****6175** P.L. 94-579, FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976
Senate Report (Interior and Insular Affairs Committee) No. 94-583,
Dec. 18, 1976 (To accompany S. 507)
House Report (Interior and Insular Affairs Committee) No. 94-1163,
May 15, 1976 (To accompany H.R. 13777)
House Conference Report No. 94-1724,
Sept. 29, 1976 (To accompany S. 507)
Cong. Record Vol. 122 (1976)
DATES OF CONSIDERATION AND PASSAGE
Senate February 25, October 1, 1976
House July 22, September 30, 1976

The Senate bill was passed in lieu of the House bill after amending its language to contain much of the test of the House bill. The House Report and the House Conference Report are set out.

(CONSULT NOTE FOLLOWING TEXT FOR INFORMATION ABOUT OMITTED MATERIAL. EACH COMMITTEE REPORT IS A SEPARATE DOCUMENT ON WESTLAW.)

HOUSE REPORT NO. 94-1163
May 15, 1976

***1** The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 13777) 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, having considered the same, report favorably thereon without amendment and recommended that the bill do pass.

PURPOSE

From the beginnings of the Republic, the public lands have played a key role in the development of the economy and institutions of the United States. In directing the role that the public lands have played, the Congress has enacted thousands of public land laws. More than 3,000 remain on the books today. These laws represented and effectuated Congressional policies needed when they were passed. Many of them are still viable and applicable today under present conditions. However, in many instances they are absolute and, in total, do not add up to a coherent expression of Congressional policies adequate for today's national goals.

The Executive Branch of the Government has tended to fill in missing gaps in the law, not always in a manner consistent with a system balanced in the best interests of all the people. A major weakness which has arisen under these circumstances is instability of national policies.

****6176 *2** The Committee recommends the enactment of H.R. 13777 [FN1] as a major step towards modernizing these public land laws. To this end, the bill will accomplish the following major objectives:

(1) Establish a mission for the public lands administered by the Secretary of the Interior through the Bureau of Land Management. At the present, these public lands total more than 450 million acres (out of an original total of 1,800 million acres), about one-fifth of the Nation's land. Located almost entirely in the 11 western states and in Alaska, their resources are highly varied and of tremendous value.

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(2) Clothe the Bureau of Land Management with sufficient authority to enable it to carry out the goals and objectives established by law for the public lands under its jurisdiction.

(3) Enact into law criteria, guidelines, and standards to be followed by the Bureau of Land Management, and in a more limited way by the Forest Service, in the administration of various resources under their jurisdiction consistent with statutory goals. H.R. 13777 addresses those resource issues which have been identified as having urgent need for statutory direction at this time.

(4) Establish procedures to facilitate Congressional oversight of public land operations entrusted to the Secretary of the Interior.

(5) Weed out of the body of law those statutes and parts of statutes which are obsolete. The section-by-section analysis describes the means by which these objectives are to be achieved. In summary, they are as follows.

MISSION

The underlying mission proposed for the public lands, is the multiple use of resources on a sustained-yield basis. Corollary to this is the selective transfer of public lands to other ownerships where the public interest will be served thereby. The proper multiple use mix of retained public lands is to be achieved by comprehensive land use planning, coordinated with State and local planning. Planning decisions are to be made only after full opportunity for public involvement in the planning process. Management and disposal of the public lands are to be consistent with land use plans so developed.

AUTHORITY FOR THE BUREAU OF LAND MANAGEMENT

The authorities that would be granted to the Bureau of Land Management involve:

(1) resource inventories and land-use planning;

(2) sales of public lands subject to specific statutory criteria and procedures;

(3) issuance of leases, licenses, and permits for use, occupancy, and development of public lands;

(4) terms and conditions in leases, licenses, permits, easements, and conveyances;

***3 **6177** (5) acquisitions of land and interest in land by purchase, donation and exchange with the right of eminent domain limited to acquisition of access to public lands;

(6) recordation of mining claims and termination of unrecorded claims;

(7) Recordable disclaimers of interest in land;

(8) conveyance of reserved mineral interests;

(9) enforcement of laws and regulations;

(10) administrative-type authorities, including:

(a) charges for services rendered

(b) deposits for rehabilitation of lands and resources

(c) working capital fund

(d) research

(e) cooperative agreements

(f) acceptance of contributions

(g) multi-year contracts for airborne cadastral survey and resource protection operations;

(11) advisory boards and councils;

(12) issuance of rules and regulations;

(13) issuance and termination of rights-of-way; and

(14) withdrawals.

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GUIDELINES FOR SPECIFIC RESOURCE MANAGEMENT

Urgent need for Congressional direction has been identified for a number of resource areas, as follows:

(1) a system for computation of grazing fees which will be equitable and will remove the subject from continuing controversy;

(2) a clarification of the tenure of grazing users which is now implied in existing legislation;

(3) inclusion of BLM lands in the Wilderness System and procedures;

(4) establishment of goals and timetable for protection and management of the California desert area;

(5) liberalization of Recreation and Public Purposes Act with respect to grants of recreational lands to States and local governments; and

(6) use of motorized vehicles in the protection and management of wild horses and burros and transfer of title to animals from Federal lands is necessary to accomplish the purposes of the Act.

OVERSIGHT PROCEDURES

Public concern over the possibility of excessive disposals of public lands on the one hand and excessive restrictions on the other is reflected in the inclusion of requirements for referral of certain types of actions to the Congress for review. The general requirements of overview show the desirability of a mandatory annual report. H.R. 13777 contains the following requirements:

(1) referral to Congress of actions implementing decisions to exclude one or more principal uses from areas of 100,000 acres or more of public lands;

***4 **6178** (2) referral to Congress of proposed sales of areas in excess of 2,500 acres;

(3) referral to Congress of withdrawals and extensions of withdrawals of 5,000 acres or more and reports to Congress on the results of review of certain withdrawals existing on the date of approval of H.R. 13777;

(4) annual reports;

(5) appointment of the Director by the President with the advice and consent of the Senate; and

(6) requirement for biennial appropriation authorizations.

NATIONAL FOREST SYSTEM

In view of Committee responsibility for the forest reserves created out of the public domain and the equal applicability of certain policies to such lands, the provisions of H.R. 13777 apply to public domain lands in such forest reserves with respect to:

1. grazing fees;
2. grazing tenure and advisory boards;
3. wild horses and burros;
4. rights-of-way;
5. inventory and planning;
6. disposal of lands around compacted communities;
7. exchanges;
8. mining claims; and
9. recordable disclaimers of interest.

SECTION BY SECTION ANALYSIS

TITLE I-SHORT TITLE, DECLARATION OF POLICY, AND DEFINITIONS

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Section 101-Short Title

The short title identifies the legislation as 'The Federal Land Policy and Management Act of 1976.'

Section 102-Declaration of Policy

This section sets forth Congressional policy which is the basis for the statutory authority and directives contained in subsequent sections of H.R. 13777 and for future legislation concerning the use, occupancy, and disposition of the public lands. The 13 points include policies for retention and selective disposal of the public lands; up-to-date inventories and comprehensive land-use plans; Congressional oversight of withdrawals; fair and equitable administrative procedures; judicial review of administrative decisions; management under principles of multiple use and sustained yield; protection of environmental and other public values; receipt of fair market value for public lands and resources; acquisition and exchanges; recognition of need for materials; and payments to states and local governments to compensate for tax immunity.

Section 103-Definitions

The section defines 14 terms used in the bill: (1) areas of critical environmental concern; (2) holder; (3) multiple use; (4) public involvement; (5) public lands; (6) right-of-way; (7) Secretary; (8) ****6179 *5** sustained yield; (9) wilderness; (10) withdrawal; (11) allotment management plan; (12) principal or major uses; (13) department and agency; and (14) lands in the National Forest System.

The definitions of 'multiple use' and 'sustained yield' preserve essentially their same meaning as used in the Forest Service Multiple Use Act of 1960 and in the now-expired Public Land Classification and Multiple Use Act of 1964. 'Public lands' are defined as including all classes of lands managed by the Bureau of Land Management (BLM), except lands of the Outer Continental Shelf, thereby creating a common management base for all BLM lands. 'Wilderness' is defined as used in the Wilderness Act of 1964. 'Withdrawal' is defined to preserve its traditional meanings. The term 'principal or major uses' is defined for the purposes of section 202 of the bill. They represent the uses for which Congressional oversight is particularly needed. The definition does not mean to imply that other uses such as 'watershed' are not of great public significance. National Forest System lands are defined as public domain lands in national forests created out of the public domain.

TITLE II-PLANNING FUTURE PUBLIC LAND USE

Section 201-Inventory and Identification

This provision directs the Secretary of the Interior and the Secretary of Agriculture to inventory the lands (except wilderness) under their respective jurisdiction, and subject to the availability of funds, to identify such lands and provide state and local governments with data from the inventory. The section re-enacts the Forest Service inventory provisions of the Humphrey-Rarick Act of 1974.

Section 202-Land Use Planning

Subsections (a) and (b) direct the Secretary of the Interior and the Secretary of

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Agriculture to develop land use plans. Eight guiding principles are established, including multiple use and sustained yield, special attention to areas of critical environmental concern, present and potential uses, scarcity of values, long-term benefits, compliance with applicable pollution control laws, and coordination with state and local government planning activities. The principles incorporate provisions of the Humphrey-Rarick Act of 1974 which apply to planning for National Forest lands.

The term 'land use planning' is not defined in the bill because it is a term now in general usage and permits a large variety of techniques and procedures and various alternatives. The Committee is well acquainted with the land use planning systems of the Bureau of Land Management and the Forest Service and has found them to be consistent in general principles and practices with the objectives of H.R. 13777. Both systems treat land use planning as dynamic and subject to change with changing conditions and values.

The bill requires that the agency plans conform to land use plans of State and local governments 'to the maximum extent' consistent with applicable Federal law. The responsibility for determining whether maximum conformance has been achieved is placed in the appropriate Secretary who is expected by the Committee to make every reasonable effort to achieve consistency.

****6180 *6** Subsection (c) requires a review of existing land use classifications and the inclusion of all lands in plans developed.

Subsection (d) requires public lands designated for retention to be managed under principles of multiple use and sustained yield unless dedicated to a specific use by law.

Subsection (e) authorizes the Secretary to implement his land use plans by management decisions. However, he will have to use the withdrawal procedures of the bill where the implementation action involves the application of the mining law or the transfer of lands from BLM to another governmental unit. Management decisions which would exclude one or more principal or major uses (as defined in the bill) for two years or more on areas in excess of 100,000 acres will have to be referred to Congress. Congress reserves the right to veto such decisions by the action of either House.

In subsection (f)(1) the Secretary of the Interior is directed to regulate, through permits, licenses, leases, published rules, or other documents, the use, occupancy and development of the public lands. The terms and conditions of his regulations would be subject to applicable law. The term 'published rules' is used to make clear that individual authorizations are not required (such as for casual uses) where the law otherwise does not mandate that type of permission. This subsection will provide the Secretary with authority, under such terms and conditions are are found necessary and consistent with existing law, to authorize and regulate uses not otherwise specifically provided by law. It provides that hunting and fishing will be permitted in accordance with Federal and State laws and that no Federal permits for hunting or fishing are authorized by this section. It permits the Secretaries to close areas to hunting and fishing for reasons of public safety. The Secretaries are expected to use the authority granted by the bill to close areas only if essential to the public safety, and then only for the shortest periods needed to accomplish this purpose. Protection of the public safety includes prevention and avoidance of hazards to persons, animals, and property. The authority granted is not in derogation of other authority granted by law for the protection of natural resources, including endangered species. The section specifies that no provision of the Mining Law of 1872 will be amended or altered by this legislation except as provided in section 207 (recordation of mining claims), subsection 401(f) (regulation of mining in the California desert), section 311 (wilderness review areas and wilderness areas), and except for the fact that the Secretary of the Interior is given specific authority, by regulation or otherwise,

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to provide that prospecting and mining under the Mining Law will not result in unnecessary or undue degradation of the public lands. The Secretary is granted general authority to prevent such degradation. Existing authority for control or regulations of migratory birds is preserved.

Subsection (f)(2) directs the Secretary to insert in permits and leases, provisions authorizing revocation or suspension, after notice and hearing, for violations of regulations or applicable State or Federal air or water pollution control plans. Immediate temporary revocations or suspensions may be ordered in emergencies. To be a basis for an action for suspension or termination, a violation must involve a term or condition specified in the document. The Committee expects that the Secretaries will be as explicit as is practical in listing ***7 **6181** the terms and conditions in order that the holder will be fully aware of his obligations under the document involved. The Secretaries will avoid vague and general language. The Secretaries will terminate suspensions promptly upon abatement of the offending violation and other necessary corrective action.

In subsection (g) the Secretary is directed to allow public involvement and to establish procedures for Federal, State, and local government and public participation in development of public land use plans and programs. In requiring 'public participation' the Committee does not intend any dimunition in the authority and responsibility of the Secretaries to make public land National Forest decisions. It does expect the Secretaries to provide means for input by the interested public before decisions are made. The Secretaries will be expected to respond to public opinion but are expected to make their decisions on the merits of each case and not on counting the numbers of responses pro and con. As to the extent of public participation in each case a rule of reason will be applied so that the cost of input procedures does not exceed the values involved. However, some expenditures will always be justified to insure public exposure of proposed decisions, even though the public may not in all cases respond to the opportunity to comment.

Section 203-Sales

(a) The section authorizes the sale of public lands (except land designated as wilderness) where (1) the land is difficult or uneconomic to manage and is not needed by another Federal agency; or (2) the land was acquired for specific purpose but is no longer needed for any Federal purpose; or (3) disposal of the land will serve public objectives. The term 'public objectives' is meant in its broadest sense to include such goals as community and economic development.

(b) Sales of more than 2,500 acres may be made only after 90 days notification to the House and Senate and only then if neither House disapproves. The Chairmen of the Interior and Insular Affairs Committees will inform the Secretary as to specific reporting requirements, including but not limited to, format, information to be included, and timing of reports.

(c) Sales will be made at fair market value.

(d) Sales will be made on the basis of competitive bidding except where the Secretary determines that some other method is needed in order to achieve (1) equitable distribution of land, or (2) equitable consideration or public policies. Under the latter, State and local governmental agencies will have first consideration but not an automatic priority. To afford the preference rights authorized by the bill, the Secretary may grant a right of first refusal or make any other appropriate modification of competitive bidding. The Committee finds that an appropriate modification of competitive bidding in order to afford preference rights to adjoining owners would be continuance of the policy of permitting such owners to purchase the lands at not more than three times their appraised fair market value. This is not to say that other arrangements would not

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also be appropriate.

(e) Procedures and time limitations for rejection or acceptance of offers to purchase are established.

****6182 *8** (f) The Secretary is given authority to issue all public land patents, deeds and other documents of conveyance, and where necessary, to make corrections of documents issued heretofore or in the future. As used in this subsection, when it refers to patents issued in the past, 'public lands' includes lands under the jurisdiction of BLM and its predecessor agencies.

(g) The Secretary is directed to reserve mineral rights except (1) where there are no known minerals or (2) the reservation would interfere with more valuable surface development.

(h) The Secretary is directed to cooperate with State and local authorities. Sales are prohibited if they would contain terms and conditions that would be in violation of laws and regulations pursuant to State and local land use plans and programs.

Notice of proposed sales to governments and local government authorities is required. The mandatory nature of the requirement does not prevent such officials from arranging with the Secretary for any selective reference of proposed sales or elimination of the notices altogether.

(i) Patentees must be United States citizens or domestic corporations.

(j) Existing law authorizes the Secretary of Agriculture to designate, subdivide, and dispose of townsites needed for the expansion of communities adjoining national forest lands. This subsection amends the law to permit the Secretary of Agriculture to sell such lands en bloc to a local government for subdivision and disposal. The Secretary will have the authority to condition the sale to assure local governmental control of development of the lands consistent with the protection, management, and development of adjoining national forest lands.

