SRP04750

87TH CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPORT No. 2521

PROVIDING FOR THE PRESERVATION OF WILDERNESS AREAS, FOR THE MANAGEMENT OF PUBLIC LANDS, AND FOR OTHER PURPOSES

OCTOBER 3, 1962.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mrs. PFOST, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H.R. 776]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 776) to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

TITLE I

STATEMENT OF POLICY

SEC. 101. In order to assure that—

(1) there are no unnecessary or unjustifiably extensive withdrawals, reservations, restrictions, or changes in use designations or classifications of the public lands, national forest lands, and shelf lands of the United States; and that

(2) such withdrawals, reservations, restrictions, and use designations or classifications as are made provide for the use of each area in the national interest; and that

(3) the acquisition, occupancy, use, and exploration of lands and the development and exploitation of the resources thereof in accordance with the public land laws, including the mining and mineral leasing laws, of the United States are not unduly limited; and that

(4) the public lands and shelf lands of the United States are managed generally in accordance with the principles of multiple use unless otherwise specifically authorized by law; and that

(5) an increasing population, accompanied by expanding settlement and growing mechanization, does not occupy and modify all areas within the United States, its territories, and possessions leaving no lands reserved and protected in their natural condition,

it is hereby declared to be the national policy that Congress shall provide more precise guidelines for and supervision over the use and disposition of the public lands and resources of the United States, thereby securing for the American people of present and future generations maximum beneficial use of such lands and resources including an enduring resource of wilderness.

GENERAL PROVISIONS

SEC. 102. Except as hereinafter provided, no withdrawal, reservation, restriction, designation, or classification of public lands, national forest lands, and shelf lands in excess of five thousand acres either in a single action or cumulatively with all other like actions for the same project or facility within the preceding five years, except such actions as have been authorized by Act of Congress, shall hereafter become effective until it first has been approved by Act of Congress: *Provided*, That, unless expressly provided for in this or a subsequent Act, nothing herein contained shall change the status of any public lands or shelf lands or of the uses permitted or prohibited by Executive proclamation, public land order, or administrative regulation in effect on the effective date of this Act: *And provided further*, That no Act of Congress shall be required if—

(1) the restriction and related or supporting actions result from a permit to a Government agency for a period of one year or less and there will be no permanent damage to the lands; or

(2) notification has been furnished to Congress as hereinafter provided relative to any of the following actions:

(A) in time of war or of national emergency hereafter declared by the President or the Congress, the withdrawal, reservation, or restriction is made for defense purposes by the President or for a military department, in which case the withdrawal, reservation, or restriction shall terminate no later than one year after the end of the war or emergency, as the case may be and the withdrawal, reservation, or restriction provides that at the time of the final termination thereof the agency or department using the property shall, upon request of the Secretary of the department having primary jurisdiction, make safe for nonmilitary uses the land withdrawn, reserved or restricted, or such portions thereof as may be specified by the Secretary of the department having primary jurisdiction, by neutralizing unexploded ammunition, bombs, artillery projectiles, or other explosive objects and chemical agents.

(B) the withdrawal, reservation, or restriction is to be made for defense purposes during a period when Congress is in adjournment for more than three days to a day certain and the Secretary of Defense certifies to the President of the Senate and the Speaker of the House of Representatives that a delay until Congress reconvenes will be prejudicial to the national security.

(C) a project has been specifically authorized by Congress based on a proposal setting forth the proposed withdrawal, reservation, restriction, designation, or classification of lands in connection therewith.

(3) relative to any of the following actions a one hundred and eighty-day period has elapsed since the submission of the notification to Congress as hereinafter provided, or the Committees on Interior and Insular Affairs of the Senate and House of Representatives have advised the head of the department or agency involved, in writing, that there are no further questions to be asked concerning the withdrawal, reservation, restriction, designation, or classification:

(A) the withdrawal, reservation, or restriction, or a change in designation or classification is desired by the agency having primary jurisdiction of the land, for purposes related to its administration of the land and an Act of Congress is not specifically required by this or any other Act.

(B) the withdrawal, reservation, restriction, designation, or classification is to be effected under the public land laws for the purpose of permitting the sale of, or entry on, the lands involved.

(C) the restriction and related or supporting actions result from a permit to a Government agency for a period in excess of one year.

