occupancy, or development of the public lands the specific provisions of such law shall prevail.

(g) The Secretary shall allow an opportunity for public involvement and participation and by regulation shall establish procedures, including public hearings where appropriate, to give Federal, State, and local governments and the public, adequate notice and opportunity to comment upon the formulation of standards and criteria in the preparation and execution of plans and programs and in the management of the public lands.

SALES

SEC. 203. (a) A tract of the public lands (except land designated as wilderness) may be sold where, as a result of land use planning required under section 202, the Secretary determines that—

(1) such tract of the public lands is isolated, is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal agency;

(2) such tract of the public lands was acquired for a specific purpose and the tract is no longer required for that or any other Federal purpose; or

(3) disposal of such tract of the public lands will serve important public objectives which cannot be

achieved prudently or feasibly on land other than public land and which outweigh other public objectives and values, including recreation and scenic values, which would be served by maintaining such tract in Federal ownership.

(b) Where a tract of the public lands in excess of two thousand five hundred acres has been designated for sale, such sale may be made only after the end of the ninety days (not counting days on which the House of Representatives or the Senate has adjourned for more than three consecutive days) beginning on the day the Secretary has submitted notice of such designation to the Senate and the House of Representatives, and then only if neither House has adopted a resolution stating that that House does not approve of such designation.

(c) Sales of public lands shall be made at a price not less than the fair market value as determined by the Secretary.

(d) Sales of public lands under this section shall be conducted under competitive bidding procedures to be established by the Secretary. However, where the Secretary determines it necessary and proper in order (1) to assure equitable distribution among purchasers of lands, or (2) to recognize equitable considerations or public policies, including but not limited to a preference to users, he may sell those

lands with modified competitive bidding or without competitive bidding. In recognizing public policies, the Secretary shall first offer the tract of land being sold to the State in which the land is located, and then, if not sold, to a local government entity in such State and in the vicinity of the land to be disposed. After a tract of land has been offered for sale according to the preceding sentence, and is not sold, it may be offered for sale to the general public, with the Secretary giving consideration to the following potential purchasers:

(1) adjoining landowners;

(2) individuals; and

(3) any other person.

(e) The Secretary shall accept or reject, in writing, any offer to purchase made through competitive bidding at his invitation no later than thirty days after the receipt of such offer or, in the case of a tract in excess of two thousand five hundred acres, at the end of thirty days after the end of the ninety-day period provided in subsection (b) of this section, whichever is later unless the offeror waives his right to a decision within such thirty-day period. Prior to the expiration of such periods the Secretary may refuse to accept any offer or may withdraw any land or interest in land from sale under this section when he determines that consummation of the sale would not be consistent with this

Act or other applicable law. If the Secretary does not accept or reject an offer as required by this section the offer shall be deemed accepted.

(f) The Secretary of the Interior shall issue all patents or other documents of conveyance after any disposal authorized by this Act. The Secretary shall insert in any such patent or other document of conveyance he issues, except in the case of land exchanges, for which the provisions of subsection 206 (b) of this Act shall apply, such terms, covenants, conditions, and reservations as he deems necessary to ensure proper land use and protection of the public interest. The Secretary may correct such patents or documents where necessary. In addition, the Secretary may make corrections on any documents of conveyance which have heretofore been issued by the Federal Government on public lands.

(g) All conveyances of title issued by the Secretary of the Interior, except those involving land exchanges provided for in section 206, shall reserve to the United States all minerals in the lands, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except as provided in section 206, and except further that if the Secretary makes the findings specified in section 209 (a), the minerals may then be conveyed to the surface owner

or prospective surface owner, as the case may be, as provided in section 209.

(h) The Secretary shall not make conveyances of public lands which would be in conflict with State and local land use plans, programs, zoning, and regulations. At least sixty days prior to offering for sale or otherwise conveying public lands under this Act, each Secretary shall notify the Governor of the State within which such lands are located and the head of the governing body of any political subdivision of the State having zoning or other land use regulatory jurisdiction in the geographical area within which such lands are located, in order to afford the appropriate body the opportunity to zone or otherwise regulate, or change or amend existing zoning or other regulations concerning the use of such lands prior to such conveyance.

(i) No tract of land may be disposed of under this Act, whether by sale, exchange, or donation, to any person who is not a citizen of the United States, or in the case of a corporation, is not subject to the laws of any State or of the United States.

(j) The Act of July 31, 1958 (72 Stat. 438, 7 U.S.C. 1012a, 16 U.S.C. 478a), is amended to read as follows: "When the Secretary of Agriculture determines that a tract of National Forest System land is located adjacent to or contiguous to an established community, and that transfer of

such land would serve community objectives that outweigh the public objectives and values which would be served by maintaining such tract in Federal ownership, he may, upon application, set aside and designate as a townsite an area of not to exceed six hundred and forty acres of National Forest System land for any one application. After public notice, and satisfactory showing of need therefor by any county, city, or other local governmental subdivision, the Secretary may offer such area for sale to a governmental subdivision at a price not less than the fair market value thereof. The Secretary shall condition conveyances of townsites upon the enactment, maintenance, and enforcement of a valid ordinance which assures any land so conveyed will be controlled by the governmental subdivision so that use of the area will not interfere with the protection, management, and development of adjacent or contiguous National Forest System lands."