The subsection permits the Secretary of Agriculture to transfer public lands under the 1958 Act, as amended only if the transfer would serve 'indigenous' community objectives. The purpose of this is to limit transfers to essential community needs resulting from internal growth and from the need to improve and modernize community facilities and services. Examples of acceptable objectives include space for housing and service industries, expansion of existing economic enterprises, new industries utilizing local resources and skills, community parks and other intensive recreation areas for the local citizenry, public schools, and public health facilities. Examples of unacceptable objectives include intensive commercial recreation enterprises, new industries that would change the character of the local community, and housing projects to attract seasonal or other outside occupants. Should the Secretary decide that it is in the public interest to convey lands for the latter kinds of purposes, he would have to use whatever authority he has to accomplish the transfer.

(k) This subsection directs the Secretary of the Interior to complete within a specified time action on the remaining pending applications under the Unintentional Trespass Act of 1968, now expired except as to such applications. The Committee considers the delays in final action as unconscionable and defeative of the objectives of the Congress in enacting the 1968 law. The Act intended that relief would be given to innocent trespassers within a reasonable time. Failure of the Secretary to act in a reasonably prompt manner has caused continuation ***9 **6183** of the conditions which warranted relief and requires applicants to absorb the costs of inflation which prompt administrative action would have avoided. This section provides for the relief originally intended by the Congress. For sales under the Act, the lands will hereafter be appraised as of September 26, 1972, and offered at that price to preference right holders if the Secretary decides to sell the lands.

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Section 204-Withdrawal of Land

With certain exceptions, H.R. 13777 will repeal all existing law relating to executive authority to create, modify, and terminate withdrawals and reservations. It would reserve to the Congress the authority to create, modify, and terminate withdrawals for national parks, national forests, the Wilderness System, Indian reservations, certain defense withdrawals, and withdrawals for National Wild and Scenic Rivers, National Trails, and for other 'national' recreation units, such as National Recreation Areas and National Seashores. It would also specifically reserve to the Congress the authority to modify and revoke withdrawals for national monuments created under the Antiquities Act and for modification and revocation of withdrawals adding lands to the National Wildlife Refuge System. These provisions will insure that the integrity of the great national resource management systems will remain under the control of the Congress.

For the protection of statutory programs for the public lands and other statutory management programs, the bill grants to the Secretary of the Interior, subject to certain procedural controls, authority to create, modify, and terminate all withdrawals and reservations for all public purposes and departmental agency programs, existing and proposed other than those reserved by the bill to the Congress. Except for 'emergency withdrawals' and 'resource use' withdrawals of less than 5,000 acres and extensions of certain other withdrawals, all withdrawals created by the Secretary will have a duration of 5 years. The Secretary will have the authority to extend such withdrawals for additional 5-year periods. The smaller 'resource use' withdrawals will have their duration specified by the Secretary. Emergency withdrawals will have a maximum duration of one year. The Secretary will not have authority to extend such emergency withdrawals since one year gives sufficient time for him to determine whether a withdrawal should be made under the regular procedures or abandoned altogether. The Secretary will be required to notify Congress of all emergency withdrawals. He will also have to send notice of all other withdrawals (both original withdrawals and extensions) affecting 5,000 acres or more of Federal lands. Upon receipt of notice, each House will have, for a period of 90 days, the opportunity to terminate all such withdrawals, except emergency withdrawals, by a resolution of that House. Absent such timely action, it will take an Act of Congress to terminate the withdrawal if the Secretary does not do so. The bill specifies the information that the Secretary shall provide the Congress when he notifies it of withdrawals made under the provisions of the legislation. Other arrangements for reporting, such as the time for reporting, will be specified by the Chairmen of the Committees of Interior and Insular Affairs in the usual manner.

The bill requires all withdrawals under its provisions to be promulgated on the record after an opportunity for agency hearing. Except ***10 **6184** with respect to emergency withdrawals, it also requires that concurrence of heads of departments and independent agencies when lands under their jurisdiction would be affected.

The bill specifically grants the Secretary the authority, by regulation, to provide procedures (segregation of the lands) for protection of values in lands from nonconforming uses and for other purposes while he is considering their possible withdrawal. It allows the Secretary a period of one year to process proposals under such regulations. If he fails to take definitive action by that time, the protective provisions provided by the regulations would terminate. A period of a year is ample time for the Secretary to determine the course of action which will be in the public interest.

The bill would limit the authority of the Secretary to delegate his withdrawal authority to subordinates. Since withdrawals go to the heart of basic Federal land policies, he will be able to delegate action only to policy officers in the Office of the Secretary appointed by the President with the advice and consent of the

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Senate. Bureau Chiefs will not be permitted to exercise withdrawal authority. The Secretary of the Interior is directed to process all withdrawal applications pending as of the date of the Act within ten years of that date.

Section 205-Acquisition of Land

(a) The Secretary of the Interior and the Secretary of Agriculture, as to Federal lands administered by them, are authorized to acquire lands by purchase, exchange or donation, power of eminent domain may be used by the Secretary of the Interior only in connection with the acquisition of access. Existing eminent domain authority of the Forest Service is not modified.

(b) Acquisition must be consistent with the mission of the agency.

(c) and (d) Lands acquired by the Secretary of the Interior under this Act shall be considered as public lands, with lands acquired within a grazing district becoming part of the district. Lands acquired by the Secretary of Agriculture shall become national forest lands.

(e) The Secretary of the Interior is permitted to use the Land and Water Conservation Fund for purchase of lands primarily of value for recreation. The Secretary of Agriculture has similar authority.

Section 206-Exchanges

(a) Exchanges of public lands by the Secretary of the Interior and national forest lands by the Secretary of Agriculture are authorized when they determine exchanges to be in the public interest. 'Public interest' is defined in its broad sense to include the satisfaction of State and local needs as well as national needs.

(b) Exchanges may be for lands or for interests therein or both. This authority will include transactions where transfer of less than full fee in the land is all that is needed to accomplish the objectives involved. An example of such transactions is exchange of easements to facilitate construction of a road system. This provision will also permit the solution of long-standing mineral development problems resulting from reservation of minerals to the United States when lands have been disposed of under the public land laws. The authority will permit exchanges of mineral interests so that mineral rights can be re-united with the rest of the fee estate, facilitating development of the minerals where development has been hampered because ***11 **6182 **6185** of separation of minerals from the surface estate. values may be equalized by cash payments up to 20 per cent. The Committee expects the Secretaries to make every reasonable effort to keep case equalization payments as small as possible.

(c) Lands acquired by the Secretary of the Interior within National Forest boundaries may be transferred by him to the Secretary of Agriculture for management as part of the National Forest System. Lands within a National Park, Wildlife Refuge, Wild and Scenic River, trails or other systems may be transferred for administration as part of that system. Lands acquired by the Secretary of Agriculture become National Forest System lands.

Section 207-Recordation of Mining Claims and Abandonment

(a) Within three years and each year thereafter, the owner of an unpatented mining claim located prior to this Act must file in the appropriate office of record (County Recorders Office) and with the Bureau of Land Management, an affidavit of assessment work. For claims located after this Act, similar material must be filed annually.

(b) A copy of the location notice of mining claims and mill sites filed in the

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appropriate office of record must also be filed with the Bureau of Land Management. The bill emphasizes current requirements of law to the effect that recorded documents must contain a description of the mining claim or mill site sufficient to permit its identification on the ground.

(c) Failure to comply with (a) and (b) above constitutes abandonment of the claim.

Section 208-Recordable Disclaimers of Interest in Land

The Secretary of the Interior is given authority to issue disclaimers of interest in land in three specified instances where he finds no Federal interest and where there is a cloud on the title to the land. Under existing law, the Secretary of the Interior has no authority to issue any kind of document showing that the United States has no interest in lands.

The disclaimer would have the same legal effect as a quitclaim deed from the United States. It would eliminate the necessity for court action or private relief legislation in those cases where the United States asserts no ownership or interest.

Section 209-Conveyance of Reserved Mineral Interests

The Secretary is authorized to convey reserved Federal mineral interests to the owner of the surface estate for fair market value in either of two situations; where there are no known minerals or the reservation interferes with a more valuable surface development. The authority covers situations presently existing, or which may arise hereafter.

Section 210-Grazing Fees

Since enactment of the Taylor Grazing Act of 1934, the question of equitable fees for grazing privileges has been a protracted controversy. The controversy has interfered with administration of the Act and the management of the public lands and has discouraged adequate funding of grazing management and improvement programs.

Existing law calls for 'reasonable fees'. In the 1960's the Secretaries of Agriculture and of the Interior cooperated in a research ***12 **6186** study to determine methodology and data to determine the 'fair market value' of grazing privileges. A formula resulted which included a base of $1.23 per AUM, to be adjusted annually to reflect changes in rentals of private forage lands in the eleven western States. The study found great variations in private rates but could not isolate determining factors for variation. The findings of the study did not terminate controversy over the adequacy of the fee. The bill will establish a new formula for determining annual grazing fees. The fees for the 1976 season, under the bill, would be $1.70 for lands requiring less than 11 acres to provide an annual unit month of grazing and $1.40 for lands requiring 11 or more acres. Thereafter, the annual fee will be adjusted up or down in accordance with an index number derived by adding 100 to a Beef Price Index and subtracting therefrom a Cost of Production Index. The Beef Price Index is based on beef prices reported to the U.S.D.A. Statistical Reporting Service representing average prices received for beef cattle in the eleven Western States. The Cost of Production Index is based on prices paid by farmers for commodities and services, interest, taxes, and farm wages as collected and published by the Statistical Reporting Service.

The statutory fee will apply generally to the public lands and to lands in the National Forest System in the eleven western states. Lower fees are permitted under certain conditions involving minor and subsistence types of livestock operations.

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For these situations and for lands outside the eleven western states, the Secretaries of Agriculture and Interior will establish reasonable fees through rulemaking procedures.

Fifty percent of all grazing fees will be set aside for range improvements to be used together with funds otherwise made available to improve the Federal range. This subsection provides that the funds realized from grazing fees must be used 'on the ground,' i.e., they cannot be used for overhead or other administrative purposes. Administrative needs of the range improvement program will be met out of other authorized appropriations. Half of the amounts available from fees will go back to the district of origin. Allocation of the remaining funds will be determined by the Secretary concerned in a manner to achieve the objectives of range management. Existing statutory provisions for transfer of a portion of the receipts to States and counties and to the Treasury will remain unchanged.

The bill specifies that the annual distribution and use of range improvement funds is not a major Federal action under the National Environmental Policy Act and therefore that no environmental impact statements are required prior to such distribution and use.

Section 211-Duration of Grazing Leases

The purpose of this section is to emphasize the continuity of grazing operations that is provided for by existing law. It would not change the fact that grazing use of the public and national forest lands is a privilege and not a right. The general principle embodied in the section is that existing grazing operations will be continued so long as the following prevails: The authorized user remains qualified under the law and regulations and accepts and observes the terms and conditions of his lease or permit; and the lands remain in Federal ***13 **6187** ownership and available for grazing in the discretion of the Secretary concerned.

Subsection (a) provides that grazing leases and permits will generally be issued by BLM and the Forest Service for periods of ten years. These leases and permits will be subject to such terms and conditions as the Secretary concerned deems appropriate, including, but not limited to, the right of the Secretary to suspend or cancel the lease or permit for cause prior to the end of the ten-year period. However, except in cases of emergency, the lessee or permittee would be entitled to at least two years' prior notice of cancellation.

Subsection (b) lists the conditions which could justify a term shorter than ten years. This authority would have to be exercised with restraint to ensure that the basic objective of assurance of continuity of authorized operations consistent with the public interest.

Subsection (c) specifies that, upon expiration of a lease or permit, existing users would have a right of first refusal for any new lease or permit, provided that grazing will be continued by the Secretary concerned and they are in good standing and accept the terms and conditions of the new lease or permit.

Subsection (d) requires the Secretaries to include an allotment management plan with each lease or permit. The plan could be as simple or as complex as circumstances warrant. The scope of the plan and the amount of detail included in it would be a matter in the discretion of the Secretary concerned.

Subsection (e) provides that when a lease or permit is terminated prior to the expiration of its terms in order to devote the lands to some other use, the lessee or permittee will be compensated for the 'adjusted' value of any permanent range improvements which the lessee or permittee owns. The term 'adjusted value' is used to recognize that, although only a portion of the economic life of the improvement may remain, the value of that remaining portion may, due to inflation, be greater than the original cost of that portion. The opposite could be true if there is a loss in value owing to obsolescence.

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Section 212-Grazing Advisory Board

The Secretaries of Agriculture and the Interior are required to establish local advisory boards to advise on the management of grazing by both domestic and wild animals. Requirement for these boards does not prevent the Secretaries from establishing multiple use advisory boards in the same areas. The section requires these grazing boards because the management of grazing animals is crucial to the maintenance of a viable range and thus to the achievement of multiple use objectives. Local knowledge of the range and the livestock and wildlife activities dependent upon it has proved invaluable in the management of the public range in the past. The bill will continue this useful process. It provides for twice as many livestock representatives as wildlife representatives because of the great variety and detail of livestock operations on the Federal lands. Wildlife representatives must be capable of giving expert advice and recommendations on management of the wildlife habitat in the areas involved. This requirement is designed to prevent appointment of persons who have only a casual interest in wildlife limited to its recreational or similar aspects. The Committee feels that fully qualified advisers are essential.

***14 **6188** Section 213-Management of Certain Horses and Burros

This section will amend those provisions of the Wild Horse and Burro Act which have impeded the Secretaries of the Interior and Agriculture in their attempts to achieve the objectives of that Act. The Secretaries have reported that they have been unable to manage the numbers of animals on the range without the use of aircraft and other mechanical equipment. The result is continuing deterioration of the lands, wildlife and wild horses and burros dependent upon them, and other multiple use values. This section provides the Secretaries with authority to use aircraft and other mechanized equipment, provided that all operations are directly supervised by Federal personnel and only humane procedures are followed.

The section also makes clear that the Secretaries can pass title to animals removed from the Federal range because the habitat cannot support them. Recipients must give written assurance that the animals will receive humane treatment and care. Priority must be given to persons seeking animals for domestic use. The section forbids unnecessary destruction of animals and inhumane procedures in their disposal.

TITLE III-BUREAU OF LAND MANAGEMENT

Section 301-Establishment of Bureau

(a) This subsection provides that the Director of the Bureau of Land Management will be appointed by the President with the advice and consent of the Senate. This is essential to assure that policy control of the Bureau is in the hands of persons who will be responsive to statutory policies and will have the background necessary for competent management of the public lands.

(b) The applicability of the public land laws not repealed by this Act is affirmed. It directs that, subject to the discretion of the Secretary of the Interior, that generally they be assigned to the Bureau of Land Management for implementation.

(c) Establishment of one Associate Director and so many Assistant Directors as needed is authorized, appointments to be made in accordance with the competitive Civil Service.

(d) The integrity of existing regulations of the Secretary of the Interior is

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preserved insofar as section 301 is concerned. Other sections of the bill will make certain regulations of the Secretary obsolete or illegal.

Section 302-Enforcement Authority

Subsection (a) makes violators of regulations issued by the Secretary of the Interior pursuant to H.R. 13777 subject to fine (not more than $1,000) and imprisonment (not longer than 12 months). It provides that such violators can be fined and sentenced by a United States magistrate. The boundaries of the public lands are poorly marked or not marked at all, making it difficult for members of the public to know when in fact they are on public lands. Rules and regulations for the public lands are numerous and not too well known generally. These make compliance with the rules and regulations a problem for both the Secretary of the Interior and the using public. The Committee expects that the Secretary will use his law enforcement authority in a manner which will help the public abide by his rules and regulations, ***15 **6189** the objective being the preservation and protection of public resources and the public safety. Criminal prosecutions and penalties should be remedies of last resort. Emphasis should be given to the dissemination of information, the creation of a law-enforcement presence which will advise the public, and administrative resolution of violations rather than prosecution in the courts.