NOTIFICATION TO CONGRESS

SEC. 103. Notice of any proposed withdrawal, reservation, restriction, designation, or classification, other than those to which clause (1) of section 102 of this Act is applicable, shall be given to the President of the Senate and the Speaker of the House of Representatives and, unless publication is considered to be inimical to the national security, shall be published in the Federal Register. Said notice shall specify the pertinent facts, including—

(1) the officer or agency proposing the withdrawal, reservation, restriction, designation, or classification;

SRP04752

(2) the agency having administrative jurisdiction over the lands together with a statement concerning current or previous uses, including withdrawals, reservations, restrictions, designations, classifications, leases, dispositions, or appropriations made or pending;

(3) the purpose for which the area is proposed to be used or, if the purpose is classified for national security reasons, a statement to that effect and, if publication in the Federal Register has been withheld for security reasons, a statement to that effect;

(4) the location, acreage, and description of the area together with the acreage and description of any excepted private or public tracts within the exterior boundaries of the area together with a statement of the effect on such excepted tracts;

(5) the period during which the proposed withdrawal, reservation, restriction, designation, or classification will continue in effect;

(6) whether, and if so to what extent, the proposed use will affect operation of the public land laws and laws and regulations relating to the conservation, utilization, and development of mineral, timber, and other material resources; grazing, fish, wildlife, and water resources; and scenic, wilderness, recreation, and other values;

(7) whether the proposed use will result in contamination of any or all of the area and, if so, whether such contamination will be permanent or temporary;

(8) whether, if effectuation of the purpose for which the area is proposed to be used will involve the use of water in any State, the intended using agency has acquired, or proposes to acquire, subject to existing rights under law, rights to the use thereof in conformity with State laws and procedures relating to the control, appropriation, use, and distribution of water; and

(9) whether the use of any nonpublic lands within the exterior boundaries of the area has been or will be acquired and, if so, the basis thereof.

SEGREGATIVE EFFECT

SEC. 104. The filing of an application by a department or agency of the Federal Government with the department having administrative jurisdiction over land proposed for withdrawal, reservation, or restriction, or the publication of notice in the Federal Register of a proposed designation or classification of public lands shall have the effect of segregating such land from settlement, location, sale, selection, entry, lease, or other form of disposal under the public land laws, including the mining and mineral leasing laws. Unless withdrawal, reservation, restriction, designation, or classification has been completed in accordance with the provisions of this Act, such segregative effect shall cease two years from the date of application or publication or such earlier date as the head of the department or agency having administrative jurisdiction over the lands involved may, with the concurrence of the using agency, determine. If not more than ninety days nor less than sixty days prior to the expiration of such two-year period, the proposal is renewed and notice of such renewal, including a statement of the necessity for continued segregation, is given to the President of the Senate and the Speaker of the House of Representatives and filed for publication in the Federal Register, the segregative effect shall be extended for such additional period, not exceeding two years, as is deemed necessary by the head of the department or agency involved, unless Congress terminates the segregation as of an earlier date.

SEC. 105. (a) Nothing in section 102, 103, or 104 of this Act shall be deemed applicable to—

(1) the withdrawal or reservation of public lands specifically as naval petroleum, naval oil shale, or naval coal reserves;

(2) those reservations or withdrawals which expired due to the ending of the unlimited national emergency of May 27, 1941, and which are now used by the military departments with the concurrence of the Department of the Interior; or

(3) the withdrawal of public domain lands of the Marine Corps Training Center, Twentynine Palms, California, and the naval gunnery ranges of the State of Nevada designated as Basic Black Rock and Basic Sahwave Mountain.

SEC. 106. The President may issue such regulations as he considers necessary to insure uniform administration of this Act.

SRP04753

SEC. 107. Sections 1, 2, and 3 of the Act of February 28, 1958 (72 Stat. 27), are repealed.

SEC. 108. This Act becomes effective on the date of enactment, except that any proposed withdrawals, reservations, or restrictions heretofore submitted to Congress shall be considered as having been submitted in accordance with the provisions of this Act.

DEFINITIONS

SEC. 109. As used in this Act—

(1) "withdrawal" means any formal action to remove public lands or shelf lands from settlement, appropriation, location, sale, or entry, or to otherwise prevent or limit the operation of the public land laws, including the mining and mineral leasing laws. The term "withdrawal" also includes any additional or further withdrawal of lands withdrawn prior to the effective date of this Act if such additional withdrawal has the effect of (a) changing the use; or (b) extending the time during which the lands are removed from operation of the public land laws.

(2) "reservation" means the setting aside or formal designation for use by public lands or shelf lands withdrawn from operation of any of the public land laws, including the mining and mineral leasing laws and the Outer Continental Shelf Lands Act (67 Stat. 462).

(3) "restriction" means any action limiting opportunities by the public for the acquisition, occupancy, use, development, or exploration of public lands, national forest or shelf lands, including permits for use by Government agencies.