WITHDRAWALS

SEC. 204. (a) On and after the date of enactment of this Act—

(1) a tract of public lands, or of lands within the National Forest System, of five thousand acres or more may be withdrawn only for a period of not more than five years (or such a withdrawal may be extended) by the Secretary on his own motion or upon request by an

agency head, except where the provisions of subsection (b) (1) of this section apply; however, such withdrawal shall terminate and become ineffective if before the end of ninety days (not counting days on which the Senate or the House of Representatives has adjourned for more than three consecutive days) beginning on the day notice of such withdrawal has been submitted to the Senate and the House of Representatives, and either House has adopted a resolution stating that that House does not approve of the withdrawal; and

(2) a tract of public land, or of lands within the National Forest System, of less than five thousand acres may be withdrawn by the Secretary on his own motion or upon request by an agency head—

(A) for a period of not more than ten years for a nonresource use; or

(B) for a period of not more than five years to preserve such tract for a specific use then under consideration by the Congress.

All withdrawals and extensions thereof made under paragraphs (1) and (2) of this subsection shall be reviewed by the Secretary toward the end of the withdrawal period (with a copy of the report on such review being at that time sent to the Committees on Interior and Insular Affairs of the House of Representatives and the Senate), and may be

extended only if the Secretary determines that the purpose for which the withdrawal was first made requires the extension, and then only for a period no longer than the length of the original withdrawal period.

(b) (1) When the Secretary determines, or when the Committee on Interior and Insular Affairs of either the House of Representatives or the Senate notifies the Secretary, that an emergency situation exists and that extraordinary measures must be taken to preserve values that would otherwise be lost pending administrative or legislative action, the Secretary shall immediately make an emergency withdrawal and file notice of such emergency withdrawal with the Committees on Interior and Insular Affairs of the Senate and of the House of Representatives. Such emergency withdrawal shall be effective when made but shall last only for a period not to exceed two years, and may not be extended if either House has adopted a resolution stating that that House does not approve the extension.

(2) Within three months after filing the notice under paragraph (1), the Secretary shall furnish to the Committees—

(A) a clear explanation of the proposed use of the land involved which created the emergency situation leading to the emergency withdrawal;

(B) an inventory and evaluation of the current

natural resource uses and values of the site and adjacent public and nonpublic land and how it appears they will be affected by the proposed use, including particularly aspects of use that might cause degradation of the environment;

(C) an identification of present users of the land involved, and how they will be affected by the proposed use;

(D) an analysis of the manner in which existing and potential resource uses and users are incompatible with or in conflict with the proposed use, together with a statement of the provisions to be made for continuation or termination of existing uses;

(E) an analysis of the manner in which such lands will be used in relation to the specific requirements for the proposed use;

(F) a statement as to whether any suitable alternate sites are available (including cost estimates) for the proposed use or for uses such a withdrawal would displace;

(G) a statement of the consultation which has been or will be had with other Federal agencies, with regional, State, and local government bodies, and with other appropriate individuals and groups;

(H) a statement indicating the effect of the pro-

posed uses, if any, on State and local government interests and the regional economy;

(I) a statement of the expected length of time needed for the withdrawal;

(J) the time and place of hearings and of other public involvement concerning such withdrawal; and

(K) the place where the records on the withdrawal can be examined by interested parties.

(c) Notwithstanding section 553 (a) (2) of title 5 of the United States Code (relating to administrative procedures) all new withdrawals made by the Secretary under this section (except an emergency withdrawal made under subsection (b) (1) of this section) shall be promulgated on the record after an opportunity for an agency hearing.

(d) In the case of lands within the National Forest System, the Secretary shall make withdrawals at the request of and only with the consent of the Secretary of Agriculture, except when the provisions of subsection (b) (1) of this section apply.

ACQUISITION OF LAND

SEC. 205. (a) Notwithstanding any other provision of law, the Secretary, with respect to the public lands and the Secretary of Agriculture, with respect to units of the National Forest System, are authorized to acquire, by purchase, exchange, donation, or by eminent domain lands or

interests therein: *Provided,* That with respect to the public lands, the Secretary may exercise the power of eminent domain only if necessary to secure access to public lands, and then only if the lands so acquired are confined to as narrow a corridor as is necessary to serve such purpose. Nothing in this subsection shall be construed as limiting the authority of the Secretary of Agriculture to acquire land by eminent domain.

(b) Acquisitions pursuant to this section shall be consistent with the mission of the department involved and with applicable land-use plans.

(c) Lands and interests in lands acquired by the Secretary pursuant to this section or section 206 shall, upon acceptance of title, become public lands, and, for the administration of public land laws not repealed by this Act, shall remain public lands. If such acquired lands or interests in lands are located within the exterior boundaries of a grazing district established pursuant to the first section of the Act of June 28, 1934 (43 U.S.C. 315) (commonly known as the "Taylor Grazing Act"), they shall become a part of that district. Lands and interests in lands acquired pursuant to this section which are within boundaries of the National Forest System may be transferred to the Secretary of Agriculture for administration as part of, and in accordance with

laws, rules, and regulations applicable to the National Forest System.

EXCHANGES

SEC. 206. Anything set forth in section 203 (a) through (g) to the contrary notwithstanding and without compliance with the provisions of section 203 (a) through (g):

(a) A tract of public land or interests therein may be disposed of by exchange by the Secretary and a tract of land or interests therein within the National Forest System may be disposed of by exchange by the Secretary of Agriculture where the Secretary concerned determines that the national interest will be best served and better land management will result by making that exchange: *Provided,* That lands which are part of the National Forest System may be exchanged under the authority of this section only for lands within units of the National Forest System.