Subsection (b) authorizes the Attorney General to institute civil actions for an injunction or other appropriate order to prevent unlawful utilization of public lands.

Subsection (c) provides the Secretary of the Interior with authority to enforce his regulations and for that purpose to execute and serve warrants, make arrests, and engage in search and seizure under prescribed conditions and rules. However, it directs the Secretary to rely to the maximum feasible degree on State and local law enforcement officials for enforcement under this section. To this end, he will offer mutually acceptable contracts to those officials willing and able to take on this work on a reimbursable basis. In the absence of such contracts, the Secretary will provide for law enforcement by Federal personnel. The Secretary is directed to provide adequate training to those upon whom he relies for law enforcement.

Subsection (d) authorizes the Secretary of the Interior to cooperate with State and local enforcement officials, financially and otherwise, to assist in the enforcement of State and local laws and ordinances where such activities will assist in the administration and regulation of use and occupancy of the public lands. The Committee expects the Secretary of the Interior to construe this authority broadly, for the purpose is to provide financial assistance to States and their subdivisions where the existence of large areas of public lands deprives the governmental entity of adequate enforcement of laws and ordinances as they apply to the public lands.

Subsection (e) authorizes the Secretary of the Interior to proceed promptly with the establishment of a uniformed desert ranger force for the California Desert National Conservation Area authorized by Section 401 of the bill. The subsection clothes such rangers with the law enforcement authority provided to the Secretary by this section.

Subsection (f) preserves to the Secretary whatever other statutory law enforcement authority he now enjoys.

Section 303-Service Charges, Reimbursement Payments, and Excess Payments

The Secretary of the Interior is authorized to establish reasonable fees and charges and to refund moneys erroneously paid and to require reimbursement for 'reasonable costs.' The Committee expects collection of such costs only when the

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amounts are substantial and failure to collect would amount to an unwarranted subsidy by the Federal taxpayer. It expects also that the Secretaries will take into consideration the benefits to public programs in determining whether collection of specific costs is appropriate under this section and under Title V.

Section 304-Deposits and Forfeitures

Money forfeited in connection with timber contracts or permits or collected in claims cases are authorized to be used, to the extent necessary, for any rehabilitation work arising from the forfeiture, tort or contract. The section also requires money collected from and O and C lands ***16 **6190** to be expended only for the benefit of O and C lands. It provides that excess payments may be refunded.

Section 305-Working Capital Fund

The establishment of a working capital fund for the Bureau of Land Management is authorized.

The Working Capital Fund will afford an efficient method of supplying common supplies and services to various programs and service operations of the Bureau of Land Management. It permits purchase of supplies and equipment in advance to be replenished as used and to be charged to individual appropriations as allocated.

Three million dollars are authorized to provide initial capital to acquire supplies and equipment and establish the fund; the fund to be self-sustaining thereafter, through recovery of costs from benefitting activities.

Section 306-Studies, Cooperative Agreements, and Contributions

(a) The Secretary of the Interior is authorized to conduct investigations, studies, and experiments regarding the management, protection, development, and sale of the public lands.

(b) The Secretary is authorized to enter into contracts and cooperative agreements involving the management, protection, development and sale of the public lands. The Committee expects the Secretary of the Interior to use this authority whenever contracting or cooperative agreements would be the more feasible or economical way to accomplish the purposes of this bill. These advantages would be particularly true where States and local government entities have competent organizations in being which could effectively carry out the Secretary's programs. Examples of the types of activities which might be handled in this manner include, among others, fire prevention and suppression, law and regulation enforcement, supervision of the range especially in intermingled land areas, and construction of facilities.

(c) The Secretary is authorized to accept contributions of money, services, or property, including acquisition of rights-of-way.

Section 307-Contracts for Surveys and Resource Protection

Renewable contracts in advance of appropriations are permitted in connection with airborne operations of the Bureau of Land Management. This is needed to assure availability of planes and other equipment at critical times.

Section 308-Advisory Councils

(a) This section authorizes the Secretary to establish Advisory Councils representative of various citizen interests. Appointments will be made in accordance with the Federal Advisory Committee Act.

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(b) Meetings are required to be held at least twice a year.
(c) Per diem and travel for meetings called by the Secretary are authorized.
(d) The Secretary is authorized to seek advice on all facets of administration of the public lands.

Section 309-Rules and Regulations

The Secretaries of the Interior and of Agriculture are authorized to promulgate rules and regulations to carry out the purposes of this Act, ***17 **6191** subject to the rulemaking provisions of the Administrative Procedures Act.

Section 310-Annual Report

The Secretary of the Interior is directed to submit an annual report to the Congress containing such information as is needed to facilitate oversight and other public objectives. Format and detail will be determined by the Committees on Insular Affairs of both Houses so that meaningful reports can be prepared in the most economical manner possible.

Section 311-Bureau of Land Management Wilderness Study

This section extends to the Wilderness Act to the public lands. It directs the Secretary to review, in accordance with the provisions of the Wilderness Act, tracts of Bureau of Land Management land (roadless areas of 5,000 acres or more and roadless islands meeting criteria of the Wilderness Act) and to submit recommendations on wilderness suitability or nonsuitability and each such area to the President within 15 years. The review must include mineral surveys by the Geological Survey and the Bureau of Mines, reports on areas formally identified as natural or primitive prior to November 15, 1975, will be made prior to July 1, 1980. A list of such areas is given below. The President, in turn, shall submit his recommendations to Congress for appropriate action. Once a Bureau of Land Management tract is designated as wilderness by the Congress, it shall be administered in the same manner as national forest wilderness areas. Administration will include periodic mineral surveys required by Sec. 4(d)(2) of the Wilderness Act.

The Committee expects the Secretary to establish priorities in a manner which will expedite the review process and which will cause minimum interference with existing multiple use management of the public lands. For example, he is expected to give early attention to roadless forested areas which may have a potential for timber harvest, particularly if there is not much likelihood that the areas will be favorably recommended for wilderness designation.

The word 'roadless' refers to the absence of roads which have been improved and maintained by mechanical means to insure relatively regular and continuous use. A way maintained solely by the passage of vehicles does not constitute a road. The word 'island' is used in its usual sense of a body of land surrounded by water. While tracts are under review, they are to be managed in a manner to preserve their wilderness character, subject to continuation of existing grazing and mineral uses and appropriation under the mining laws. The Secretary will continue to have authority to prevent unnecessary and undue degradation of the lands, including installation of minimum improvements, such as wildlife habitat and livestock control improvements, where needed for protection or maintenance of the lands and their resources and for continuation of authorized uses. Subsection (d) provides options whereby areas which the President has recommended as being non-suitable as wilderness either can be restored with minimum delay to full multiple-use management or considered further by the Congress for possible inclusion in the

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National Wilderness Preservation System.

The Committee intends that the Bureau of Land Management wilderness review program will be similar to the process developed by the ***18 **6192** Forest Service. Emphasis should be on multiple natural values of roadless areas as part of an overall multiple use framework for a general area rather than primarily recreational uses. In addition to public use values, ultimate designation as wilderness should augment multiple use management of adjacent or nearby lands in protecting watershed and water yield, wildlife habitat preservation, preserving natural plant communities and similar natural values. In addition, the bill does not necessarily require the Secretary to review each selected tract separately. He may find in some cases that it is more effective and practical to combine areas in a single geographic unit in a single review. In other cases it may be prudent to include all or a major portion of inventoried roadless areas and islands in a single administrative district in one review.

Formally designated natural and primitive areas

TABULAR OR GRAPHIC MATERIAL SET FORTH AT THIS POINT IS NOT DISPLAYABLE

Section 312-Search and Rescue

This section authorizes the Secretary of the Interior to engage in search and rescue operations on the public lands.

TITLE IV-DESERT LANDS

Section 401-California Desert Conservation Area

This section calls for a comprehensive management plan for the California Desert to be prepared by June 30, 1979.

(a) A Congressional finding as to the importance of the desert and the need for its protection is listed.

(b) The immediate and future protection of these lands is provided for under a program of multiple use and sustained yield and maintenance of environmental quality.

(c) Identification of the area is to be established by map and legal description.

(d) A long-range plan is to be prepared and implemented by June 30, 1979.

(e) The interim management and protection prior to completion of the plan is directed.

(f) Mining and mineral locations may be continued subject to reasonable regulations.

(g) The establishment of an advisory committee is mandated.

***19 **6193** (h) Coordination is required between the Secretaries of the Interior, Agriculture and Defense in the management, protection, and law enforcement on lands in the California Desert region under their respective jurisdictions.

(i) The secretary of the Interior is required to report to Congress two years after enactment and annually thereafter regarding problems and recommendations.

(j) The appropriation of $40,000,000 is authorized.

Section 402-Conveyances for Recreation Purposes

(a) This subsection amends the Recreation and Public Purposes Act to require land use planning procedures under that Act and coordination of uses with local authorities. It also liberalizes existing acreage and site limitations for patents

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under the Act. It authorizes sales and leases of lands to Federal and State agencies for recreation purposes without monetary consideration.

Section 403-King Range

This section would enlarge the boundaries of the King Range Conservation Area, California, established by the Act of October 21, 1970 (84 Stat. 1067), by adding approximately 5500 acres to the Area. The land added would make the Conservation Area one complete area running from north to south along the Pacific Ocean without the break that is now present.

Section 404-Withdrawal Review

This section directs the Secretary of the Interior to review all withdrawals of BLM and Forest Service lands (except wilderness areas) which exclude appropriations under the Mining Law of 1872. It directs the Secretary also to review all other existing withdrawals which are not part of the major resource conservation systems. The withdrawals to be reviewed include military and naval reservations, AEC reserves, reclamation withdrawals, and a miscellany of others. This review is to be completed within 10 years and results are to be reported to the Congress.

Recent studies have shown not only the increase of administrative restrictions on multiple use but also failure to examine past actions to determine their continuing value. The withdrawal provisions of section 204 and the land use provisions of section 202 of this bill, together with this section, are designed to encourage correction of this situation.

TITLE V-RIGHTS-OF-WAY

Section 501-Authorization to Grant Rights-of-Way

In considering this Title, the Committee took notice of the longtime policies of the Department of the Interior favoring State and local governments and non-profit organizations by special price and liability considerations under appropriate circumstances. It also reviewed the policy requiring holders of transmission line rights-of-way to make excess capacity available for wheeling of power from other systems. It is also considered the general principle of favoring common-carrier requirements. The Committee rejected suggestions to modify these policies. The action by the Committee is to be considered a specific endorsement and support of these policies.

****6194 *20** The right-of-way authority granted to the Secretaries by H.R. 13777 will not apply to areas designated by Congress under the Wilderness Act of September 3, 1964, or under section 311 of this bill. The Wilderness Act and section 311 provide their own authority for granting rights of access and ingress and egress in such areas. The latter authority will not be affected in any way by Title V of H.R. 13777.

Because of the importance of prompt action in the processing of applications filed for railroad, Rural Electrification, road, and other rights-of-way, the Committee considered putting time limits on the Secretaries, requiring final action within a specified period after filing of an application. It decided, however, to grant the Secretaries flexibility in this respect. It expects them, however, to take every reasonable step to assure final action at the earliest practical time.

This section authorizes the Secretary of the Interior and the Secretary of Agriculture to grant, issue, or renew rights-of-way over, upon, or through and public lands and national forest lands for the following purposes:

(a)(1) Reservoirs, canals, ditches, flumes, laterals, pipes, pipelines, tunnels,

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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, and water or any refined product produced therefrom.

(3) Systems carrying solid materials by pipeline systems, slurry and emulsion systems, and conveyor belt, and for facilities for the storage of such materials.

(4) Generation, transmission, and distribution of all forms of electrical energy. The paragraph provides that applicants must comply with FPC requirements in addition to those of the Secretary of the Interior and Agriculture.

(5) Communications systems.

(6) Various means of transportation.

(7) Other necessary transportation or other systems not specified in sections 501(a)(1) through (6).

(b) Submission and disclosure are required by applicants for a right-of-way of any and all plans, contracts, agreements or other information or material which the Secretaries deem necessary for a determination as to whether the right-of-way shall be granted, issued or renewed and the terms and conditions of the right-of-way, if it is granted. One purpose of this is to enable the Secretaries concerned to make decisions and determine terms and conditions which will foster competition among producers and distributors. A condition consistent with this purpose is a requirement on transmission line companies to use their excess capacity for wheeling power from other systems. For the sake of economical operations and avoidance of undue burdens on the government and on applicants, the Committee expects the Secretaries to be cautious in their demands for information. They are expected to seek only the minimum amount of information essential for making the determinations required by the law.

(c) The Secretaries are authorized to make grants, issue leases, licenses or permits, or enter into contracts under other provisions of ***21 **6195** law for purposes ancillary or complementary to the construction, operation or maintenance, or termination of any facility for which a right-of-way is granted.

Section 502-Cost-Share Road Program Authorization

(a) This subsection grants to the Secretary of the Interior the same authority now held by the Secretary of Agriculture to acquire, construct, and maintain timber access roads. Except for the second proviso, the statement of authority is identical with that of Agriculture. The second proviso is added to clarify Interior's authority and is not intended to modify any interpretations of Agriculture authority.

(b) This subsection requires recordation of instruments which affect permanent interests in land.

(c) This subsection relates to all roads and trails and related facilities administered by the Bureau of Land Management. It authorizes the Secretary to require users of such facilities to bear their fair share of the costs of maintenance either through direct maintenance work or payment of costs.

(d) This subsection permits the Secretary to use collections under subsection (c) or fees for roads for delayed payments to grantors of rights-of-way or easements of roads or the right to use roads.

The Committee is concerned about reports that the Secretaries sometimes establish high standards for the construction of roads and other improvements for the sole purpose of discouraging the construction of such improvements or of encouraging their abandonment. The Committee considers such arbitrary programs to be beyond the authority of the Secretaries granted by this act or other applicable law.

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Section 503-Right-of-Way Corridors

The Secretaries are required, to the extent practical, to establish right-of-way corridors and to issue rights-of-way in common to minimize adverse environmental impacts and to obtain the best utilization of land. Considerations are specified for the use of the Secretaries in their determination whether rights-of-way are to be confined to corridors. One consideration in determining practicality will be the maintenance of the physical reliability of the systems involved. It also requires the Secretaries to issue regulations specifying criteria and procedures to be used.

Section 504-General Provisions

The Secretaries are authorized to specify the boundaries of rights-of-way and limits the grant to the project facilities and such additional lands as are necessary for operation and maintenance and to protect the environment. The purpose of this is to permit identification of the lands in the right-of-way on the ground with such degree of precision as may be needed in each case. The requirement is not meant to suggest that the outside boundaries of a right-of-way have to be surveyed or even marked although there may be cases where this will be needed.

The present requirements of the Secretary of the Interior for location of center lines and for measurements therefrom will probably meet the objectives of adequate specification of boundaries in many cases. Other ***22 **6196** subsections deal with the the duration of the right-of-way; promulgation of regulations; provisions to protect the environment and property owners and users of the public lands; the use of materials in or near the right-of-way; the assessment of the fair market value of the right-of-way plus administrative costs; rules governing liability; requirements for bonding or other security; and provisions relating to the technical and financial capability of the applicant. These also provide that where there is a cooperative cost-share right-of-way program in effect, the United States need not be reimbursed for administrative and other costs incurred in processing the application and monitoring construction.