(4) "designation or classification" means any formal administrative action establishing use priority or priorities or limiting occupancy of public and national forest land or the rights of the public in the development and exploitation of the land or its resources: *Provided, however,* That these terms shall not be construed to include actions necessary for the conduct of timber sales or incident to firefighting, disease or insect control: *And provided further,* That hereafter no designation or classification may be applied to an area unless the designation or classification has been defined by statute or in regulations adopted in accordance with the Administrative Procedures Act of June 11, 1946 (60 Stat. 237; 5 U.S.C. 1001 et seq.).

(5) "public domain" means areas of land that have never been out of Federal Government ownership.

(6) "public lands" means all public domain lands (including mineral, vegetative, and other resources) in the United States, including lands within reservations formed from the public domain and other lands permanently or temporarily withdrawn from any or all forms of appropriation provided for in the public land laws.

(7) "shelf lands" means the lands of the Outer Continental Shelf, as defined in the Outer Continental Shelf Lands Act.

(8) "national forest lands" means any federally owned lands which are administered by the Secretary of Agriculture within the boundaries of national forests.

(9) "lands" includes minerals, vegetative, and other resources, and water areas and mixed land and water areas.

(10) "project or facility" means any Federal unit that is separately administered or managed such as an Army fort or camp, a naval station, an airbase, a national forest, a unit of the national park system, a reservoir, a wildlife refuge, and the like.

TITLE II

WILDERNESS PRESERVATION

SEC. 201. This title may be cited as the "Wilderness Act".

WILDERNESS AREAS

SEC. 202. (a) A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this Act an area of undeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) gen-

erally appears to have been affected primarily by the forces of nature, with the imprint of a man's works substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) has at least five thousand acres of land and is, therefore, of sufficient size as to make practicable its preservation and use in an unimpaired condition; and (4) may also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

(b) In order to assure an enduring resource of wilderness, lands meeting the requirements of "wilderness" as defined herein, and as designated by Congress as "wilderness areas", shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness; and no lands shall be designated as "wilderness areas" except as provided for in this Act.

SEC. 203. (a) All areas within the national forests classified on the effective date of this Act by the Secretary of Agriculture or the Chief of the Forest Service as "wilderness", "wild", or "canoe" are hereby designated as wilderness areas. The Secretary of Agriculture shall—

(1) Within one year after the effective date of this Act, file a map and legal description of each wilderness area with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such descriptions shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal descriptions and maps may be made with the approval of such committees.

(2) Maintain, available to the public, records pertaining to said wilderness areas, including maps and legal descriptions, copies of regulations governing them, copies of public notices of, and reports submitted to Congress regarding pending additions, eliminations, or modifications. Maps, legal descriptions, and regulations pertaining to wilderness areas within their respective jurisdictions also shall be available to the public in the offices of regional foresters, national forest superintendents, and forest rangers.

(b) Such of the following federally owned areas as meet the requirements of wilderness as defined in this Act, may be designated as wilderness areas by Act of Congress:

(1) Areas or portions of areas within the national forests classified on the effective date of this Act by the Secretary of Agriculture or the Chief of the Forest Service as "primitive";

(2) Roadless portions of parks, monuments, and other units of the national park system; and

(3) Portions of wildlife refuges and game ranges under the jurisdiction of the Secretary of the Interior on the effective date of this Act.

(c) In order to determine whether there shall be any modification of use or boundary, lands herein or hereafter designated as wilderness areas shall be reviewed at least once every twenty-five years in the manner hereinafter provided except that the Secretary of Agriculture may, after public hearing, make minor adjustments of areas designated by this Act as "wilderness areas" provided that the Federal land in any one area is not increased or decreased by more than five thousand acres.

SEC. 204. (a) To assist Congress in determining which of the areas described in section 203(b) may be designated as wilderness areas, the Secretary of the department having jurisdiction of the lands involved shall, within ten years after the effective date of this Act, review the suitability of said areas for designation as wilderness and report annually his recommendations to the President and Congress, together with a map of each area and a definition of its boundaries.

(b) Before preparing his report, the Secretary shall—

(1) give such public notice of the proposed action as he deems appropriate, including publication in the Federal Register and in a newspaper having general circulation in the area or areas in the vicinity of the affected land.

(2) hold a public hearing or hearings at a location or locations convenient to the area affected. The hearings shall be announced through such means as the Secretary involved deems appropriate, including notices in the Federal Register and in newspapers of general circulation in the area: *Provided*, That the notice required under the preceding clause of this section and notice, if any, required under title I of this Act may be combined with the notice

SRP04755

required under this clause: *Provided further*, That if the lands involved are located in more than one State, at least one hearing shall be held in each State in which a portion of the land lies.