(b) In exercising the exchange authority granted by subsection (a) or by section 205(a), the Secretary concerned may accept title to any non-Federal land or interests therein and in exchange therefor he may convey to the grantor of such land, or interests, any lands or interests therein which he finds proper for transfer out of Federal ownership and which are located in the same State as the non-Federal land to be acquired. The values of the lands

so exchanged either shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary concerned as the circumstances require so long as payment does not exceed 20 per centum of the total value of the lands transferred out of Federal ownership. The Secretary concerned shall make every effort to reduce the amount of the payment of money to as small an amount as possible.

(c) Lands acquired by exchange under this section by the Secretary which are within the boundaries of the National Forest System may be transferred to the Secretary of Agriculture for administration as part of, and in accordance with laws, rules, and regulations applicable to the National Forest System. Lands acquired by exchange by the Secretary under this section which are within the boundaries of national park, wildlife refuge, wild and scenic rivers, trails, or any other system established by Act of Congress may be transferred to the appropriate agency head for administration as part of, and in accordance with the laws, rules, and regulations applicable to such system.

RECORDATION OF MINING CLAIMS AND ABANDONMENT

SEC. 207. (a) The owner of an unpatented lode or placer mining claim located prior to the date of this Act shall, within the three-year period following the date of the enactment of this Act and prior to December 31 of each year

thereafter, file the instruments required by paragraphs (1) and (2) of this subsection. The owner of an unpatented lode or placer mining claim located after the date of this Act shall, prior to December 31 of each year following the calendar year in which the said claim was located, file the instruments required by paragraphs (1) and (2) of this subsection.

(1) File for record in the office where the location notice or certificate is recorded either a notice of intention to hold the mining claim (including but not limited to such notices as are provided by law to be filed when there has been a suspension or deferment of annual assessment work), an affidavit of assessment work performed thereon, or a detailed report provided by the Act of September 2, 1958 (72 Stat. 1701), relating thereto.

(2) File in the office of the Bureau of Land Management designated by the Secretary a copy of the official record of the instrument filed or recorded pursuant to paragraph (1) of this subsection.

(b) The owner of an unpatented lode or placer mining claim located prior to the date of enactment of this Act shall, within the three-year period following the date of enactment of this Act, file in the office of the Bureau of Land Management designated by the Secretary a copy of the official record of the notice of location or certificate of location. The

owner of an unpatented lode or placer mining claim located after the date of enactment of this Act shall, within ninety days after the date of location of such claim, file in the office of the Bureau of Land Management designated by the Secretary a copy of the official record of the notice of location or certificate of location.

(c) The failure to file such instruments as required by subsections (a) and (b) shall be deemed conclusively to constitute an abandonment of the mining claim by the owner; but there shall, however, be no abandonment if the instrument is defective or not timely filed for record under other Federal laws permitting filing or recording thereof, or if the instrument is filed for record by or on behalf of some but not all of the owners of the mining claim.

RECORDABLE DISCLAIMERS OF INTEREST IN LAND

SEC. 208. (a) After consulting with any affected Federal agency, the Secretary is authorized to issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands or where he determines (1) a record interest of the United States in lands has terminated by operation of law; or (2) the lands lying between the meander line shown on a plat of survey approved by the Bureau of Land Management or its predecessors and the actual shoreline of a body of water are not

lands of the United States; or (3) accreted, relicted, or avulsed lands are not lands of the United States.

(b) No document of disclaimer shall be issued pursuant to this section unless the applicant therefor has filed with the Secretary an application in writing and notice of such application setting forth the grounds supporting such application has been published in the Federal Register at least ninety days preceding the issuance of such disclaimer and until the applicant therefor has paid to the Secretary the administrative costs of issuing the disclaimer as determined by the Secretary. All receipts shall be deposited to the then-current appropriation from which expended.

(c) Issuance of a document of disclaimer by the Secretary pursuant to the provisions of this section and regulations promulgated hereunder shall have the same effect as a quit-claim deed from the United States.

CONVEYANCE OF RESERVED MINERAL INTERESTS

SEC. 209. (a) The Secretary, after consultation with the appropriate agency head, may convey mineral interests owned by the United States where the surface is in non-Federal ownership, regardless of which Federal agency may have administered the surface, if he finds (1) that there are no known mineral values in the land, or (2) that the reservation of the mineral rights in the United States is interfering with or precluding appropriate nonmineral

development of the land and that such development is a more beneficial use of the land than mineral development.

(b) Conveyance of mineral interests pursuant to this section shall be made only to the record owner of the surface, upon payment of administrative costs and the fair market value of the interests being conveyed, giving consideration to the reverter provided for in subsection (c) of this section.

(c) The document of conveyance for any mineral interests transferred pursuant to this section shall provide that, in the event that mineral development activities are initiated, the mineral interests of the owner or owners of the parcel of land on which such activities are initiated, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, shall revert to the United States.