The requirement that the term of a right-of-way be 'limited to a reasonable term' does not prevent the issuance of rights-of-way for indefinite terms, the exact duration of which will be contingent on continuation of specific events or circumstances. For example, rights-of-way for timber access roads may be issued for so long as the lands served by it are managed for long-term timber production. Similarly, a right-of-way for a reservoir site could be issued for so long as the power is produced in commercial quantities and the facilities are maintained for that purpose. An alternative, would be to provide in the right-of-way a right-of-renewal so long as the same contingencies exist. The subsection also provides for renewal of rights-of-way in accordance with whatever terms and conditions for renewals the Secretaries specify in the right-of-way.

Section 505-Terms and Conditions

The Secretaries are given broad authority to make rights-of-way grants subject to specific terms and conditions. It includes a directive to prescribe terms and conditions to protect the environment, lives and property, and to manage public lands efficiently. This specifically directs that terms and conditions be designed to protect other lawful users of the public lands adjacent to or traversed by a right-of-way. Of particular importance with respect to public lands in Alaska is the provision for protection of 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.

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Section 506-Suspension or Termination of Rights-of-Way

This section sets out the grounds for suspension or termination of a right-of-way. It prescribes due process procedures to be followed by the administrative agency in suspending or terminating any right-of-way. Immediate temporary suspensions prior to an administrative proceeding are authorized where necessary to protect public health or safety or the environment. The section also provides that failure to use the right-of-way for any continuous five-year period would create a rebuttable presumption of abandonment but termination would not be required if such failure was due to circumstances not within the holder's control.

Section 507-Rights-of-Way for Federal Agencies

Authority and a procedure for granting of rights-of-way to Federal agencies are specified. To the extent that provisions of this title are reasonably applicable to Federal rights-of-way, they are controlling.

***23 **6197** Section 508-Conveyance of Lands

The Secretaries are allowed to choose the appropriate form of retention or disposal of the right-of-way when the servient lands are disposed of.

Section 509-Existing Rights-of-Way

(a) Rights-of-way granted under statutes superseded or repealed by the provisions of this Act are protected. However, with the consent of the holder, previously granted rights-of-way may be cancelled and a right-of-way under this title be issued in its place.
(b) The Secretaries are authorized to make modest variations from the requirements of the bill where an existing railroad right-of-way is modified for the purpose of realinement. Time limits are set for final action on such applications.

Section 510-State Standards

Where State lands are adjacent to a right-of-way and the State standards are more stringent than Federal standards, the Secretaries are directed, to the extent practical, to comply with the State standards.

Section 511-Effect on Other Laws

(a) On and after the effective date of this title, rights-of-way over lands for the purposes listed in the title are to be granted only under this title.
(b) The use of public lands for public highway purposes under the Federal Highway Program will continue unchanged by the enactment of this title.
(c) The holder of a right-of-way shall not be exempt from the anti-trust laws.

TITLE VI-EFFECT ON EXISTING RIGHTS; REPEAL OF PRIOR LAWS; APPROPRIATIONS AUTHORIZATION, AND EFFECTIVE DATE

Section 601-Effect on Existing Rights

(a) Valid existing rights under a lease, permit, patent, right-of-way or other existing authorizations validly entered into prior to this Act are protected.

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(b) In case of conflict or inconsistency between this Act and the Act of August 28, 1937 (O & C Act) as to management of timber resources and distribution of revenues, the latter shall prevail.

Subsection (c) protects all withdrawals, reservations, classifications, and designations in effect on the date of approval of the bill until modified pursuant to governing authority.

Section 602-Repeal of Laws to Homesteading and Small Tracts

This section provides for repeal of the Homestead Act, except insofar as they apply to Alaska, and the Small Tract Act. The basic substance of the repealed laws is described below.

1. Homesteads-- The Homestead laws and amendments thereto require actual settlement, residence on, and cultivation of land embraced in a homestead entry. These laws give a qualified individual, for a nominal fee, the right to enter upon 160-320 acres of unoccupied public land in any of the public land States and to receive patent therefor ***24 **6198** after living upon the land for a period of years and cultivating a portion of it.

In recent years, homesteading has become almost nonexistent, except in Alaska, because of the scarcity of public lands suitable for agriculture.

Other statutes which are a part of the homestead laws, generally concern the payment of fees and were superseded by the Public Land Administration Act of 1960, 43 U.S.C. 1261-1383.

Some statutes, presently a part of the homestead laws, allowed additional homestead rights for soldiers. All outstanding valid soldiers' additional homestead rights had to be satisfied by January 1, 1975. Unsatisfied rights were rendered null and void after that date, as provided by the Act of August 31, 1964, 78 Stat. 751.

The following homestead statutes which would be repealed contain provisions relating to other than strictly homestead matters:

(a) The Act of May 17, 1900, 43 U.S.C. 179, in addition to giving free homesteads to settlers upon agricultural public lands acquired and open to settlement prior to May 17, 1900, provides that in the event that the annual sales of public lands are not sufficient to meet the payments provided for agricultural colleges and experimental stations, such deficiency shall be paid by the United States. This provision is no longer necessary because present legislation provides for other means of funding of these institutions. For example, the Agricultural College Act of 1890, as amended, 7 U.S.C. 321 et seq; The Bankhead-Jones Act of 1935, as amended, 7 U.S.C. 329 et seq; and the Hatch Act of 1887, as amended, 7 U.S.C. 361a et seq.

(b) The Act of June 13, 1902, as amended, 43 U.S.C.section 203, extended the homestead laws to lands in the former Ute Indian Reservation in Colorado and forbade forest lieu selections and soldiers' additional homesteads on these lands. Indian title to these lands has since been extinguished and the Indians compensated therefor.

(c) Section 3 of the Act of March 2, 1907, 43 U.S.C.section 224(f), authorizes the Secretary to sell isolated tracts in part of Nebraska not exceeding three quarter sections in size. The sale authority in the bill would supersede this law.

2. Small Tracts.-- This law authorizes the lease and sale of small tracts, up to five acres in size, for residential, recreational, business, and community purposes. The new sales authority of the bill would permit sales for these purposes, where substantial improvements are involved, has led in the past to serious conflicts between private and public interests.

Section 603-Repeal of Laws Related to Disposal

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This section provides for repeal of certain laws authorizing
lands. The basic substance is described below.

1. Sale and Disposal Laws.-- Chapter 16 of Title 43 of the U
provides for the sale and disposal of public lands and would be
sale authority in the bill.

Section 761 of the chapter provides that no public lands shall be
sale with certain exceptions. Sections 673-676 of chapter 16 pertain to the private sale law. No private sales have been made for many years.

****6199 *25** This chapter includes the Act of March 1, 1907, 43 U.S.C. 682, which provides for the sale of public lands for cemetery purposes. The Act provides for reversion of title should the land be used for any other purpose. It has been frequently used over the years. The Recreation and Public Purposes Act, as amended, 43 U.S.C. 869 to 869-4, authorizes sales for these purposes and the sale authority in the bill would also permit sales for the same purposes in accordance with the disposal criteria in the bill.

The rest of the chapter is composed essentially of sections dealing with prices for lands (678-679, 681), refunds (689-690), mistakes as to entries and patents (693-694), and collusive agreements involving public sales (696, 698- 699).

The sections setting certain prices, such as $1.25 per acre, are archaic. The bill establishes fair market value as the governing principle. The sections dealing with mistakes and refunds would be replaced by provisions of the bill, which authorize the Secretary to correct mistakes in patents and to return excess payments. The old system for disposing of public land often invited or encouraged speculation and collusion. The bill with its strict criteria for disposals, and policy of fair market value, should control speculation and collusion.

Section 700 of the chapter excludes all lands from private entry except lands in Missouri. This section is no longer necessary since there are no lands in Missouri available for private entry.

2. Town Site Reservation and Sale.-- This category includes laws for the disposal of lands for town site purposes.

Modern urban development requires better planning than the townsite laws which provide for haphazard location and establishment of cities or towns with obsolete provisions for size of towns, townlots, etc. There has been practically no use of these laws outside of Alaska for many years. The bill would allow for transfer of lands for the same purposes as the townsite laws, but with more adequate provision for land use planning, and protection of the public interest.

3. Drainage Under State Laws.-- These laws make public lands in Minnesota (43 U.S.C. 1021-1027) and Arkansas (43 U.S.C. 1041-1048) subject to State drainage laws.

There are no public lands left in Arkansas to which these laws could apply. The Act of May 1, 1958, 43 U.S.C. 1029-1034, had the effect of terminating the applicability of 43 U.S.C. 1021-1027, pertaining to public lands in Minnesota. The Act of May 1, 1958, would also be repealed by the bill.

4. Abandoned Military Reservations.-- This category includes various laws relating to disposition of 'abandoned military reservations.' The basic law was passed in 1884 and dealt primarily with frontier forts and military reservations. Legislation during and after World War II, including the Federal Property and Administrative Services Act of 1949, 40 U.S.C. 471 et seq., has superseded this legislation.

5. Public Lands in Oklahoma.-- The public land laws were extended to Oklahoma with variations designed for special conditions and situations existing there.

Repeal of these special laws concerning Oklahoma would have no real effect. Most of the few thousand acres of public domain lands remaining in Oklahoma already have claims against them. The bill would apply to any public lands that may remain in

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the State.

****6200 *26** 6. Sales of Isolated Tracts.-- Revised Statute 2455 (43 U.S.C. 1171) provides for the sale at public auction, of isolated tracts or tracts which are mountainous or too rough for cultivation. 43 U.S.C. 1171a-1177 extend the provisions of section 1171 to lands in Oklahoma, coal lands in Alabama, ceded Chippewa Indian lands in Minnesota, ceded Fort Berthold Indian lands in North Dakota; the abandoned Fort Buford Military Reservation in Montana; and ceded Fort Hall Indian lands and Crow Indian lands in Montana.

The Act of June 9, 1934, as amended, 25 U.S.C. 463, provided for the restoration to tribal ownership of remaining surplus lands on Indian reservations which had been open to sale. All ceded Indian lands which were undisposed of at that time, have been restored to Tribal ownership. The Fort Buford lands have been sold. Coal lands in Alabama and all other lands subject to R.S. 2455 would be subject to the disposal authority provided by the bill.

R.S. 2455 contains an absolute preference right for adjacent owners. This has sometimes created problems in the disposition of isolated or disconnected tracts. The bill would allow the Secretary of the Interior to give a preference right under certain circumstances, to assure fair distribution among purchasers or to recognize equitable considerations or public policies.

The bill would provide sale authority without the obsolete limits of R.S. 2455.

7. Alaska Special Laws.-- The following statutes which would be repealed provide for the disposition of public lands in Alaska, and are only applicable to Alaska:

(a) Alaska Townsite Laws (The Act of March 3, 1891, 43 U.S.C. 732; and the Act of May 25, 1926, 43 U.S.C. 733-736). They provide for trustees townsites in Alaska. The Alaska Native Claims Settlement Act granted to the Natives the lands in 'Native villages,' rendering the townsite laws obsolete with respect to Natives. The comments appearing above with regard to townsites generally applicable to Alaska

(b) Alaska Public Sale Act, 43 U.S.C. 687b to 687b-4. It provides for the sale of public land in Alaska not exceeding 160 acres, suitable for industrial or commercial purposes, including housing. This Act would be rendered unnecessary by the sale authority in the bill.

8. Pittman Act Extensions of Time.-- This law (the Act of September 22, 1922, 43 U.S.C. 356) gives the Secretary of the Interior authority to grant a two-year extension of time for developing underground waters in Nevada under permit issued pursuant to the Pittman Act. The Pittman Act itself was repealed by the Act of August 11, 1964, 78 Stat. 389. There are no longer any permits outstanding under the repealed Pittman Act.

Section 604-Repeal of law relating to administration of public lands

This section repeals certain laws granting administrative authority to the Secretary of the Interior. Their basic substance of the laws listed in subsection (a) is as follows:

1. The Act of March 2, 1895, 43 U.S.C. 176, provides for appointment of court commissioners for certain Territories. The Territories have become States.

***27 **6201** 2. Section 8 of the Taylor Grazing Act, as amended, 43 U.S.C. 315g, authorizes the Secretary to accept donations of lands, authorizes him to exchange certain Federal land for private lands of the same value, and directs him upon application of a State to exchange certain Federal lands for State-owned lands of equal acreage or of equal value. Section 306 of the bill provides comprehensive authority to acquire land by exchange, purchase or donation. It would allow for acquisition of any non-federal land by exchange and, unlike Section 8 of the Taylor Grazing Act, would allow for the values of lands exchanged to be equalized by payment of money. The qualified mandatory State exchange provision of section 8 of the Taylor Grazing Act is not retained. It is inconsistent with the disposal

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criteria in the bill.

The Act of July 9, 1962, 43 U.S.C. 315g-1, states that lands acquired under section 8 of the Taylor Grazing Act which are within a National Forest may be administered by the Secretary of Agriculture. The bill allows any lands acquired by exchange which are within a national forest to be transferred to the Secretary of Agriculture.

3. The Act of August 24, 1937, 43 U.S.C. 315, authorizes the Secretary of the Interior in exchanging lands with States under section 8 of the Taylor Grazing Act, to issue patents to States for certain lands on which leases have been issued, provided that such patents will be subject to those outstanding leases. The bill preserves the authority to make exchanges subject to outstanding leases.

4. The second proviso of the Act of March 3, 1908, as amended, 43 U.S.C. 772, limits the amount of appropriations for survey which may be spent on resurveys. The second proviso originally limited to 5% the amount of the total annual appropriation for surveys and retracements. Joint Resolution No. 40, June 25, 1910, 43 U.S.C. 772, increased the limitation to 20%. However, 20% is not sufficient to meet today's requirements. Outside of Alaska, there is a much greater need for resurveys than for surveys. Prior to 1910, natural objects such as rocks or sticks were used as survey monuments. Many of these objects have decayed or have been moved. Most remaining unsurveyed areas, outside Alaska, are large blocks which may never need to be surveyed. Each year the provisions of this Act have been superseded by appropriation acts to allow for resurveys.

5. The Act of June 21, 1934, 43 U.S.C. 871a, provides for issuance of patents to States for school lands in accordance with the laws authorizing such grants, 43 U.S.C. 870, 871. The bill replaces this Act by authorizing the Secretary to issue patents in accordance with his authority to dispose of public lands.

6. R.S. 2447, 43 U.S.C. 1151, gives the Secretary discretionary authority to issue patents for claims confirmed by law prior to December 1854. This authority will be continued by the bill. R.S. 2448, 43 U.S.C. 1152, provides for normal succession in cases where a person entitled to a patent dies before its issuance. The bill authorizes the Secretary to issue a patent in the name of the claimant or his heirs.

7. The Act of June 6, 1874, 43 U.S.C. 1153-1154, provides that title to land in Missouri confirmed prior to June 1874 by persons acting under authority of an Act of Congress shall have the same status as patented land and provides for the discontinuance of the office of ***28 **6202** recorder of land titles in Missouri. The effect of this Act has already been achieved.

8. The Act of January 28, 1879, 43 U.S.C. 1155, provides for issuance of certificates of location of private land claims in the States of Florida, Louisiana, and Missouri, if the validity of the claim has been recognized by decree of the Supreme Court. The issuance of certificates was completed many years ago. The satisfaction of remaining issued certificates was provided for by the Act of August 31, 1964, 78 Stat. 751. The objectives of the Act have been accomplished.

9. The Act of May 30, 1894, as amended, 43 U.S.C. 1156, authorizes the Secretary of the Interior to issue patents for certain locations under certificates made prior to January 1879. This Act would be superseded by the bill which authorizes the Secretary to issue patents in accordance with his authority to dispose of public lands.