(3) at least thirty days before the date of a hearing advise the Governor of each State and the county, or in Alaska the borough, governing board of each county, or in Alaska the borough, in which the lands are located, the United States Forest Service, the United States Soil Conservation Service, the Corps of Engineers of the United States Army, the Bureau of Reclamation the Bureau of Mines, the United States Geological Survey, the Bureau of Sport Fisheries and Wildlife, the Federal Power Commission, the Rural Electrification Administration, and the Federal Communications Commission, inviting each to set forth its views at the hearing. It shall be the responsibility of each named Federal agency to submit its independent views concerning the designation of an area as "wilderness", giving an analysis of the comparative values that may be involved as between wilderness and that type of development or uses for which the Federal agency has administrative responsibility.

(4) give consideration to possible alternative uses of the area involved and arrive at a determination for recommendation as to whether the area should be designated as a wilderness area.

(c) As expeditiously as possible after completion of the hearings provided for under this section, the Secretary involved shall prepare his report, which shall include, in addition to other pertinent data, the information required by section 103 of this Act; and, not less than ninety days before it is submitted to the President and Congress, furnish copies thereof to the Governor of each State and the county governing board of each county in which the lands are located, and to each Federal agency enumerated in the preceding subsection requesting their written comments thereon. Within seventy-five days after receipt of the proposed report the Federal agencies shall submit their comments thereon, which shall be appended to the report when transmitted to the President together with any comments received within the ninety-day period from the Governors or county governing boards involved. Each report shall contain, in addition to the recommendation relative to the portion of a particular unit to be designated as wilderness, a proposed plan for the development, operation, and maintenance of that entire unit for its general use and the possibility for recreational utilization including plans, if any, for roads, motor trails, buildings, accommodations for visitors, and administrative facilities.

SEC. 205. The Secretary having jurisdiction over lands designated as wilderness areas shall assure that each wilderness area is reviewed at least once every twenty-five years after its designation in order to determine the suitability and desirability for continued classification and preservation of the area as wilderness. In doing this he shall obtain written comments from each of the Federal agencies enumerated in the preceding section of this Act, and request comments of the Governor of each State and the county governing board of each county in which the lands are located. If the Secretary determines that any modification of the area involving over five thousand acres of land should be effected, he shall proceed in accordance with the requirements of title I pertaining to new or additional withdrawals, reservations, restrictions, designations, or classifications and within two years thereafter prepare and submit a report thereon in the manner prescribed by the preceding section of this Act. However, if the Secretary determines that no change in classification should be effected, he shall promptly submit his findings to the President and Congress together with the reports received from Federal agencies and the Governors and county governing boards involved.

USE OF WILDERNESS AREAS

SEC. 206. (a) The purposes of this Act are hereby declared to be supplemental to the statutory authority under which national forests and units of the national park and national wildlife refuge systems are established.

(1) Nothing in this Act shall be deemed to be in interference with the purpose for which national forests are established as set forth in the Act of June 4, 1897 (30 Stat. 11), and the Multiple-Use Sustained-Yield Act of June 12, 1960 (74 Stat. 215).

(2) Nothing in this Act shall modify the restrictions and provisions of the Shipstead-Nolan Act, Public Law 539, Seventy-first Congress, July 10, 1930 (46 Stat. 1020), the Thye-Blatnik Act, Public Law 733, Eightieth Congress,

June 22, 1948 (62 Stat. 568), and the Humphrey-Thye-Blatnik-Andresen Act, Public Law 607, Eighty-fourth Congress, June 22, 1956 (70 Stat. 326), as applying to the Superior National Forest or the regulations of the Secretary of Agriculture.

(3) Nothing in this Act shall modify the statutory authority under which units of the national park system are created; and no designation of an area for roads, motor trails, buildings, accommodations for visitors, or administrative installations shall modify or affect the application to that area of the provisions of the Act of August 25, 1916 (39 Stat. 535). The accommodations and installations in wilderness areas shall be incident to the conservation and use and enjoyment of the scenery and the natural and historical objects and flora and fauna of the park or monument in its natural condition. Further, the designation of any area of any park, monument, or other unit of the national park system as a wilderness area pursuant to this Act shall in no manner lower the standards evolved for the use and preservation of such area in accordance with the Act of August 25, 1916, the statutory authority under which the area was created, or any other Act of Congress which might pertain to or affect such area, including, but not limited to, the Act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 432 et seq.); section 3(2) of the Federal Power Act (16 U.S.C. 796(2)); and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461 et seq.).