(d) Before considering an application for conveyance of mineral interests pursuant to this section the Secretary shall require the deposit of a sum of money which he deems sufficient to cover administrative costs including, but not limited to, costs of conducting an exploratory program to determine the character of the mineral deposits in the land, evaluating the data obtained under the exploratory program to determine the fair market value of the mineral interests to be conveyed, and preparing and issuing the documents of conveyance. If the administrative costs exceed the deposit,

the applicant shall pay the outstanding amount; and if the deposit exceeds the administrative costs, the applicant shall be given a credit for or refund of the excess.

(e) Moneys paid to the Secretary for administrative costs pursuant to subsection (d) shall be paid to the agency which rendered the service and deposited to the appropriation then current.

GRAZING FEES

SEC. 210. (a) Notwithstanding any other provision of law, the Secretary with respect to the grazing of domestic livestock on the public lands and the Secretary of Agriculture with respect to the grazing of domestic livestock on lands administered by him under the Act of April 24, 1950 (16 U.S.C. 580), shall charge an annual fee for such grazing which shall be computed as follows; except that in no event shall such fee be set at less than $2 per animal unit month of grazing:

(1) The fair market value of grazing domestic livestock on such lands for the period 1964–1968, which shall be the base period, shall be the amount that was determined to be fair market value for the year 1966 by the Department of the Interior and the Department of Agriculture in the Westernwide Livestock Grazing Survey.

(2) The fair market value for such base period shall, after the date of enactment of this Act, be adjusted each

year according to a combined index of prices received for beef cattle during the preceding year and the average monthly rate per head for pasturing cattle on privately owned land for the preceding year as collected for the eleven Western States by the Statistical Reporting Service of the Department of Agriculture.

(b) The term "animal unit month of grazing" as used in this section means the forage required by the grazing of one cow and calf or its equivalent for a period of one month. One cow shall, for the purpose of this definition, be considered the equivalent of one horse or five sheep or goats.

(c) (1) Fifty per centum of all moneys received by the United States as fees for grazing domestic livestock on such lands under the provisions of this section shall be credited to a separate account in the Treasury, one-half of which is authorized to be appropriated and made available for use in the district, region, or national forest from which such moneys were derived, as the respective Secretary may direct after consultation with district, regional, or national forest user representatives, for the purpose of actual range rehabilitation, protection, and improvements on such lands, and the remaining one-half shall be used for range rehabilitation, protection, and improvements as the Secretary concerned directs. Any funds so appropriated shall be in addition to any

other appropriations made to the respective Secretary for range management. Such improvements shall include all forms of range land management including but not limited to, seeding and reseeding, fence construction, weed control, water development, and fish and wildlife habitat enhancement as the respective Secretary may direct after consultation with district, regional, or national forest user representatives.

(2) The first clause of section 10(b) of the Taylor Grazing Act (48 Stat. 1269), as amended (43 U.S.C. 315), is hereby repealed. All distributions of moneys made under section 2(c)(1) of this Act shall be in addition to distributions made under section 10 of the Taylor Grazing Act and shall not apply to distribution of moneys made under section 11 of that Act. The remaining moneys received by the United States as fees for grazing domestic livestock shall be deposited in the Treasury as miscellaneous receipts.

DURATION OF GRAZING LEASES

SEC. 211. (a) Permits and leases for domestic livestock grazing on lands described in subsection 210(a) of this Act shall be issued for a term of ten years subject to grazing capacity except as provided in subsection (b).

(b) Shorter permit or lease terms may be granted where—

(1) the land is pending disposal; or

(2) the land will be devoted to a public purpose prior to the end of the ten-year term.

(c) All permits and leases shall incorporate an allotment management plan, if available, which has been developed for such lands only, after consultation with permittees.

(d) Nothing contained herein shall be construed as restricting the authority of the Secretary concerned to cancel, suspend or modify a grazing permit or lease, in whole or in part, pursuant to the terms or conditions thereof, or to cancel or suspend a grazing permit or lease, or for any violation of a grazing regulation or of any term or condition of such grazing permit or lease.

(e) Whenever a permit or lease for grazing domestic livestock is canceled in whole or in part, in order to devote the lands covered by the permit or lease to another public purpose, including disposal, the permittee or lessee shall receive a reasonable compensation from the United States, to be determined by the respective Secretary, but not to exceed the fair market value of the terminated portion of the permittee's or lessee's interest therein, for the loss of any interest in an authorized permanent improvement placed or constructed on the lands covered by such permit or lease by the permittee or lessee. Except in cases of emergency, no permit or lease shall be canceled under this subsection without two years' prior notification.

(f) So long as the lands for which the permit or lease is issued remain available for domestic livestock grazing, no permittee or lessee complying with the rules and regulations promulgated by the respective Secretary and who has complied with the terms and conditions of the permit or lease shall be denied the renewal of such permit or lease.

GRAZING DISTRICT ADVISORY BOARDS

SEC. 212. The provisions of section 14 of the Federal Advisory Committee Act (5 U.S.C. App. 1) shall not be construed as having applied or to apply in the case of those grazing district advisory boards established pursuant to the provisions of section 18 of the Act of June 28, 1934 (48 Stat. 1269).

TITLE III—BUREAU OF LAND MANAGEMENT

ESTABLISHMENT OF BUREAU

SEC. 301. (a) There is established within the Department of the Interior a Bureau of Land Management (hereinafter in this Act referred to as the "Bureau") which shall have as its head a Director who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Bureau shall have a broad background and substantial experience in public land and natural resource management. He shall carry out such functions and shall perform such duties as the Secretary may prescribe with respect to the management of lands and resources under his

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jurisdiction according to the applicable provisions of this Act and any other applicable law.