10. R.S. 2471-2473, 43 U.S.C. 1191-1193, establish criminal penalties for false making or altering of instruments concerning lands, mines, or minerals in California; false dating of evidence of title under Mexican authority to lands in California; and presenting false or counterfeited evidences of title to lands in California. These statutes have been superseded by the Act of June 25, 1948. 18 U.S.C. 1001.

11. The Public Land Administration Act, 43 U.S.C. 1361, 1362, 1363-1383,

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authorizes the Secretary to conduct investigations and to enter into cooperative agreements involving improvement, management, use, and protection of public lands. It authorizes him to accept donations of money, services, and property for specified purposes, to establish fees relating to furnishing of documents, to refund excess payments relating to disposition of lands, and to require maintenance of roads and trails. The Act also provides for disposition of certain monies. This Act would be substantially reenacted by the bill.

Provisions of the Public Land Administration Act which would not be reenacted are explained below:

(a) Section 2 of the Public Land Administration Act (43 U.S.C. 1361) defines 'public lands' as all Federal lands administered by the Bureau of Land Management. The bill excludes the Outer Continental Shelf from the definition.

(b) Part of Section 102 (43 U.S.C. 1363) limits the authority granted by that section to make cooperative agreements to the making of only such agreements which are neither expressly authorized nor prohibited by other provisions of law. Section 301(b) of the bill grants general authority to enter into cooperative agreements has been identified.

(c) Part of Section 103 (43 U.S.C. 136(b)) provides that the authority in section 103 to accept contribution or donation does not limit or repeal any other such authority. The only other authority that has been identified is section 8 of the Taylor Grazing Act (43 U.S.C. 315g) which contains, among other things, authority to accept contributions. Section 8 would be specifically repealed by the bill.

(d) Part of Section 201 (43 U.S.C. 1371) requires publication in the Federal Register of notice of intention to establish or change filing fees, service fees, etc., with respect to applications and documents regarding the public lands. This section is unnecessary since the bill ***29 **6203** provides that regulations be issued in accordance with the Administrative Procedure Act, as amended, 5 U.S.C. 553.

(e) Section 202(a) (43 U.S.C. 1372) provides that all fees, charges and commissions prescribed by then existing law or regulation shall remain in effect until changed or abolished. This provision is absolute since such fees, etc., have been changed or abolished and the actions were published in the Federal Register, p. 5712, June 15, 1962.

(f) Section 203(43 U.S.C. 1373) provides that nothing in the Public Land Administration Act shall affect the provisions of 43 U.S.C. 1460 pertaining to price of records furnished by the Department of the Interior. 43 U.S.C. 1460 prescribes a charge for furnishing copies of records in the custody of the Secretary. Elimination of section 203 would make 43 U.S.C. 1460 inapplicable to the furnishing of copies of records which pertain to the public lands. The bill would authorize the charging of reasonable fees for services.

12. The Act of September 26, 1970, 84 Stat. 885, 43 U.S.C. 1362a, authorizes the Secretary to enter into contracts (twice renewable without additional competition) for use of aircraft, (supplies and services for fire protection operations. This Act would be reenacted and expanded to natural resource airborne operations by the bill.

13. The Act of July 31, 1939, 53 Stat. 1144, authorizes the Secretary of the Interior in administering the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands, to exchange such lands for lands of equal value, in State, county, or private ownership, which are within or contiguous to former limits of the grants. The bill would provide more comprehensive exchange authority which would be applicable to these lands.

Subsection (b) lists the laws relating to withdrawals which will be repealed.

The main authority used by the Executive to make withdrawals is the 'implied' authority of the President recognized by the Supreme Court in U.S. v. Midwest Oil

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Co. (236 U.S. 459). [FN2] The bill would repeal this authority and, with certain exceptions, all identified withdrawal authority granted to the President or the Secretary of the Interior. The exceptions, which are not repealed, are contained in the Antiquities Act (national monuments), Alaska Native Claims Settlement Act (native and public-interest withdrawals), the Defense Withdrawal Act of 1958, and Taylor Grazing Act (grazing districts).

The repealed statutes apply to withdrawals for reclamation purposes, native purposes, temporary withdrawals for classification and in aid of legislation, power site reserves, townsites, stock driveways, public water reserves, air navigation sites, and national forests in Montana.

The bill substitutes a general grant of authority to the Secretary of the Interior to make and modify withdrawals subject to certain procedural requirements.

The repeal would not affect statutory authority of the Secretary of the Interior to classify lands as valuable for power site purposes.

Section 605-Repeal of Laws Relating to Rights-of-Way

Except for rights-of-way for oil and gas pipelines, section 605 would repeal all rights-of-way laws insofar as they relate to issuance of rights-of-way on, over, under, and through public lands and lands ***30 **6204** in the National Forest System. The bill would grant general right-of-way authority to replace the repealed authority. The affected laws are as follows:

Roads and Highways.-- 1. Section 1 of the Act of March 3, 1899, 43 U.S.C. 665, repeated at 43 U.S.C. 958, grants the Secretary of the Interior authority to file and approve surveys and plats of rights-of-way for wagon roads, railroads, and other highways across forest reservations and reservoir sites if public interests would not be injuriously affected thereby.

2. Section 2477 of the Revised Statutes, 43 U.S.C. 932, makes an in praesenti grant to unspecified grantees of a right-of-way for construction of highways over public lands, not reserved for public uses. R.S. 2477 is repealed in its entirety.

Railroads.-- 1. Sections 1, 2 and 4-6 of the Act of March 3, 1875, 43 U.S.C. 934, 935, 937-939, grant rights-of-way through public lands to railroad companies and provide procedures for obtaining such rights-of-way.

2. Sections 2-9 of the Act of May 14, 1898, 43 U.S.C. 942-1 through 942-9, grant a right-of-way through lands in Alaska to railroad companies and provide procedures for obtaining such rights-of-way. In addition, they authorize the Secretary to grant rights-of-way through such lands for construction of wagon roads and tramways.

3. The Act of February 27, 1901, 43 U.S.C. 943, declares that water reserve lands in Minnesota are subject to railroad rights-of-way under the Act of March 3, 1875, 43 Stat. 934-939.

4. The Act of June 26, 1906, 43 U.S.C. 944, recognizes rights-of-way granted for railroads in former Territories of Oklahoma and Arizona and provides for disposition of lands subject to such rights-of-way.

Ditches, Canals, and Reservoirs.-- 1. R.S. 2339 and R.S. 2340, 43 U.S.C. 661. Only those portions are repealed which grant a right-of-way for construction of ditches and canals for 'mining, agricultural, manufacturing or other purposes' where water rights have vested and are duly recognized and which provide that all patents and entries shall be subject to such rights to ditches and reservoirs used in connection with such water rights. The water rights' provisions are preserved.

2. Sections 18-21 of the Act of March 3, 1891, as amended, 43 U.S.C. 946-949, makes an in praesenti grant of rights-of-way through public lands and reservations to canal ditch companies, or irrigation or drainage districts for irrigation and drainage, and sets forth conditions and restrictions thereon.

3. The Act of February 26, 1897, 43 U.S.C. 664, opens reservoir sites to use and

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occupancy under Sections 18-21 of the Act of March 3, 1891, 48 U.S.C. 946-949.

4. The Act of March 1, 1921, 43 U.S.C. 950, extends rights granted under the sections 18-21 of the Act of March 3, 1891, as amended, 43 U.S.C. 946-949, by authorizing the Secretary of the Interior to grant permits or easements for dwellings or other buildings or corrals to be used in connection with facilities provided for by the 1891 Act.

****6205** 5. Section 2 of the Act of May 11, 1898, as amended, 43 U.S.C. 951, permits issue of ditches, canals, or reservoirs constructed under the Act of March 3, 1891, as amended, 43 U.S.C. 946-949, for purposes of a ***31** public nature and permits use of such rights-of-way for water transportation, domestic purposes and development of power.

6. The act of January 13, 1897, as amended, 43 U.S.C. 952-955, permits persons and companies who are in the livestock business to construct reservoirs on unoccupied public lands, grants such persons control of such reservoirs subject to the regulations of the Secretary of the Interior and provides procedures by which persons may obtain these benefits.

7. The Act of January 21, 1895, as amended, 43 U.S.C. 956, authorizes the Secretary of the Interior to grant rights-of-way through public lands (not within national forests, national parks, military reservations, or Indian reservations) for tramroads, canals, or reservoirs to persons engaged in mining, quarrying, timber cutting, or for furnishing water.

Power and Communications Facilities.-- 1. Section 2 of the Act of January 21, 1895, as added by the Act of May 14, 1896, 43 U.S.C. 957, authorizes the Secretary of the Interior to grant rights-of-way on the public lands and national forests for purposes of generation, manufacture, and distribution of electric power.

2. The Act of February 15, 1901, 43 U.S.C. 959, 16 U.S.C. 79, 522, authorizes the Secretary of the Interior and the Secretary of Agriculture to permit use of rights-of-way through public lands, forests and other reservations for electrical plans, poles and lines for the generation and distribution of electrical power, and for telephone and telegraph purposes, and for canals, ditches, pipes, pipelines, flumes, tunnels, or other water conduits, and for water plants, dams, and reservoirs used to promote irrigation, mining or quarrying or the manufacturing or cutting of timber or lumber or the supplying of water for domestic, public, or other beneficial uses.

3. The Act of March 4, 1911, as amended, 43 U.S.C. 961, authorizes respective department heads to grant easements for rights-of-way, not exceeding 50 years, upon the public lands and reservations for electrical poles and lines for the transmission and distribution of electrical power, and for poles and lines for communication purposes, and for radio, television, and other forms of communication transmitting, relay and receiving structures and facilities.

National Forest System.-- Section 1 of the Act of June 4, 1897, 16 U.S.C. 551, authorizes the Secretary of Agriculture to regulate the occupancy and use of national forest lands.

Sections 31 and 32 of the Act of July 22, 1937, 7 U.S.C. 1010-1012, relates to rights-of-way over Bankhead-Jones lands.

The Act of September 3, 1954, 43 U.S.C. 931c, authorizes easements to public agencies for public buildings or other public works on public lands and national forest lands.

The Act of July 7, 1960, 40 U.S.C. 345c, authorizes conveyances of interests to States and local governments for street-widening purposes.

The Act of October 23, 1962, 40 U.S.C. 319a-c, authorizes grants of easements to States and local governments.

****6206** The Act of February 1, 1905, 16 U.S.C. 524, authorizes rights-of-way on national forest lands for water facilities for municipal and mining purposes.

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***32** Section 606-Appropriation Authorization

This section repeals, effective October 1, 1978, all express or implied appropriation authorizations for public lands that contain no dollar limitation. Appropriations hereafter shall not exceed amounts authorized in specific authorization acts and no funds may be appropriated to carry out the purposes of the bill, except as subsequently authorized by Acts after the date of enactment of this Act. Certain exceptions to these provisions are listed in subsection (c).

Subsection (b) requires biennial requests by the Secretary of the Interior for authorizations for appropriations for the next biennial period and sets criteria for such requests.

Section 607-Severability

This section provides the standard severability clause governing validity of the various provisions of the bill.

OVERSIGHT

The Committee has continued its long-time practice of oversight hearings on public land matters, both general and specific. In the course of Washington and field hearings on H.R. 13777 and its predecessors, the Subcommittee on Public Lands examined in depth the programs of both the Bureau of Land Management and the Forest Service. During fiscal year 1976, the Committee expanded its oversight operations to include staff visits with Bureau and Departmental personnel. The specific provisions of H.R. 13777 reflect many of the findings of the Committee as the result of its oversight procedures.

The bill contains a number of provisions to facilitate oversight of specific BLM programs which have been identified as meriting intensive Congressional attention. In addition, it has provisions for assisting general oversight. Important among these are requirements for an annual public lands program report and for biennial appropriation authorizations.

The Committee has not received any oversight findings or recommendations from the Government Operations Committee pursuant to Rule XI, Clause 2(1)(3)(D) of the House of Representatives.

INFLATIONARY IMPACT AND COST AND BUDGET ANALYSIS

Pursuant to Rule XI, Clause 2(1)(4) of the House of Representatives, the Committee believes that enactment of H.R. 13777 would have virtually no inflationary impact on the national economy.

Pursuant to Section 403 of the Congressional Budget Act, the Committee has requested the Congressional Budget Office to make a five-year cost estimate of the bill. After consultations with the Department of the Interior, the Committee estimates that the costs will amount to about $14 million for fiscal year 1977 and $120 million for the first five-year period. For the total five-year period appropriations of $75 million are authorized by H.R. 13777. The remainder will have to be authorized later pursuant to Section 606 of the bill.

***33 **6207** COMMITTEE CONSIDERATION

In the 93d Congress, ten field hearings were held on H.R. 5441 on August 20, 21, 22, and 23, 1973; January 9, 10, and 11, 1974; and March 29 and 30 (two hearings), 1974. Five hearings were held in Washington, D.C. on April 5, 9, 22, 23, 25, 26, 1974. H.R. 5441, as revised by the Subcommittee on Public Lands, was introduced as

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H.R. 16800. Time did not permit final Full Committee action on the bill in the 93d Congress.

In the 94th Congress, the Subcommittee on Public Lands held 5 hearings in Washington, D.C., in 1975 on H.R. 5224 (similar to H.R. 5441, 93d Congress), H.R. 5622, and Subcommittee Print No. 1, which was based on H.R. 16800, 93d Congress. These were held March 21, 24, and 25, and April 7 and 11. In markup sessions, the Subcommittee revised H.R. 5224 and reported it favorably to the Full Committee on Interior and Insular Affairs on April 6, 1976. The Full Committee further revised H.R. 5224, and the revised version was introduced as H.R. 13777. On May 13, 1976, the Full Committee ordered H.R. 13777 favorably reported.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends the enactment of H.R. 13777. The motion ordering the bill to be reported favorably was adopted by a roll call vote May 13, 1976, with 20 votes cast for and 16 votes cast against.

DEPARTMENTAL REPORTS

An executive communication was received from the Department of Interior on March 6, 1975, transmitting a draft bill 'to provide for the management, protection, and development of the national resource lands, and for other purposes.' Departmental reports were requested from the Departments of the Interior and of Agriculture on Subcommittee Print No. 2 and the Committee Print on H.R. 5224. The executive communication and the Departmental reports received are as follows:

U.S. DEPARTMENT OF THE INTERIOR,

OFFICE OF THE SECRETARY,

Washington, D.C., March 6, 1975.

Hon. CARL ALBERT,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Transmitted herewith is a draft bill 'To provide for the management, protection and development of the national resource lands, and for other purposes.'

We recommend that the proposed bill be referred to the appropriate committee and that it be enacted.

The national resource lands administered by the Secretary of the Interior through the Bureau of Land Management comprise 60% of all Federal lands. The national resource lands were for many years used as a means of stimulating the growth and development of the ***34 **6208** West. Consequently, little attention was given to preserving the irreplaceable values of those lands. Many of the laws pertaining to the lands were designed primarily to facilitate disposal. Although there has been a growing awareness that these lands are an invaluable national asset and although our policy is now to preserve their values in Federal ownership for the benefit of the general public, these lands have inherited an archaic and often conflicting conglomeration of laws which govern their use.

From 1812 to 1946, these lands were under the custodial administration of the General Land Office in the Department of the Interior. Its primary job was to survey the land and convey it to qualified applicants. The dust storms and other distress of the 1930's focused national attention on western lands. In 1934, the Taylor Grazing Act brought a large measure of protection and management to the 'forgotten lands' in the West. For the purpose of managing grazing of the western

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lands, the Grazing Service was created within the Department of the Interior.