PROHIBITION OF CERTAIN USES

(b) Except as specifically provided for in this Act and subject to any existing private rights, there shall be no commercial enterprise within wilderness areas designated by section 203(a) of this Act, no permanent road, nor shall there be any use of motor vehicles, motorized equipment, or motorboats, or landing of aircraft nor any other mechanical transport or delivery of persons or supplies, nor any temporary road, nor any structure or installation, in excess of the minimum required for the administration of the area for the purposes of this Act, including such measures as may be required in emergencies involving the health and safety of persons within such areas.

SPECIAL PROVISIONS

(c) The following special provisions are hereby made:

(1) Within wilderness areas designated by section 203(a) of this Act the use of aircraft or motorboats, where these practices have already become established, may be permitted to continue subject to such restrictions as the appropriate Secretary deems desirable. In addition, such measures may be taken as may be necessary in the control of fire, insects, and diseases, subject to such conditions as the appropriate Secretary deems desirable.

(2) Notwithstanding any other provisions of this Act, until midnight December 31, 1987, laws of the United States pertaining to mineral leasing and mining shall, to the same extent as applicable prior to the effective date of this Act, extend to those lands designated by section 203(a) of this Act as "wilderness areas"; subject, however, to such reasonable regulations as may be prescribed by the Secretary of Agriculture consistent with the use of the land for mineral development and exploration, drilling, and production governing right of ingress and egress, rights-of-way for transmission lines, water lines, telephone lines, or rights-of-way for facilities necessary in exploring, drilling, producing, mining and processing operation, including where essential the use of mechanized ground or air equipment and restoration as near as practicable of the surface of the land disturbed in performing prospecting, location, and, including oil and gas leasing, discovery work, exploration, drilling, and production as soon as they have served their purpose. Mining locations and patents to mining claims lying within the boundaries of said wilderness areas shall be held and used solely for mining or processing operations and uses reasonably incident thereto; and hereafter all patents issued under the mining laws of the United States affecting lands designated as wilderness areas shall convey title to the mineral deposits within the claim, together with the right to cut and remove so much of the mature timber therefrom as may be needed in the extraction, removal, and beneficiation of the mineral deposits, if the timber is cut under sound principles of forest management as defined by the national forest rules and regulations, but each such patent shall reserve to the United States all title in or to the surface of the lands and products thereof, and no use of the surface of the claim or the resources therefrom not reasonably required for carrying on mining or prospecting shall be allowed except as otherwise expressly provided in this Act: *Provided*, That unless hereafter specifically

SRP04757

authorized no patent within wilderness areas designated by this Act shall issue after December 31, 1987, except for valid claims filed on or before December 31, 1987. Mineral leases issued under the Mineral Leasing Act shall contain such reasonable stipulations for the protection of the wilderness character of the land subject to such lease as are prescribed by the Secretary of Agriculture consistent with the use of the land for the purposes for which they are leased. Subject to valid rights then existing, effective January 1, 1988, the minerals in lands designated by this Act as wilderness areas are withdrawn from all forms of appropriation under the mining laws and from leasing under the Mineral Leasing Act and all amendments thereto. Nevertheless, designated and proposed wilderness areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress with any reports concerning the establishment of wilderness areas or the periodic review relative to their continued designation as wilderness areas.

(d) Within wilderness areas designated by this Act, (1) the Secretary of Agriculture may, within a specific area and in accordance with such regulations as he may deem desirable, authorize prospecting for water resources, the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development and use thereof, upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial; and (2) the grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture: *Provided*, That such regulations shall be consistent with the continued use of the lands for grazing.

(e) Other provisions of this Act to the contrary notwithstanding, the management of the Boundary Waters Canoe Area, formerly designated as the Superior, Little Indian Sioux, and Caribou roadless areas in the Superior National Forest, Minnesota, shall be in accordance with regulations established by the Secretary of Agriculture in accordance with the general purpose of maintaining, without unnecessary restrictions on other uses, including that of timber, the primitive character of the area, particularly in the vicinity of lakes, streams, and portages: *Provided*, That nothing in this Act shall preclude the continuance within the area of any already established use of motorboats.

(f) Commercial services may be performed within the wilderness areas designated by section 203(a) of this Act to the extent necessary for activities which are proper for realizing the recreational or other purposes of the wilderness areas designated in this Act.

(g) Nothing in this Act shall constitute an express or implied claim or denial on the part of the Federal Government as to exemption from State water laws.

(h) To the extent that it is not incompatible with wilderness preservation, the Secretary of Agriculture shall, in wilderness areas designated by this Act, permit hunting and fishing: *Provided*, That nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the several States with respect to wildlife and fish in wilderness areas.