(b) Subject to the discretion granted to him by Reorganization Plan Numbered 3 of 1950 (5 U.S.C. 481 Note), the Secretary shall carry out through the Bureau all functions, powers, and duties vested in him and relating to the management of public lands which, on the date of enactment of this section, were carried out by him through the Bureau of Land Management established by section 403 of Reorganization Plan Numbered 3 of 1946. Any reference in any law, document, regulation, or other paper of the United States to the Bureau of Land Management shall be deemed to be a reference to the Bureau established by this section.

(c) In addition to the Director, there shall be an Associate Director of the Bureau and so many Assistant Directors, and other employees, as may be necessary, who shall be appointed by the Secretary subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter 3 of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) No suit, action, or other judicial proceeding, and no administrative action or proceeding, lawfully commenced

on or before the date of enactment of this section, and involving or relating to the Bureau of Land Management established under section 403 of Reorganization Plan Numbered 3 of 1946 shall abate by reason of the enactment of this section. Nothing in this section shall affect any regulation of the Secretary with respect to the administration of the public lands administered by him through the Bureau of Land Management on the date of enactment of this section.

ENFORCEMENT AUTHORITY

SEC. 302. (a) Any person who violates—

(1) any regulation issued by the Secretary with respect to the management, use, protection, development, acquisition, or conveyancing of the public lands, including the property located thereon;

(2) any provision of a permit, lease, license, or other document issued by the Secretary with respect to the use, occupancy, or development of such public lands; or

(3) any provision of this Act;

shall be fined not more than $1,000 or imprisoned for not longer than twelve months, or both. Any person charged with a violation of such regulation may be tried and sentenced by any United States magistrate designated for that purpose by the court by which he was appointed, in the same manner and subject to the same conditions and limi-

tations as provided for in section 3401 of title 18 of the United States Code.

(b) At the request of the Secretary, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing those public lands in violation of regulations issued by the Secretary under this Act.

(c) For the specific purpose of enforcing any Federal law or regulation relating to those public lands or resources managed by him, the Secretary may designate an employee who has had specialized law enforcement training to (1) execute and serve any warrant or other process issued by a court or officer of competent jurisdiction; (2) make arrests without warrant or process for a misdemeanor he has reasonable grounds to believe is being committed in his presence or view, or for a felony if he has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; (3) carry firearms (so long as the employee has been specifically trained to handle firearms, and then only to the extent necessary to carry out his responsibilities while actually on duty); (4) search without warrant or process any person, place, or conveyance according to any law or rule of law; and (5)

seize without warrant or process any evidentiary item as provided by law.

COOPERATION WITH STATE AND LOCAL LAW ENFORCEMENT AGENCIES

SEC. 303. In connection with administration and regulation of the use and occupancy of the public lands, the Secretary may cooperate with the regulatory and law enforcement officials of any State or political subdivision thereof. Such cooperation may include reimbursement to a State or its subdivision for expenditures incurred by it in connection with activities which assist in the administration and regulation of use and occupancy of those public lands.

SERVICE CHARGES, REIMBURSEMENT PAYMENTS, AND EXCESS PAYMENTS

SEC. 304. (a) Notwithstanding any other provision of law, the Secretary may establish filing fees, service fees and charges, and commissions with respect to applications and other documents relating to the public lands and may change and abolish such fees, charges, and commissions.

(b) The Secretary is authorized to require a deposit of any payments intended to reimburse the United States for extraordinary costs with respect to applications and other documents relating to such lands. The moneys received for extraordinary costs under this subsection shall be deposited

with the Treasury in a special account and are hereby authorized to be appropriated and made available until expended. As used in this subsection, "extraordinary costs" include but are not limited to the costs of special studies; environmental impact statements; monitoring construction, operation, maintenance, and termination of any authorized facility; or other special activities.

(c) In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under any statute relating to the sale, lease, use, or other disposition of public lands which is not required or is in excess of the amount required by applicable law and the regulations issued by the Secretary, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds.

DEPOSITS AND FORFEITURES

SEC. 305. (a) Any moneys received by the United States as a result of the forfeiture of a bond or other security by a resource developer or purchaser or permittee who does not fulfill the requirements of his contract or permit or does not comply with the regulations of the Secretary; or as a result of a compromise or settlement of any claim whether sounding in tort or in contract involving present or potential damage to the public lands shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available, until expended as the Secre-

tary may direct, to cover the cost to the United States of any improvement, protection, or rehabilitation work on those public lands which has been rendered necessary by the action which has led to the forfeiture, compromise, or settlement.

(b) Any moneys collected under this Act in connection with lands administered under the Act of August 28, 1937 (43 U.S.C. 1181a–1181j), shall be expended for the benefit of such land only.

(d) If any portion of a deposit or amount forfeited under this Act is found by the Secretary to be in excess of the cost of doing the work authorized under this Act, the Secretary, upon application or otherwise, may cause a refund of the amount in excess to be made from applicable funds.

WORKING CAPITAL FUND

SEC. 306. (a) There is hereby established a working capital fund for the management of the public lands. This fund shall be available without fiscal year limitation for expenses necessary for furnishing, in accordance with the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), and regulations promulgated thereunder, supplies and equipment services in support of Bureau programs, including but not limited to, the purchase or construction of storage facilities, equipment yards, and related improvements and the purchase, lease, or rent of motor vehicles, aircraft, heavy

equipment, and fire control and other resource management equipment within the limitations set forth in appropriations made to the Secretary for the Bureau.