From 1934 to 1946, the Grazing Service and the General Land Office shared administration of the western range. The Bureau of Land Management was created in 1946 primarily through consolidation of the functions of these two existing agencies. The variety of responsibilities of the Bureau of Land Management is extraordinary among the Federal resource management agencies:

It has exclusive jurisdiction over and responsibility for management of 450 million acres of national resource lands. In addition, BLM has some management responsibilities on millions of acres with withdrawn lands.

In cooperation with the Geological Survey, it has responsibilities for administration of the mineral laws on more than 800 million acres of land including public domain, acquired lands and lands in which the United States has reserved mineral interests. In addition, BLM administers the mineral leasing program on the Outer Continental Shelf.

It keeps the basic public land records and does land boundary surveys for most Federal lands.

Despite the extensive responsibilities of BLM, Congress has never clearly defined BLM'S mission or made a comprehensive grant of authority to BLM to accomplish its mission. Unlike other Federal conservation agencies such as the National Park Service and the National Forest Service, the mission and authority of BLM must be gleaned from some three thousand land laws which have accumulated over some 170 years. This piecemeal collection of laws is seriously inadequate, incomplete, and sometimes conflicting.

Although the Bureau of Land Management is responsible for more Federal land than any other Federal agency, its authorization to administer the land is inadequate. For example, BLM has insufficient sale and exchange authority and has no general authority to enforce its rules and regulations. It does not have essential administrative authority enjoyed by other Federal agencies, such as really workable exchange authority, or a working capital fund and authority to contract with State and local law enforcement agencies for protection of Federal lands and their uses. The bill transmitted herewith would provide the basic mission statement, and authority for management, protection, development, sale and administration of national resource ***35 **6209** lands. It would be a Congressional declaration, for the first time, of national policies governing the use and management of the national resource lands and would provide specific guidelines for the management of these vast lands.

The format of the bill is designed in view of the long-range needs for a legislative base for the management of the national resource lands, as pointed out in various analyses, including that of the Public Land Law Review Commission. Each title of the proposal is designed to permit separate consideration of its provision and to permit modifications without review of other titles. It provides for a separate repealer title, to consolidate administrative authority in one act and eliminate archaic laws.

Title I of the proposal, the 'National Resource Lands Management Act,' declares a national policy that these lands be managed under the principles of multiple use and sustained yield in a manner which will, using all practicable means and measures, protect the quality of environment, including requiring appropriate land reclamation as a condition for use.

It directs the Secretary of the Interior to inventory the national resource lands and to develop comprehensive land use plans for such lands, giving priority to areas of critical environmental concern. 'Areas of critical environmental concern' are defined to include, among others, important natural systems and scenic or historic areas. The bill also directs the Secretary to identify land suitable for wilderness study, and to review and make recommendations to Congress for inclusion of eligible land within the Wilderness System.

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Title II, Conveyance and Acquisition Authorities, would provide modern disposal authority for the Secretary to sell by competitive bidding national resource lands at not less than fair market value, when management of those lands would be significantly improved or when such disposal would serve important public objectives which cannot be prudently and feasibly achieved on land other than the national resource lands, or when the lands are not suitable for Federal purposes. Under certain circumstances it would authorize conveyance of mineral interests in lands to the surface owner if certain criteria are met. Acquisition of lands needed for proper management of national resource lands would be authorized.

Title III, Management Implementing Authority, would provide modern land management tools and procedures designed to facilitate achievement of the goals and objectives established for the national resource lands. Among other things, it would establish a working capital fund that would afford a more efficient method of accounting for various programs and service operations of the Bureau of Land Management.

It would significantly facilitate management of the national resource lands by making violation of laws and regulations pertaining to them a crime and by vesting enforcement authority in certain designated Departmental employees. In addition, the Secretary would be authorized to cooperate with State and local law enforcement agencies on national resource lands and to reimburse them for extraordinary services on national resource lands.

Title IV provides uniform and comprehensive authority for the Secretary to grant right-of-way for purposes ranging from roads, trails ***36 **6210** and canals to powerlines and pipelines other than oil and gas pipelines. Presently this authority must be gleaned from numerous, often overlapping laws.

Title V of the proposal would repeal a number of obsolete, duplicative, or superseded laws. These include a hodgepodge of land disposal laws, and a number of other laws relating to fees, charges, and other administrative matters.

The national resource lands are a priceless and irreplaceable national asset. It is time to provide the Department of the Interior with the tools to manage and preserve them in accordance with their value to the American people.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely yours,

JACK HORTON,

Assistant Secretary of the Interior.

Enclosure.

NOTE. The enclosure was introduced (by request) as H.R. 5224.

DEPARTMENT OF AGRICULTURE,

OFFICE OF THE SECRETARY

OFFICE OF THE SECRETARY,

Hon. JAMES A. HALEY,

Chairman, Committee on Interior and Insular Affairs,

House of Representatives.

DEAR MR. CHAIRMAN: We would like to offer our views on Subcommittee Print No. 2 of the 'Federal Land Policy and Management Act of 1975', dated August 13, 1975, including the amendments on land use planning and law enforcement adopted by the Subcommittee on September 9, 1975.

We recommend enactment of the 'Federal Land Policy and Management Act' only if it is amended to incorporate the recommendations of this Department and the Department

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of the Interior. We defer to the Secretary of the Interior for a detailed discussion of their recommendations.

Subcommittee Print No. 2 in Title I makes a declaration of policy primarily applicable to lands administered by the Secretary of the Interior through the Bureau of Land Management (defined as public lands) with certain references to additional lands within the National Forest System or to all Federal lands. Title II entitled 'Planning Future Public Land Use' provides general direction to the Secretaries of Agriculture and the Interior on land use planning and inventory, a procedure for Congressional review of certain land use plans and withdrawals. It would establish a procedure for sale of public lands and amend the Act of July 31, 1958, pertaining to designation of townsites on National Forest System lands. It would provide the Secretaries of Agriculture and the Interior with acquisition and exchange authority. Title II also contains a major revision of grazing authorities including a revision of the grazing fee system, establishment of a range improvement fund, revision of the duration and conditions of grazing permits and leases, and statutory establishment of grazing ***37 **6211** advisory boards. Title III entitled 'Bureau of Land Management' contains the basic authority for the Bureau of Land Management administered lands, but it does not include those functional authorities considered common to several public lands systems. Title IV provides for special management of desert areas administered by the Secretary of the Interior. Title V revises authorities for granting rights-of-way across public lands and National Forest System lands. Title VI provides for repeal of certain laws applicable to lands now administered by the Bureau of Land Management and the Forest Service.

On March 21 and 25, 1975, we testified before the Subcommittee on Public Lands on several proposals being considered which would provide organic management authority for the Bureau of Land Management. We specifically stated our support for the Administration's proposal for a 'National Resource Lands Management Act' as now contained in H.R. 5224. The Administration's proposal deals only with authorities necessary for the Secretary of the Interior in the administration of lands administered by the Bureau of Land Management. The authorities of the Secretary of Agriculture with regard to the National Forest Service System were judged to be generally sound and further, any new legislation relating to this Department should be separate and related specifically to our existing statutory base. We strongly prefer that the scope of the proposed legislation be limited to lands administered by the Bureau of Land Management.

However, since it is clear form the hearing and subsequent Subcommittee consideration, that it is the desire of the Subcommittee to include both the Secretary of the Interior and Secretary of Agriculture under certain provisions of the legislation, we will comment on certain sections of the Print. We would like to stress our general desire that the application of this legislation to the Secretary of Agriculture be limited as much as possible to avoid conflicts with our existing authorities.

Since the Administration's bill is before the Committee and the Secretary of the Interior will be providing detailed recommendations in a separate transmittal, we will comment only on our most serious concerns with regard to those portions of the Print applicable to National Forest System lands. These concerns relate to the following provisions of the Print: payments to States, subsection 102(a)(13); land use planning consistency, subsection 202(b)(8); sales authority, subsection 203(j); withdrawals, section 204; residential occupancy permits, subsection 205(f); grazing fees, subsection 210(a); range improvement fund, subsection 210(c); grazing advisory boards, section 212; rights-of-way renewal, subsection 504(b); and administrative proceedings, subsection 506. The explanation of our concern with each of these provisions and recommended amendments are contained in the enclosed supplemental statement. Our supplemental statement also points out several

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concerns we have regarding basic provisions of the Print applicable to the Secretary of the Interior. In addition, since the Subcommittee is in the process of marking up the Print, we will also bring to the attention of the Subcommittee staff technical amendments or recommendations for needed clarification in the Print language.

****6212 *38** The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. PHIL CAMPBELL,

Under Secretary.

USDA SUPPLEMENTAL STATEMENT ON SUBCOMMITTEE PRINT NO. 2 OF THE 'FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1975'

Payments to States

Section 201(a)(13) states that payments to States and local government should be on an equitable basis. The present Print does not provide implementing direction for this policy. While we support the policy direction contained in section 102, we believe any revision in the present system will require detailed study by the Administration and the Congress. We recommend that the proposed Act not attempt to encompass this policy issue.

Land Use Planning Consistency

The Subcommittee amendment to subsection 202(b)(8) provides that 'Land use plans under this section shall be consistent with State and local plans to the maximum extent feasible'. Although we support the need for close coordination between Federal, State and local land use plans, we believe that consistency to the 'maximum extent feasible' would in essence make Federal plans subject to restrictions imposed by State and local plans. We do not believe this level of consistency is desirable in managing public lands for national purposes. We recommend that the last sentence in subsection 202(b)(8), as amended on September 9, be deleted.

Sales Authority

Subsection 203(j) provides amended authority for the sale of National Forest System lands designated as townsites. We have not sought such sale authority, because we have been able to accommodate needed community expansion through our land exchange program. We would prefer that this subsection be deleted; however, if the section is retained, we recommend deletion of the proviso on lines 7 to 11 on page 23. This proviso would allow local governmental subdivisions to acquire National Forest System lands for less than fair market value. Such a proviso would encourage the disposal of National Forest System lands for local purposes without providing an equitable return to the Federal government.

Withdrawals

This section applies to actions by the Secretary of the Interior, and we understand he will comment in detail on the impact and difficulties of the procedures set forth in section 204. The section will affect certain actions or

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recommendations of this Department which are carried out by the Secretary of the Interior. For example, we request that the Secretary of the Interior segregate lands which are pending disposal in a land exchange. The Secretary of the Interior also considers and acts on our request to withdraw lands from mineral entry. In both of the cited examples, we view the proposed procedures in section 204 ****6213 *39** as unnecessarily cumbersome for both the large and small tracts. Particularly in the case of mineral withdrawals subsection 204(b)(2) would require a continuous process of review and renewal of withdrawals. Most of these withdrawals are associated with long-term needs, such as a mineral withdrawal for a developed recreation site. We recommend authorization be provided for long-term withdrawals based on an established public use.

Residential Occupancy Permits

We strongly object to the provisions of subsection 205(f) which provide if a residential occupancy permit is canceled or not renewed in order to devote the lands covered by the permit to another public purpose that the permittee shall be compensated for permanent improvements constructed on the permitted lands and which provide that no permit shall be canceled except in cases of emergency without ten years prior notification.

About 20,000 special use permits authorizing residential occupancy are issued by the Forest Service in this Department. Most of these permits involve permittee-built and owned improvements of some kind. The value of these improvements could exceed $150 million. In addition, we have another 40,000 special use permits which authorize other types of occupancy and involve many kinds of improvements of substantial value.

Our special use permits are legally drawn and executed agreements between this Department and the permit holders. These permits specifically set forth what, if any, obligations the Federal Government will have for compensating the permittee for improvements built on the permit area upon the expiration or termination of the permit. They also specify the rights and obligations of the permittee as to the removal of any improvements upon such expiration or termination.

These permits are of two general types insofar as duration is concerned. One group is terminable at any time and the other is issued for a specified term of years. Most of our residential occupancy permits are issued for 20-year periods. None of the permits provides for any compensation to the permittee when the specified term of the permit has expired. The term permits provide that an equitable value for the improvements will be paid if the permit is terminated in the public interest before the end of the specified period.

The permittees who have acquired or placed structures and improvements on the National Forest lands have done so under known and agreed to provisions of their permits. To give these permittees an entitlement to compensation beyond the specified term would bestow on them an asset or windfall that was not contemplated when they accepted their permits.

Use of the National Forest under a permit is a privilege extended to a relatively small number of people under specific conditions. If permittees were granted a compensable interest in the structures and improvements that could not be extinguished at the expiration or termination of the permit, they would apparently have a right to retain for an indefinite period the improvements or structures in place. This would in effect give permittees vested rights in the use of land itself. Thus, existing permits would be converted into grants of permanent rights, even though existing permit provisions, established in accord with existing law, provide otherwise.

****6214 *40** The result of these provisions would be to give private interests priority over public interests in management of National Forest lands and we would

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lose the flexibility to accommodate general public needs. The only way we could terminate private uses would be to spend general funds to acquire the interests involved.

Subsection 205(f) would therefore create for the Federal Government a major new financial obligation to provide compensation for structures and improvements. At the same time it would provide a windfall to permit holders. For these reasons, we believe inclusion of subsection 205(f) would be undesirable from the standpoint of prudent management of National Forests for overall public purposes, and it is not necessary to provide equity for permittees.

Grazing Fees

We have several concerns with the grazing fee system set forth in section 210. The base fee of $1.75 per animal unit month does not represent fair market value--the 1969 interagency study would indicate $1.94 as fair market value for 1976. We also believe that adjustment in this base fee should be based on changes in private grazing land lease rates rather than on beef prices. In our judgment, private grazing land lease rates more consistently represent reflect change and provide a more equitable measure of grazing value.

Range Improvement Fund

We do not support the earmarking of funds as would be provided in subsection 210(c). We prefer that the present approach of seeking range management funds as part of our regular appropriation process be continued. Earmarking of funds decreases the amount initially available for all national programs and can impede careful, objective planning toward meeting the needs of many worthwhile public projects.

Grazing Advisory Boards

We do not support the creation of statutory grazing advisory boards as would be provided by section 212. We recommend that the concerned Secretary be authorized to use advisory boards and other means of providing public participation based on the specific resource question that needs resolution and the need for public input. Under such broad direction any advisory board which was created would be established in accordance with the Federal Advisory Committee Act. At present the Forest Service has grazing advisory boards on certain National Forest and National Grasslands established under the Federal Advisory Committee Act with their duties and membership set forth in Secretary's regulations (36 CFS 321.10). These boards have been recently reconstituted and the provisions of section 212 would change the duties, membership, and number of advisory boards. Our present system has been well received by the interested public, and we do not recommend the change to specific statutory boards.

Rights-of-Way

We have several concerns with regard to the rights-of-way title. Subsection 501(d) provides that the title be administered so as to promote competition. We recommend deletion of this subsection. In many circumstances, it is desirable to issue rights-of-way without competition. ****6215** Competition ***41** could be used where appropriate without this subsection. could be used where appropriate without this subsection.

The provision in the last sentence of section 504(b) in essence converts terminable permits to perpetual easements. We object to this provision and believe

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the Secretary concerned should have full discretion with regard to permit renewal. We recommend that the sentence on lines 10 to 14, page 74 be deleted. Subsection 504(c) provides appropriate renewal authority.

Section 506 provides for administrative proceedings under the Administrative Procedures Act. We believe a lesser administrative appeal should be provided with use of the Administrative Procedure Act where deemed appropriate by the Secretary concerned. This would provide flexibility in reviewing minor problems or questions. This flexibility could be accomplished by deleting the word 'appropriate' on line 15, page 78 and inserting the words 'opportunity for an administrative appeal, including where deemed appropriate by the Secretary concerned an'. Finally, we believe the repeal of laws relating to rights-of-way should be effective immediately, with the proviso that appropriate existing regulations could be utilized until new regulations could be finalized.