(i) In connection with sales of timber outside of wilderness areas, the Secretary of Agriculture may, if in his discretion no practicable alternate route is available, authorize construction of temporary roads necessary to permit transportation of the cut timber across any area designated as wilderness by this Act: *Provided*, That such temporary roads shall be used for no other purpose: *And provided further*, That restoration of the surface, as near as practicable, shall be accomplished as soon as the temporary road has served its purpose.

(j) Notwithstanding any other provisions of this Act, the Secretary of Agriculture may designate approximately three thousand five hundred acres in the San Gorgonio Area, California, for the purposes of skiing and developing facilities necessary therefor: *Provided*, That the Secretary finds that said use is the highest and best use to be made of this area.

STATE AND PRIVATE LANDS WITHIN WILDERNESS AREAS

SEC. 207. (a) In any case where State-owned land is completely surrounded by lands designated as wilderness, such State shall be given either (1) such rights as may be necessary to assure adequate access to such State-owned land by such State and its successors in interest, or (2) vacant, unreserved, and unappropriated

SRP04758

mineral or nonmineral lands in the same State, not exceeding the value of the surrounded land, in exchange for the surrounded land: *Provided, however,* That the United States shall not transfer to a State any mineral interests unless the State relinquishes or causes to be relinquished to the United States the mineral interest in the surrounded land.

(b) In any case where privately owned lands, valid mining claims, or other valid occupancies are wholly within a designated wilderness area, the Secretary of Agriculture shall, by reasonable regulations consistent with the preservation of the area as wilderness, permit ingress and egress to such surrounded areas.

(c) Subject to the appropriation of funds by Congress, the Secretary of Agriculture is authorized to acquire privately owned land within the perimeter of any area designated as wilderness under the provisions of this Act if (1) the owner concurs in such acquisition; or (2) the acquisition is specifically authorized by Congress.

(d) The Secretary of Agriculture may accept gifts or bequests of land within or adjacent to wilderness areas for preservation as wilderness, and such land shall, on acceptance, become part of the wilderness area. Regulations with regard to any such land may be in accordance with such agreements, consistent with the policy of this Act, as are made at the time of such gift, or such conditions, consistent with such policy, as may be included in, and accepted with, such bequest.

Amend the title so as to read:

A bill to provide for the preservation of wilderness areas, for the management of public lands, and for other purposes.

Bills Considered

In addition to H.R. 776, by Representative Saylor, the committee considered the following bills designed to authorize preservation of wilderness areas in excess of 5,000 acres: H.R. 293 (Baldwin), H.R. 299 (Bennett of Florida), H.R. 496 (Geo. P. Miller), H.R. 1762 (Dingell), H.R. 1925 (Cohelan), H.R. 2008 (Fulton), H.R. 8237 (Inouye), and S. 174, which passed the Senate on September 6, 1961. Also considered were a series of bills relating to general procedures for the withdrawal, reservation, and restriction of public land areas in excess of 5,000 acres for any use: H.R. 1785 (Inouye), H.R. 3342 (Rivers of Alaska), H.R. 4060 (Aspinall), H.R. 5252 (Baring), H.R. 6377 (Saylor), and H.R. 8783 (Aspinall).

Purpose

H.R. 776, as amended, is designed to provide comprehensive legislative guidelines and procedures to govern the preservation of wilderness areas and the use and disposition of public lands and resources.

The committee recommends the amended bill as one of the most significant conservation measures it has been privileged to report. Specifically, it—

Sets aside 45 areas of over 5,000 acres each, aggregating 6.8 million acres of land, for preservation as wilderness;

Provides for the preservation of other unmarred tracts of wilderness in excess of 5,000 acres after review and approval of Congress;

Establishes a national policy that public, national forest and Outer Continental Shelf lands shall, to the maximum extent possible, be managed under a principle of multiple use unless otherwise directed by Congress;

SRP04759

Sets forth legislative guidelines for determining the highest, best, and most valuable use of public lands in the national interest, including preservation of suitable areas as wilderness; and, it

Provides that hereafter, with minor exceptions, areas of public, national forest, or Outer Continental Shelf lands in excess of 5,000 acres shall be withdrawn, reserved, restricted, or designated for limited use by act of Congress only.

Need

Article IV, section 3, clause 2, of the Constitution of the United States provides:

> The Congress shall have power to dispose of and make all needful rules and regulations respecting the Territory or other property belonging to the United States; * * *.

The committee knows of no quarrel with the understanding that the assignment of jurisdictional authority to the Congress is absolute, with no qualification or exception. No one disputes that the power of Congress over the use and disposition of Federal property is without limitation. The courts also have held, and this committee recognizes, that Congress may, either expressly or by implication, delegate its authority to the Executive to act as the agent of Congress to control the use and disposition of any U.S. property.