(b) The initial capital of the fund shall consist of appropriations made for that purpose together with the fair and reasonable value at the fund's inception of the inventories, equipment, receivables, and other assets, less the liabilities, transferred to the fund. The Secretary is authorized to make such subsequent transfers to the fund as he deems appropriate in connection with the functions to be carried on through the fund.

(c) The fund shall be credited with payments from appropriations, and funds of the Bureau, other agencies of the Department of the Interior, other Federal agencies, and other sources, as authorized by law, at rates approximately equal to the cost of furnishing the facilities, supplies, equipment, and services (including depreciation and accrued annual leave). Such payments may be made in advance in connection with firm orders, or by way of reimbursement.

(d) There is hereby authorized to be appropriated not to exceed $3,000,000 as initial capital of the working capital fund.

STUDIES, COOPERATIVE AGREEMENTS, AND CONTRIBUTIONS

SEC. 307. (a) The Secretary may conduct investigations, studies, and experiments, on his own initiative or in

cooperation with others, involving the management, protection, development, acquisition, and conveying of the public lands.

(b) The Secretary may enter into contracts or cooperative agreements involving the management, protection, development, and sale of public lands.

(c) The Secretary may accept contributions or donations of money, services, and property, real, personal, or mixed, for the management, protection, development, acquisition, and conveying of the public lands, including the acquisition of rights-of-way for such purposes. He may accept contributions for cadastral surveying performed on federally controlled or intermingled lands. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby authorized to be appropriated and made available until expended, as the Secretary may direct, for payment of expenses incident to the function toward the administration of which the contributions were made and for refunds to depositors of amounts contributed by them in specific instances where contributions are in excess of their share of the cost.

CONTRACTS FOR SURVEYS AND RESOURCE PROTECTION

SEC. 308. (a) The Secretary is authorized to enter into contracts for the use of aircraft, and for supplies and services, prior to the passage of an appropriation therefor, for

airborne cadastral survey and resource protection operations of the Bureau. He may renew such contracts annually, not more than twice, without additional competition. Such contracts shall obligate funds for the fiscal years in which the costs are incurred.

(b) Each such contract shall provide that the obligation of the United States for the ensuing fiscal years is contingent upon the passage of an applicable appropriation, and that no payment shall be made under the contract for the ensuing fiscal years until such appropriation becomes available for expenditure.

LOCAL ADVISORY COUNCILS

SEC. 309. (a) The Secretary is authorized and encouraged to establish for regions, States, districts, or local units of the Bureau advisory councils of not less than ten and not more than fifteen members appointed by him from among persons who are representative of the various major citizens' interests concerning the problems relating to land use planning or the management of the public lands located within the region, State, district, or local unit for which an advisory council is established. To the extent practicable there shall be no overlap or duplication of such councils. Appointments shall be made in accordance with rules prescribed by the Secretary. The establishment and operation of an advisory council established under this section shall conform to the

requirements of the Federal Advisory Committee Act (5 U.S.C. App. 1).

(b) Notwithstanding the provisions of subsection (a) of this section, each advisory council established by the Secretary under this section shall meet at least twice a year with such meetings being called by the Secretary, except that if no meeting has been held for a period of six months the chairman of an advisory council may call a meeting. In addition each such advisory council may hold additional meetings as determined by the chairman or a majority thereof.

(c) Members of advisory councils shall serve without pay, except per diem will be paid each member for meetings called by the Secretary.

(d) An advisory council shall furnish advice to the Secretary with respect to the land use planning, classification, retention, management, and disposal of the public lands and located within such region, State district, or locality and such other matters as may be referred to it by the Secretary.

RULES AND REGULATIONS

SEC. 310. The Secretary, with respect to the public lands, shall promulgate rules and regulations to carry out the purposes of this Act, and of other laws applicable to the public lands. The promulgation of such rules and regulations shall be governed by the provisions of chapter 5 of title

5 of the United States Code, without regard to section 553 (a) (2). Prior to the promulgation of such rules and regulations, such lands shall be administered under existing rules and regulations concerning such lands to the extent practicable.

ANNUAL REPORT

SEC. 311. The Secretary shall prepare, after appropriate consultation with other agency heads, an annual report which he shall make available to the public and submit to Congress no later than 120 days after the close of each fiscal year. The report shall describe, in appropriate detail, activities relating or pursuant to this Act for the fiscal year just ended, any problems which may have arisen concerning such activities, and other pertinent information which will assist the accomplishment of the provisions and purposes of this Act. The report shall contain a detailed list and description of all transfers of lands out of Federal ownership for the fiscal year just ended. It shall include such tables, graphs, and illustrations as will adequately reflect the fiscal year's activities, historical trends, and future projections relating to such lands.