General-Regarding Basic Provisions Applicable to the Secretary of the Interior

We would like to point out that we have a number of concerns with regard to provisions of the Print which apply primarily to the Department of the Interior. We believe that it is important the Secretary have broad authority to carry out the purposes set forth in Title I. We believe the oversight provisions relating to land use plans, sales, and withdrawals could better be accomplished through a broad review of the annual report. The requirement for an annual report is contained in Title III. Emphasis on broad overview would eliminate the need for the detailed review provisions in functional areas. We also believe the Secretary should have law enforcement authority similar to that set forth in H.R. 5224. We share the Department of the Interior's concern that the delay in the effective dates for repeal of existing laws and the change in appropriation authorization will unnecessarily encumber management under the Act. We recommend the approach to these provisions contained in H.R. 5224.

U.S. DEPARTMENT OF THE INTERIOR,

OFFICE OF THE SECRETARY,

Washington, D.C., November 21, 1975.

Hon. JAMES A. HALEY,

Chairman, Committee on Interior and Insular Affairs, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the Department is vitally interested in obtaining the enactment of an appropriate 'Organic Act' for the Bureau of Land Management. It is the only bureau in the Department presently lacking such a statutory base. On March 6, 1975, we transmitted to the Congress our proposed legislation and recommended that it be enacted. Subsequently, over the past several months the Subcommittee on Public Lands has been considering draft proposals and the Department has been attempting to assist the Subcommittee and its staff by providing legal and technical assistance.

****6216 *42** It is our desire to continue to cooperate with the Subcommittee in an effort to achieve a good workable 'Organic Act' for the Bureau of Land Management. Unfortunately, the present Subcommittee Print #2 is almost completely unacceptable to the Administration.

We are attaching a memorandum which comments in detail on the objectionable features now contained in Subcommittee Print #2. However, we would like to emphasize some of our most significant concerns:

(1) An 'Organic Act' for the Bureau of Land Management should provide a framework for that agency to carry out its statutory responsibilities. Such a law

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should not be cluttered by inclusion of authority for other agencies, such as the U.S. Forest Service, with different management responsibilities established by separate statutes.

(2) The definition of 'withdrawal' and the administrative and repeal provisions relating to withdrawals create insurmountable legal and administrative problems. More detailed analyses on these point have been prepared by the Solicitor's Office and are included in the attached memorandum under items II(3) and XXII.

(3) The repeal of all expressed or implied appropriations would cause considerable difficulty in continuing existing programs.

(4) We do not favor the creation of statutory grazing boards. Requiring by statute that certain district advisory boards be composed primarily of grazing interests reduces the flexibility of the Secretary to establish such boards as are appropriate and necessary to advise him with respect to the full range of our responsibilities for administration of public lands, including administration of grazing. The Secretary should be able to establish such boards as he finds it necessary for proper grazing administration.

(5) The grazing formula and provisions for grazing permits are not in the public interest.

(6) The delayed effective dates of the repealer sections could cause protracted and costly litigation.

We believe Subcommittee Print No. 2 violates the precept set down by the Supreme Court in the case of Carlson v. Landon, 342 U.S. 524, 542 (1952) that 'Congress can only legislate so far as is reasonable and practicable, and must leave to executive officers the authority to accomplish its purposes'.

In addition to the items mentioned above, we also note for particular attention the following provisions, the objectionable features of which are discussed in detail in the attached memorandum:

(1) Sections 202(e)(2) and 203(b)-- One House veto provision; Section 204(c)-- One Committee withdrawal authority;

(2) Sections 202(b)(8) and 202(d)-- Land use planning requirements;

(3) Section 312-- Comprehensive wilderness requirements;

(4) Section 302(c)-- Law Enforcement provision;

(5) Sections 313, 401, 402, 403, and 404-- Extraneous provisions;

(6) Section 202(g)-- Public participation in management provision;

(7) Section 205-- Ten year notification on permit cancellation;

(8) Section 203(e)-- Automatic acceptance of offer to purchase land, if the Secretary fails to act.

****6217 *43** An acceptable Bureau of Land Management 'Organic Act' must be based on an understanding of the needs of those who will administer the law once it is enacted. We continue to believe that an acceptable resolution of these issues is possible and we pledge the resources of this Department to the effort.

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

Sincerely yours,

JACK HORTON,

Assistant Secretary of the Interior.

Enclosure.

SUMMARY OF MAJOR PROBLEM AREAS IN SUBCOMMITTEE PRINT NO. 2

NOTE. This analysis is not all inclusive. Many minor problems or technical changes are not mentioned.

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I. Section 102-Declaration of Policy

Although this section is entitled Declaration of Policy, it includes many substantive legal provisions and procedural requirements. Insofar as this occurs, we cannot support the bill. Specifically:

(1) The policy as to judicial review in Section 102(a)(6) is so broad as to clog the courts with cases involving individuals who cannot get what they want under the law.

(2) Section 102(a)(11) is purely procedural.

(3) Section 102(a)(13) relating to payments in lieu of taxes introduces a new element, not directly related to land management, which is better addressed in separate legislation.

II. Section 103-Definitions

Several of the definitions incorporate new concepts or changes from existing meanings that will generate many legal questions. For instance:

(1) Section 103(f).-- The definition of right-of-way is too broad and will create legal and management problems. The original rationale for defining 'right-of-way' to include permits and licenses was that a broad definition would allow the Secretary to tailor grants of 'rights-of-way' to fit given situations.

With the amendment of the Mineral Leasing Act right-of-way provision, 30 U.S.C. 185, in 1973, however, such flexibility was no longer necessary.

Our experience has since shown that it is necessary to distinguish authorizations which grant some interest in the public lands, such as easements and leases, from temporary authorizations, such as permits and licenses which grant no interest in the public lands.

An authorization which grants some interest in the land is appropriate for certain projects. However, it is also necessary that the Secretary have authority to issue authorizations for temporary use of the public lands such as for exploration of a potential right-of-way, for construction camps for an otherwise authorized project, for temporary access to an authorized project, or for the use of off-road vehicles in areas otherwise closed to such usage.

****6218 *44** The terms 'lease', 'easement', 'permits', and 'license' have meanings which have been developed in the common law. Federal statutes have often been lax regarding these distinctions, particularly as to the public lands. It would be appropriate in the BLM Organic Act to establish authorizations which are consistent with the common law insofar as possible. By separating easements and leases from permits and licenses, this can be accomplished.

(2) Section 103(h)-- Defining 'sustained yield' to mean achievement and maintenance in perpetuity of an output of the various renewable resources without 'any impairment of the productivity of the land' is neither desirable nor administrable. It may be difficult to judge when an action will cause impairment. The objectives of such a provision should be to prevent permanent impairment rather than minor alterations of a temporary nature. The term 'impairment' should be changed to 'permanent impairment.'

(3) Section 103(j).-- The Solicitor has advised us that the definition of withdrawal creates confusion and many legal and operational problems. Traditionally, 'withdrawal' meant 'The act of Congress or the President, as authorized by Congress, in declaring certain public land not open to settlement, location, sale, or entry.' Ballantine's Law Dictionary (3rd Ed. 1969). This definition essentially was adopted by the Supreme Court in Udall v. Tallman, 380 U.S. 1 (1964), where an Executive Order withdrawing land from 'settlement, location, sale, or entry, or other disposition under any of the public-land laws . . . ' was interpreted.

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The Court noted that such withdrawal language contemplated cessation of actions conveying or leading to the conveyance of the title of the United States, 380 U.S. 19. Commentators on public land law have also adopted this view. Wheatley refers to the 'withdrawal process':

By which the public domain is withdrawn or reserved for certain specific purposes and thereby segregated from the operation of various other public land laws enacted by Congress authorizing the use or disposition of the lands. Public Land Law Review Commission, Study of Withdrawals and Reservations of Public Domain Lands, at 1 (1969).

This view of withdrawal as referring to removing land from the operation of the public land laws is now accepted by the courts and lawyers familiar with public land law.

The definition in Section 103(j) of this bill would plunge the law back into the chaotic situation at the turn of the century when no one knew exactly what a withdrawal meant. It would call everything from a land use plan, through a formal designation of use, to a traditional withdrawal, a 'withdrawal.' This bears little or no relationship to the traditional concept of withdrawal to any Secretarial decision that a particular parcel of land should be used primarily for one purpose. This proposed definition represents a completely new concept; and if it is called a 'withdrawal', it will only engender further confusion.

(4) The very specific and detailed requirements for 'land use planning' create a need for a definition of the term. There is none in the bill. It is essential that land use planning be defined so as to accommodate BLM'S planning system, recognize that planning is a dynamic ****6219 *45** process and acknowledge that land use plans may be amended, after due consideration, to accommodate proposed uses unforeseen at the time the plans were formulated. A definition was supplied to Committee staff.

III. Section 202-Land Use Planning.

(1) We are thoroughly in accord with the principle of Federal-State-local government coordination in land use planning and actually incorporate it into our land use planning process. However, the provisions of section 202(b)(8) as recently adopted by the Subcommittee impose conditions on the Secretary that may make administration of public lands very difficult and may not be in the public interest. In providing for 'meaningful public participation . . . of State and local government officials' on a 'continuing basis' in the development of land use decisions accompanied by the requirement for consistency to the maximum extent feasible 'with State and local land use plans', the Secretary's ability to make decisions as to the use of public lands is seriously limited. Further, the relationship to Indian tribes and their land programs is not clear.

(2) Section 202(e).-- We understand this provision is intended to give the Secretary authority to implement land use plans either by use of withdrawals or by issuing management decisions. This gives a different complexion to withdrawals than historically considered. Withdrawals are now considered a management tool designed to exclude certain uses from lands so that they may be effectively managed, pursuant to management decisions, for other uses.

Withdrawals are not presently considered the management decisions. However, even if because of this legislation, withdrawals take on a new meaning, the definition of withdrawals is such that it encompasses management decisions. As a result, since most management decisions that should fall under Sec. 202(e)(2) would fall within the definition of 'withdrawal' they would have to be treated as such and would fall under Sec. 204 not Sec. 202. We have suggested to Committee staff that at the very least the words 'notwithstanding the definition in section 103(j) or the provisions of section 204 hereof' be inserted between the words 'or' and 'by' in section 202(e). This recommendation did not reflect acceptance of the concept

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of 'withdrawal' as a management decision in the sense of the balance of Sec. 202(e).

(3) The proposed revision of section 202(e), read in conjunction with the definition of 'principal or major uses' in section 103(1), raises many questions. The term 'exclude-- in whole or in part' in subsection (2) is not precise. The phrase 'in part' is particularly troublesome. Although five uses are listed in the definition in section 103(1), the question still remains as to the exclusion of one element of a use; e.g., off-road vehicles for recreational uses. We do not believe an explanation in the Committee report on the bill is adequate. The language of the bill itself should be clear.

Section 202(e)(2) provides that the Secretary may implement land use plans developed under the section, subject to the condition that if a management decision is made to exclude, in whole or in part, one or more principal or major uses for two years on a tract of land in excess of 100,000 acres, such action shall terminate if before the end of 90 days from the notification of the Congress, either House ***46 **6220** adopts a resolution disapproving of such action. This provision is identical to provisions in other legislation which the Executive Branch has opposed because the Department of Justice has consistently found that such provisions are unconstitutional. Justice has testified against such a provision as recently as May 15, 1975, before the Senate Judiciary Subcommittee on the Separation of Powers in a hearing concerning Executive Agreements.

In addition, there is a question of how the Congressional veto would work on management decisions involving tracts of over 100,000 acres. The draft provides that action implementing a management decision on tracts of 100,000 acres or more shall terminate and become ineffective if before the end of 90 days either House has adopted a resolution stating that that House does not approve of such action. Action by Congress at that time could completely disrupt an on-going management program. The budgetary implications and potential for disruption are enormous. The entire process may involve Congress in managerial rather than policy aspects of programs that are not within its organizational capabilities.

Congress has oversight authority over all Federal programs. However, a 'veto' power mandated by law would put the administration of national resource lands in an uncertain status for 90 days (or longer if Congress has adjourned for more than 3 days). The ramifications of this can be tremendous.

(4) In section 202(g) deletion of the phrase 'and participate in' on page 18, line 5 makes the provision more acceptable. However, the section should be amended to make it perfectly clear that the public does not participate in the management of public lands. Certainly Congress does not intend that the public should participate in the everyday management of the public lands.

IV. Section 203-Sales

(1) Section 203(b) provides that where the Secretary designates the sale of a tract of lands in excess of 2,500 acres, such sale can be made only after the end of a 90 day period (which begins when the Secretary notifies Congress of the designation) and only if neither House of Congress adopts a resolution stating its disapproval of the designation. This provision is identical to provisions in other legislation which the Executive Branch has opposed because the Department of Justice has consistently found that such provisions are unconstitutional. Justice has testified against such a provision as recently as May 15, 1975, before the Senate Judiciary Subcommittee on the Separation of Powers in a hearing concerning Executive Agreements.

(2) The provision in section 203(e) that on failure to accept or reject an offer, the offer shall be deemed accepted, is contrary to general law. A failure to accept means rejection. We know of no reason or justification for imposing more

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stringent requirements on the Secretary than on other offerees. This is especially true since disposals are discretionary with the Secretary.

(3) Section 203(h) requires the Secretary not to make conveyances of public lands which would be in conflict with State and local land use plans, programs, zoning and regulations. Under the stringent criteria for disposal, it is difficult to see how the Secretary could make any conveyance which would be in conflict with such plans. The provision ***47 **6221** could live another government entity a veto over Secretarial action. It might put the Secretary in an untenable position if there was a disagreement between State planning and local authorities. These plans and regulations are matters that the buyer must be aware of-- not the seller. There are no apparent advantages to the inclusion of the sentence but many potential problems. We understand that consideration may be given to inserting the phrase 'containing terms and conditions' between 'lands' and 'which', on p. 21, line 24. This would make the provision more acceptable.

(4) We do not believe that this Act is the proper vehicle for a disinterment of the Act of September 26, 1968 (43 U.S.C. 1431-1435). That Act has expired except to the extent that applications pending under it remain to be processed. The provisions of section 203(k) amend the 1968 Act, give applicants whose applications have not been processed greater benefits than those whose applications have been processed, and create several impossible situations. For instance, the section gives the first right of refusal to a preference right holder. There may be several preference rights holders for a given tract of land, and some may not be occupants. No provision is made for that situation. The meaning of the phrase 'the Secretary shall make no further dispositions' in cases where he was notified Congress that he will not sell pursuant to applications under the 1968 Act is not clear. There are other problems which we would like to submit in detail apart from discussion of the Organic Act.

V. Section 204-Withdrawals

(1) Section 204(c) provides that 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, the Secretary shall immediately make an emergency withdrawal of the lands in question. The Department Of Justice has advised this Department that the granting of this is one House-Committee power is of questionable constitutionality.

(2) Difficulties presented by the definition of withdrawal were discussed above. Section 204 further complicates matters by imposing notification requirements which are needless given the public participation provisions of the bill and the requirements of the Administrative Procedure Act. Furthermore present withdrawal procedures provide full public notice through publication of Public Land Orders.

The withdrawal procedures in Subcommittee Print No. 2 are also unnecessarily complex. There are several kinds with differing terms-- 1 year, 5 years, 10 years.

In summary, the withdrawal definition and procedural provisions do not reflect adequate consideration and understanding of preexisting law in this area. Instead of improving a system that has in fact worked adequately for many years, they would serve only to generate confusion and stymie effective land administration and management.

VI. Section 205-Acquisition of Land

(1) The provisions of section 205(f) are not in keeping with the nature of occupancy permits. These are not intended to be long-term authorizations, but are special privileges granted to the occupant. No right in the land enures to the permittee. To assure fair market value ***48 **6222** of his improvements (for which

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the Federal government probably would have no use) would be expensive for the government and would vest in the permittee a benefit and perhaps a right he had no reason to expect. To require 10 years' notification of cancellation could seriously impede implementation of a program that is in the public interest, in favor of a private user who had no reason to expect a term of that duration. Our regulations in 43 CFR 21 provide for a time to amortize investment in substantial improvements.