The major source of general authority for the withdrawal, reservation, and restriction of public domain lands by the Executive has been based on the implied delegation derived from congressional inaction and silence. In addition, the "General Withdrawal Act" of June 25, 1910 (36 Stat. 247; 43 U.S.C. 141–143) authorizes the "temporary" withdrawal from settlement, location, sale, or entry of any public lands in the United States and their reservation for waterpower sites, irrigation, classification, or other public purposes, subject, however, to the lands remaining open to location under the mining laws applicable to metalliferous metals. The act also provides that, although designated as temporary, withdrawals made under the act remain in effect until specifically revoked by either the President or Congress.

The main statutory sources of authority for "permanent" withdrawals of land are in acts relating to specific types of uses, e.g., the act of March 3, 1891, as amended (26 Stat. 1103; 16 U.S.C. 471) relating to reservation of lands as national forests, the act of June 17, 1902, as amended (32 Stat. 388; 43 U.S.C. 416), pertaining to withdrawals for reclamation purposes, the act of June 8, 1906 (34 Stat. 225; 16 U.S.C. 431–433), relating to the establishment of national monuments, and the most recent general act, the Taylor Grazing Act of June 28, 1934 (48 Stat. 1269; 43 U.S.C. 315), which, in certain instances, authorizes administrative withdrawal of lands upon publication of notice of intention to include the lands in a grazing district.

No General Law

The committee calls specific attention to the following:

1. There are no general statutory guidelines governing the use and disposition of the public lands.

SRP04760

2. The act of widest application (Taylor Grazing Act) provides for withdrawal "In order to promote the highest use of the public lands *pending its final disposal*" only [italics supplied].

A study of wilderness preservation areas provides a guide to the general manner in which the implied authority of the Executive has been used and expanded. As indicated above, there is a statute authorizing the reservation of lands for national forests; but, nowhere in the law is there any provision or guideline for setting aside special areas within the forests for any particular treatment. With commendable foresight, the Secretary of Agriculture in 1924 initiated procedures to protect the primitive character of a portion of the Gila National Forest, N. Mex. In 1929 the Secretary of Agriculture authorized the Chief, Forest Service, to set aside within national forests:

> A series of areas to be known as primitive areas, and within which will be maintained primitive conditions of environment, transportation, habitation, and subsistence, with a view to conserving the value of such areas for purposes of public education and recreation. Within any areas so designated, except for permanent improvements needed in experimental forests and ranges, no occupancy under special use permit shall be allowed, or the construction of permanent improvements by any public agency be permitted, except as authorized by the Chief of the Forest Service or the Secretary (extract from regulation L–20).

Parenthetically, the committee notes that when this regulation was promulgated in 1929 there was no formal rulemaking procedure and no Federal Register in which the proposed regulation could be published. The Secretary issued the regulation and it became effective. During the 10 years that regulation L–20 was in effect the Chief of the Forest Service designated a total of 73 individual portions of national forests as "primitive areas."

In 1939, the Secretary of Agriculture revoked regulation L–20 and promulgated two new regulations originally identified as U–1 and U–2, currently found in 36 C.F.R. 251.20 and 251.21, providing, respectively, for the establishment of "wilderness" and "wild" areas. The major differences between wilderness and wild areas are that (1) wilderness areas must be at least 100,000 acres in size, while wild areas are comprised of between 5,000 and 99,000 acres, and (2) wild areas may be designated by the Chief, Forest Service, while the authority to designate wilderness areas is reserved to the Secretary. These regulations are more restrictive than regulation L–20, which they superseded, and strictly limit the uses permitted by the Department in areas designated for preservation, e.g., no roads, no commercial timber cutting, and no commercial use including hunting and fishing lodges are permitted, while grazing is permissible within the discretion of the Chief of the Forest Service subject to any restrictions he deems desirable. From the time that these more restrictive regulations took effect (1939) the Department of Agriculture has had a continuing program of reclassifying primitive areas as either wilderness or wild (in the meantime administering the primitive areas under the more protective, i.e., restrictive, regulations) and studying other portions of the forests considered suitable for classification in a wilderness status.

SRP04761

Without Congress having granted authority to classify lands within national forests, or authorized a limitation on the uses permitted in such areas, there have been created in the national forests, under the implied authority of the Executive, 82 wilderness, wild, and primitive areas aggregating approximately 13.7 million acres of land in which public uses are limited and many prohibited.