BUREAU OF LAND MANAGEMENT WILDERNESS STUDY

SEC. 312. The Secretary shall review those roadless areas of 5,000 contiguous acres or more and roadless islands

of the public lands, and shall report to the President his recommendation as to the suitability or nonsuitability of each such area or island for preservation as wilderness. The review conducted by the Secretary shall be made according to the procedure specified in sections 3(c) and 3(d) and section 4(d)(2) (with respect to mineral surveys) of the Wilderness Act. The recommendations of the Secretary based on the review conducted by him under this section shall be submitted to the President from time to time. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations with respect to the designation as wilderness of each such area on which review has been complete, together with a map thereof and a definition of its boundaries. Such advice by the President shall be given with respect to not less than one-half of all the areas within five years after the date of enactment of this Act, and the remaining areas within ten years after the date of enactment of this Act. A recommendation of the President for designation as wilderness shall become effective only if so provided by an Act of Congress. During the period of review of such areas, the Secretary shall continue to administer such lands according to his existing authority in a manner so as to preserve the wilderness character of each such area, subject only to the continuation of existing mining and graz-

ing uses in the manner and degree in which the same was being conducted. Once an area has been designated for preservation as wilderness, the provisions of the Wilderness Act shall apply with respect to the administration and use of such designated area, including mineral development, in the same manner as they apply to national forest wilderness areas.

MANAGEMENT OF WILD HORSES AND BURROS

SEC. 313. (a) Subsection (a) of section 3 of Public Law 92-195, the Act of December 15, 1971 (16 U.S.C. 1333), is amended by adding "Notwithstanding any other provisions of law, the Secretary is authorized to use aircraft and motorized vehicles to provide for the protection, management, and control of wild free-roaming horses and burros, such use to be in accordance with humane procedures prescribed by the Secretary.".

(b) Section 3 is further amended by adding a new subsection (e), as follows: "The Secretary is authorized to sell or donate, without restriction, excess horses or burros to individuals or organizations.".

TITLE IV—DESERT LANDS

CALIFORNIA DESERT CONSERVATION AREA

SEC. 401. (a) The Congress finds that—

(1) the California desert contains historical, scenic, archeological, environmental, biological, cultural, scien-

tific, educational, recreational and economic resources that are uniquely located adjacent to an area of large population;

(2) the desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(3) the desert environment and its resources, including certain rare and endangered species of wildlife, plants, and fishes, and numerous archeological and historic sites, are seriously threatened by air pollution, inadequate Federal management authority, and pressures of increased use, particularly recreational use, which are certain to intensify because of the rapidly growing population of southern California;

(4) the use of all desert resources can and should be provided for in a multiple use and sustained yield management plan to conserve these resources for future generations, and to provide present and future use and enjoyment, particularly outdoor recreation uses, including the use, where appropriate, of off-road recreational vehicles;

(5) the Secretary has initiated a comprehensive planning process and established an interim management program for the California desert; and

(6) to insure further study of the relationship of

man and the desert environment, preserve the unique and irreplaceable resources, including archeological values, and conserve the use of the economic resources of the California desert, the public must be provided more opportunity to participate in such planning and management, and additional management authority must be provided by the Secretary to enable effective implementation of such planning and management.

(b) It is the purpose of this section to provide for the immediate and future protection and administration of the California desert within the framework of a program of multiple use and sustained yield, and the maintenance of environmental quality.

(c) (1) For the purpose of this section, the term "California desert conservation area" means the area generally depicted on a map entitled "California Desert Conservation Area—Proposed" dated April 1974.

(2) As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and a legal description of the California desert area with the Committees on Interior and Insular Affairs of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in such legal description

and a map may be made by the Secretary. To the extent practicable, the Secretary shall make such legal description and map available to the public promptly upon request.

(d) The Secretary, in accordance with section 202 of this Act, shall prepare and implement a comprehensive, long-range plan for the management, use, development, and protection of the public lands within the California desert area. Such plan shall take into account the principles of multiple use and sustained yield in providing for resource use and development, including rights-of-way and mineral development and the maintenance of environmental quality. Such plan shall be completed and implementation thereof initiated on or before June 30, 1979.

(e) During the period beginning on the date of enactment of this Act and ending on the effective date of implementation of the comprehensive, long-range plan, the Secretary shall execute an interim program to manage, use, and protect the public lands, and their resources now in danger of destruction, in the California desert area, to provide for the public use of such lands in an orderly and reasonable manner such as through the development of campgrounds and visitor centers, and to provide for a uniformed desert ranger force.

(f) Subject to valid existing rights, nothing in this Act shall affect the applicability of the United States mining

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laws on the public lands within the California desert area, except that all mining claims located on public lands within the desert area after the date of enactment of this Act shall be subject to such reasonable regulations as the Secretary may prescribe to effectuate the purposes of this Act. Any patent issued on any such mining claim shall recite this limitation and continue to be subject to such regulations. Such regulations shall provide for such measures as may be reasonable to protect the scenic, scientific, and environmental values of the California desert area against undue impairment, and to assure against pollution of the streams and waters within the desert area.

(g) (1) The Secretary, within sixty days after the date of enactment of this Act, shall establish a California Desert Conservation Area Advisory Committee (hereinafter referred to as "advisory committee") in accordance with the provisions of section 309 of this Act.

(2) It shall be the function of the advisory committee to advise the Secretary with respect to the preparation and implementation of the comprehensive, long-range plan required under subsection (d) of this section.

(h) The Secretary of Agriculture and the Secretary of Defense shall manage lands within their respective jurisdictions located in or adjacent to the California desert area, in

accordance with the laws relating to such lands and wherever practicable, in a manner consonant with the purpose of this section. The Secretary, the Secretary of Agriculture, and the Secretary of Defense are authorized and directed to consult among themselves and take cooperative actions to carry out the provisions of this subsection, including a program of law enforcement to protect the archeological and other values of the area.