VII. Section 206(a)-Exchanges

The provision of section 206(a) would seem to put the Secretary of the Interior into an untenable position as to exchanges. On the one hand he must make a determination that by making the exchange the 'public interest will best be served and better land management will result' (referring, presumably to management of Federal lands). On the other hand the first proviso requires the Secretary to give full consideration to the needs of State and local people, including needs for lands for the economy, community expansion, recreation areas, food, fiber, and minerals. The necessity to meet all these requirements may, as a practical matter, make exchanges impossible to negotiate.

VIII. Section 210-Grazing Fees

This Department does not favor a grazing fee formula and schedule which is set by statute. However, if the Congress should decide on the inclusion of a statutory grazing fee formula, then this Department would favor the formula which is presently used by this Department in setting the grazing fee.

The formula introduced by Mr. Santini would result in a static fee which would vary very little, if any, over the years, would never rise above approximately $1.70, and would not return fair market value to the Federal Government. The formula would increase the disparity between grazing fees on public and private land.

IX. Section 211-Duration of Grazing leases

The requirement in section 211 that 10-year permits be issued, except in certain limited situations, and the caveat that the absence of a detailed allotment management plan shall not be the basis for establishing a term shorter than 10 years, may defeat the very purpose that this subcommittee draft is intended to accomplish-- improvement of the range. A permit identifying season of use, area of use and a.u.m.'s permitted is not an allotment management plan, let alone a detailed allotment management plan. In the absence of what the draft calls a detailed allotment plan (apparently meaning what the BLM calls an 'Allotment management plan'), there is no assurance that lands will be properly used, not overgrazed, or otherwise abused. Until a so-called detailed management plan can be formulated, it is essential that permits be of shorter than 10-years' duration to allow for more frequent reevaluation of a.u.m.'s grazing season, and other elements.

X. Section 212-Grazing Advisory Boards

(1) The provisions in section 212 for statutory grazing advisory boards are unacceptable. In an agency committed by law to the principles of multiple use, it is essential that managers, in this case district managers, have the opportunity to obtain advice from advisory boards as well as other public interest groups, which are representative ***49 **6223** of the interests involved and which reflect the full range of resource values (including grazing) consistent with our land management

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responsibilities. In districts where there is a large amount of grazing, those interests would be heavily represented. Requiring by law that there be a grazing district advisory board and allowing the establishment of an additional multiple use advisory board does not provide a practicable solution. Double expense would be involved (estimated additional cost $500,000) as well as the possibility of conflicting advice from the two boards. In any event, graziers would be well represented on a multiple use advisory board whose sessions would provide opportunity for discussion and ironing out differences among users.

(2) Appointments to any advisory board should be made by the Secretary. The boards are designed to advise the Secretary, and he should be allowed to seek advice from persons of his choice. There would be no objection to his receiving recommendations for appointment from the Governor of a State or others.

(3) The weighting requirements for establishing the grazing district advisory boards-- twice as many livestock representatives as wildlife representatives-- can only result in the same kind of advice to the Secretary-- heavily weighted in favor of livestock interests. This is out of keeping with the multiple use philosophy of the balance of the bill.

XI. Section 301-Establishment of Bureau

The Bureau of Land Management has already been established. Reestablishing it may create legal problems.

XII. Section 302(c)-Law Enforcement

The provisions relating to law enforcement adopted by the Subcommittee on September 9, 1975, are entirely unacceptable. The October 22 version is little better. It would put the Bureau of Land Management in a position far worse than it is at the present time without any law enforcement authority. Under the new amendment, the Secretary would be required to negotiate with State or local government for enforcement of Federal laws and regulations on the public lands, offer them a mutually satisfactory contract, and reimburse the States or their political subdivisions for these services. The section also would require the Secretary to provide such law enforcement training as he deems necessary. The Secretary would be given authority to assume the law enforcement authority given him on public lands only in those instances where State and local law enforcement agencies do not assume this responsibility. There is no indication as to what the situation would be if the local law enforcement agency neither advises the Secretary of its inability or fails to in fact carry out law enforcement responsibilities on the public lands in a given situation.

There is no language in this section that gives the Secretary any control over how the program of law enforcement on public lands will be managed, once that enforcement has been assumed by the State or local law enforcement agencies.

XIII. Section 307(d)-Tax Immunity

No purpose is given for this study in either proposal. Nor does either study proposal provide for evaluation of special benefits (e.g. more favorable treatment in cost sharing on Federal highway projects) ***50 **6224** to public land states. There is no indication of what is to be done with the study. It is not clear whether this would be a one-time study, or ongoing, and whether it would change as state or local taxes change.

XIV. Section 311-Bureau of Land Management Wilderness Study

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We believe that the National Wilderness Preservation System should be a quality system with an equitable representation of areas encompassing a full range of natural ecosystems. However, with the enormous acreage that the Bureau of Land Management administers, the type of wilderness study provided for by the Wilderness Act is totally unrealistic. An estimated 89,500,000 acres of land would have to be reviewed (more than was required of the Forest Service, Park Service and Fish and Wildlife Service combined). It would require many years to complete, even with increased manpower, and would be enormously expensive. Its impact would be felt not only by BLM but also by Geological Survey, and the Bureau of Mines. Additionally the time frames in the proposal are too short and are unrealistic. A more meaningful and equally effective approach, which is incorporated in the Administration's bill, H.R. 5224, is to require review of roadless areas of 50,000 acres or more.

The wilderness review provisions in section 102(a) and 103(e) of H.R. 5224, the Administration's proposed National Resource Lands Management Act are better suited for review of lands managed by BLM under multiple use principles. They would take into account vast open expanses administered by BLM, and would, to a greater extent than the Subcommittee Print, specifically permit continued management during the review period.

Section 102(a) of H.R. 5224 requires that a land and resource inventory be conducted and that tracts of 50,000 contiguous roadless acres or more with wilderness characteristics, as described in certain sections of the Wilderness Act, be identified. Finally, these sections specify that the identification and review shall not of themselves change or prevent change in the management or use of the lands. For these reasons, an approach that requires examination of larger roadless areas, employs criteria for review other than the mere fact that an area is roadless, and provides for continued management during the review period, should be adopted in lieu of the current provisions of Section 311 of the Subcommittee Print.

XV. Extraneous Provisions

There are several provisions in Subcommittee Print No. 2 which are unrelated to the basic mission of the BLM and its day-to-day operations. They do not belong in an Organic Act. Included among these are:

(1) Section 401-- California Desert Conservation Area.
(2) Section 402-- Conveyances for Recreation Purposes.
(3) Section 404-- King Range.

(It is our understanding that Section 313-- Management of Wild Horse and Burros, and Section 403-- Desert Area Study are being deleted. If not they should be included in this list.)

XVI. Section 405-Withdrawal Review

Subsection (a) of section 405 would require the Secretary to review withdrawals of all public domain lands 'other than withdrawals of ***51 **6225** public lands'. It then, notwithstanding this directive, requires the Secretary to review withdrawals of the public lands and public domain lands in National Forest (except in wilderness areas) close to mining and mineral leasing. It is not clear from this language what withdrawals or lands are to be studied.

XVII. Section 501(b)(1)

We do not understand the reason for the proposed addition to page 68, line 24. Information as to intended use, etc. is always needed as a basis for determining whether a right-of-way should be granted. Tying the supplying data to the promotion

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of competition may be inappropriate on many applications for rights-of-way or renewals for particular purposes. Section 501(b)(2) seems to be more closely related to the question of competition.

XVIII. Section 502-Cost Share Road Authorization

The first proviso in section 503(a) (page 71, lines 6-12) limits road standards to those needed to harvest the particular sale. The BLM could pay the purchaser for the cost of a higher standard road. This raises problems of availability of unappropriated funds, need for negotiating the cost of higher standard increments, duplicating costs for building a higher standard road needed for other timber sales that must use a lower standard road previously constructed. We do not believe the second proviso overcomes these problems. BLM has had no problem with its timber road program. There may be no need for the entire section. Some of our objection would be overcome if these words were added on Page 71, line 9, between 'not' and 'be'; ', except where provisions of the second proviso of this subsection applies.'

XIX. Section 504-General Provisions

The third sentence of section 504(b) would seem to give a right-of-way holder a right in perpetuity. This is not intended in granting a right-of-way. The right of perpetual renewal makes meaningless the term of the instrument and would hamper land use planning in areas where authorizations are outstanding. The addition of language suggested by staff would make this provision less objectionable.

XX. Section 509(b)

We object to a provision which gives railroads special privileges not enjoyed by others. When rights-of-way are renewed or modified they are always reexamined in the light of existing circumstances. They are then modified, adjusted or strengthened to incorporate any provisions needed to protect the public interest. This subsection would allow the railroads to realign and acquire new rights-of-way under the same terms and conditions as applied to relinquished portions. This means we would be favoring the railroads with 19th century standards and stipulations in a 20th century operation, without recognition of changing national goals, criteria or needs.

XXI. Delay in Effective Dates

(1) Section 511. Delay in effective date of new right-of-way provisions serves no useful purpose, will only cause confusion, and is a potential source of law suits.
****6226 *52** (2) Sections 602 and 603. Delay in the effective date of the repealers will only cause problems of administration, raise false hopes of benefits under laws which have long since outlived their usefulness, and possibly generate law suits.

XXII. Withdrawals

Section 604(b) would repeal all previous withdrawal statutes. Serious consideration must be given to the far-reaching consequences of such a repealer on this complicated field of law. The draft would repeal the Pickett Act, 43 U.S.C. 141-142 (1970), and eliminate any implied Presidential withdrawal power, see United States v. Midwest Oil Co., 326 U.S. 459 (1915). [FN3] Thus, the proposed Organic Act would be the only basis for withdrawal authority. A cursory analysis discloses

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that the proposed repealer would effectively resurrect the very issue underlying the Midwest Oil case: how much inherent withdrawal power does the Executive possess constitutionally? The repealer also fails to consider its effect on statutory withdrawals. Many existing statutes, such as the Wild and Scenic Rivers Act, 16 U.S.C. 1279 (1970), and the act creating the North Cascades National Park, 16 U.S.C. 90c-1(b) (1970), have withdrawal provisions. While the proposed draft bill would not affect these withdrawal provisions since they are one-time actions which have already been completed, other statutes grant continuing withdrawal authority, e.g., 43 U.S.C. 622 (water power sites), 43 U.S.C. 416 (irrigable lands), 43 U.S.C. 1341 (OCS), and 43 U.S.C. 155-158 (defense withdrawals). The proposed repealer section would eliminate these provisions. Serious consideration must be given to the impact of such a change.

XXIII. Section 606-Authorization

The repeal of all express or implied appropriation authorizations would make it very difficult for a land managing agency with ongoing authority and programs to operate. No other land managing agency operates under a similar restriction.

The proposed process forces an additional time consuming step to be added to the Congressional appropriation process.

Appropriation authorizations without dollar limitations are important for effective long-range planning and for meeting emergencies that arise from one year to the next. For example, it is crucial that funds be made available so that BLM can implement or intensify programs immediately when there are fires, floods or droughts. If annual dollar limitations were imposed on these programs, it would be necessary to authorize excessive funds for them in the event that demands for the programs were unusually great in any one year.

This proposal would seem to require Congress to pass on administrative details of programs which have already been authorized.

If regular appropriation equals the authorization ceiling then legislative action is required before the Appropriation Committee may act on emergency action supplementals. This process might preclude amendments on supplemental because of timing.

Subsection (c) is inadequate. It would be improved by the addition of:

****6227** Nor to fund allocations from other Federal agencies, reimbursements from both Federal and non-federal sources, and funds expended for everyday fire fighting and rehabilitation.

***53** U.S. DEPARTMENT OF THE INTERIOR,

OFFICE OF THE SECRETARY,

Washington, D.C., April 28, 1976.

Hon. JAMES A. HALEY,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This Department has reviewed the Committee Print on H.R. 5224, 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.'

On March 6, 1975, this Department transmitted to the Congress our proposed Bureau of Land Management 'Organic Act' legislation and recommended that it be enacted. Since that time, the Subcommittee on Public Lands has considered four subcommittee prints of this legislation, and we formally transmitted our views to the

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Subcommittee on November 21, 1975. Subsequently, this Department has tried in every way to assist the Subcommittee and its Staff by providing legal and technical assistance and drafting services. Extensive comments both formally and informally have been supplies to the Subcommittee and its Staff.

Moreover, in December 1975, and January of this year at the request of the Subcommittee, representatives from the Department, the Bureau of Land Management and the Solicitor's Office met with several members of the Subcommittee Staff in a concerted effort to resolve the areas of disagreement over the form and content of this legislation. Countless hours of preparation and redrafting, and staff level discussion went into this effort.

After these meetings were completed, we thought that we had achieved significant progress on compromise language to resolve many areas of disagreement. We were very disappointed to find that after all of this effort, only a few of the agreed upon changes were made to the Subcommittee Print. Every effort has been expended to cooperate with the Subcommittee on Public lands to achieve a good, workable 'Organic Act' for the Bureau of Land Management, but we have experienced an almost complete unwillingness by the Subcommittee to respond to our concerns and suggestions.

The Committee Print of H.R. 5224, which is now under consideration by the full Committee, is completely unacceptable to the Administration. This bill constitutes a serious infringement on the power of the executive in the day to day administration of the public lands. When considered as a whole, this bill would create a statutory quagmire which would be impossible to administer.

****6228** We appreciate the number of hours of deliberation by the Subcommittee on this bill. However, we strongly recommend that the full Committee consider the Administration's proposal as a more workable policy statement and program and statutory basis for Executive implementation.

The Office of Management and Budget has advised that there is no objection to the presentation of this report and that enactment of ***54** the Committee Print on H.R. 5224 would not be in accord with the program of the President.

Sincerely yours,

THOMAS S. KLEPPE,

Secretary of the Interior.

* * * *

***235** ADDITIONAL STATEMENT OF JAMES WEAVER TO DISSENTING VIEWS

In general, the above dissenting views represent my view of H.R. 13777 in its present form. I believe, however, that although the bill should be amended as much as possible on the floor, the House should pass it and send it to conference to iron out the differences.

JAMES WEAVER.

FN1 H.R. 13777, by Reps. Melcher, Skubitz, Johnson of California, Steiger of Arizona, Santini, Don H. Clause, Young of Alaska, Symms, Weaver, and Johnson of Colorado, is a 'clean bill' representing the final version of the legislation as approved by the Committee. It was introduced immediately after the deliberations on H.R. 5224 by Rep. Ruppe (by request) were concluded and was ordered reported by the Committee on May 13, 1976. A similar bill, S. 507, was approved by the Senate on February 25, 1976.

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FN2 35 S.Ct. 309, 59 L.Ed. 673.

FN3 35 S.Ct.309, 59 L.Ed. 673.

(Note: 1. PORTIONS OF THE SENATE, HOUSE AND CONFERENCE REPORTS, WHICH ARE DUPLICATIVE OR ARE DEEMED TO BE UNNECESSARY TO THE INTERPRETATION OF THE LAWS, ARE OMITTED. OMITTED MATERIAL IS INDICATED BY FIVE ASTERISKS: *****.
2. TO RETRIEVE REPORTS ON A PUBLIC LAW, RUN A TOPIC FIELD SEARCH USING THE PUBLIC LAW NUMBER, e.g., TO(99-495))

H.R. REP. 94-1163, H.R. Rep. No. 1163, 94TH Cong., 2ND Sess. 1976, 1976 U.S.C.C.A.N. 6175, 1976 WL 14070 (Leg.Hist.)

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