(i) The Secretary shall report to the Congress no later than two years after the date of enactment of this Act, and annually thereafter, on the progress in, and any problems concerning, the implementation of this section, together with any recommendations, which he may deem necessary, to remedy such problems.

(j) There are authorized to be appropriated not to exceed $40,000,000 for the purpose of this section, such amount to remain available until expended.

CONVEYANCES FOR RECREATION PURPOSES

SEC. 402. (a) The Recreation and Public Purposes Act of 1926 (42 U.S.C. 869–4), is amended as follows:

(1) The second sentence of subsection (a) of the first section of that Act (43 U.S.C. 869 (a)) is amended to read as follows: "Before the land may be disposed of under this Act it must be shown to the satisfaction of the Secretary that

the land is to be used for an established or definitely proposed project, that the land involved is not of national significance nor more than is reasonably necessary for the proposed use, and that for proposals of over 640 acres comprehensive land use plans and zoning regulations applicable to the area in which the public lands to be disposed of are located have been adopted by the appropriate State or local authority. The Secretary shall allow for public involvement in all disposals, including public hearings on any proposed disposal of more than 640 acres under this Act."

(2) Subsection (b) (i) of the first section of that Act (43 U.S.C. 869 (b)) is amended to read as follows:

"(b) Conveyances made in any one calendar year shall be limited as follows:

"(i) For recreational purposes:

"(A) To any State or the State park agency or any other agency having jurisdiction over the State park system of such State designated by the Governor of that State as its sole representative for acceptance of lands under this provision, or to any political subdivision of such State, six thousand four hundred acres.

"(B) To any nonprofit corporation or nonprofit association, six hundred forty acres,

"(C) No more than twenty-five thousand six hundred acres may be conveyed for recreational purposes under this Act in any one State per calendar year. Should any State or political subdivision, however, fail to secure in any one year, six thousand four hundred acres, not counting lands for small roadside parks and rest sites, conveyances may be made thereafter if pursuant to an application on file with the Secretary of the Interior on or before the last day of said year and to the extent that the conveyance would not have exceeded the limitations of said year."

(3) Section 2(a) of that Act (43 U.S.C. 869–1) is amended by inserting "or recreational purposes" immediately after "historic-monument purposes".

(4) Section 2(b) of that Act (43 U.S.C. 869–1) is amended by adding ", except that leases of such lands for recreational purposes shall be made without monetary consideration" after the phrase "reasonable annual rental".

DESERT AREAS STUDY

SEC. 403. (a) The Secretary shall identify and thoroughly study desert areas of the public lands, other than the California Desert Conservation Area specified in section 401 of this Act, recognizing that—

(1) the desert environment is a total ecosystem that is extremely fragile, easily scarred, and slowly healed;

(2) the desert environment and its resources may be seriously threatened by air pollution, inadequate Federal management, and pressures of increased use, particularly recreational use; and

(3) in order to preserve the unique and irreplaceable resources and conserve the use of economic resources of desert areas further study of the relationship of man and the desert environment (providing greater public involvement) must be conducted.

(b) The Secretary shall submit a report to the Congress, within five years after the date of enactment of this Act, which shall include—

(1) a description (including maps) of each desert area on the public lands;

(2) an analysis of the present condition of the total ecosystem of each such desert area;

(3) a projection of the suitable uses which each desert area could accept without damaging the total ecosystem;

(4) an estimate of the natural resources contained in the desert areas;

(5) a projection of the kinds of use demands which are likely to be placed upon each desert area; and

(6) recommendations as to needed administrative or legislative action which is necessary to insure that Federal management of the desert areas is adequate to fully protect and develop each such desert area.

(c) There is authorized to be appropriated not to exceed $1,500,000 for the purpose of this section.

TITLE V—RIGHTS-OF-WAY

AUTHORIZATION TO GRANT RIGHTS-OF-WAY

SEC. 501. (a) The Secretary, with respect to the public lands and, the Secretary of Agriculture, with respect to lands within the National Forest System (except in each case land designated as wilderness), are authorized to grant, issue, or renew rights-of-way over, upon, or through such lands for—

(1) reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels, and other facilities and systems for the impoundment, storage, transportation, or distribution of water;

(2) pipelines and other systems for the transportation or distribution of liquids and gases, other than water and other than oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced there-

from, and for storage and terminal facilities in connection therewith;

(3) pipelines, slurry and emulsion systems, and conveyor belts for transportation and distribution of solid materials, and facilities for the storage of such materials in connection therewith;

(4) systems for generation, transmission, and distribution of electric energy, except that the applicant shall also comply with all applicable requirements of the Federal Power Commission under the Act of June 10, 1920 (16 U.S.C. 796, 797);

(5) systems for transmission or reception of radio, television, telephone, telegraph, and other electronic signals, and other means of communication;

(6) roads, trails, highways, railroads, canals, tramways, airways, livestock driveways, or other means of transportation; or

(7) such other necessary transportation or other systems or facilities which are in the public interest and which require rights-of-way over, upon, or through such lands.

(b) (1) The Secretary concerned shall require, prior to granting, issuing, or renewing a right-of-way, that the applicant submit and disclose any or all plans, contracts,