Other examples could be furnished but would merely be cumulative. Suffice to state that lands have been withdrawn and set aside for wildlife refuges, game ranges, and national monuments despite a lack of unanimity among those interested and affected; and it has been held by the Associate Solicitor, Division of Public Lands, Department of the Interior, that it is possible for the Secretary of the Interior, for example, to withdraw lands within the Death Valley National Monument from appropriation and entry under the mining laws even though the act of June 13, 1933 (48 Stat. 139; 16 U.S.C. 447), specifies that the mining laws are extended to the area included within the monument.

Legislative Guidelines Required

The fact is that, as urged upon the committee by various divergent and opposing groups from differing vantage points, including the proponents of wilderness preservation, the absence of a legislative base weakens the structure of land use designations. With great unanimity, witnesses have urged upon the committee the need for a national policy governing certain uses or designations of public lands.

The committee recognizes that national policy is made by Congress. But, Congress has not enunciated public land policies with clarity. Congress has failed to fulfill its constitutional responsibilities to insure uniformity and fair and equal treatment for all citizens without regard to the personality that happens to be occupying an administrative seat of power at any particular moment.[1]

The Subcommittee on Public Lands held intensive hearings on general legislation designed to provide congressional review of actions involved in the use and disposition of public lands; and thereafter held separate and more extensive hearings on wilderness preservation and its relationship to the other uses desired or permitted on our lands. The committee at an early date became convinced of a few basic factors which were to become the foundation upon which the reported legislation was ultimately built. These principal conclusions are—

> Public lands in the United States, belonging as they do to all the people, must be managed and administered for the maximum benefit of the maximum number.
>
> The ultimate objective of all management of public lands should be to obtain the best use of each land area.
>
> True conservation is equated with wise use and the derivation of the maximum benefit for the maximum number.
>
> **Even when it appears "obvious" that one particular use would, could, and should predominate in an area, wise use makes it**

[1] The committee appreciates the cooperative spirit with which the executive departments and agencies consult with it prior to the issuance of public land orders. However, in the absence of legislation (1) the scope of proposed actions being reviewed is too limited and (2) there is no assurance that future administrators will approach these problems in the same manner and with the same degree of cooperation.

SRP04762

imperative that some consideration be given to other uses that might be compatible with the dominant use.

In the tradition of the great conservationists of the United States—Gifford Pinchot, Theodore Roosevelt, and Franklin D. Roosevelt—the wisest use of any area should be determined after weighing all possible uses in the light of the common good and the national interest.

Decisions concerning use should, as in the case of any property, be determined by the landlord or owner—in this case, the people of the United States who, through the Constitution, have placed the responsibility in the Congress as the representative or agent of the people.

In order to achieve the objectives of conserving our resources and providing maximum benefits without waste, land areas generally should be managed so that there may be more than one use within a given area, commonly known as multiple use, unless, as in the establishment of national parks, Congress exercises its responsibility and authority to specify a limited or single purpose use.

It is essential in an expanding economy, with a growing population, the continuing urbanization of rural areas, and the development of ever-increasing manmade structures that action be taken to assure perpetuation of some primitive lands as places where scientists may study Nature's phenomena undisturbed and the common man may escape for a few moments of quiet contemplation without the harassment of the mechanized world normally about him.

Neither the consideration of wilderness preservation nor the management and development of a natural resource, such as minerals, can be undertaken in a vacuum without reference of one to the other.

Designation of areas for preservation as wilderness should be recognized as a use on a par with, but not necessarily superior to, other uses.

It is inconsistent and illogical to assert that Congress should in selected fields establish the national policy for land use but that in other areas Congress should leave a void to be filled by regulation under Executive action.

Congress must assume its responsibilities and more adequately define how a balanced use is to be obtained by administrators charged with the management of all our public, forest, and shelf lands.[2]

H.R. 776, as amended by the committee, accepts the challenge to the Congress, embodies each of the principles enumerated above and sets forth comprehensive procedures for the management of the public, forest, and shelf lands with particular emphasis on the need for wilderness preservation. In this latter connection, the committee action immediately will set aside 6.8 million acres of national forest

[2] The committee notes with satisfaction that the Department of the Interior has recently announced that "To increase productivity for future needs and to satisfy conflicting demands for use of certain areas of public lands, the principle of balanced use will be applied." The terms "balanced use" and "multiple use" are synonymous insofar as they relate to a reconciliation of competing demands for the use of land areas. Inasmuch as national policy may be established by Congress only, Congress should have the opportunity to pass on whether a multiple-use/balanced-use doctrine should govern the management of Federal lands. The committee recommends this precept and urges its adoption in order to bind future administrators.

SRP04763

lands for preservation. These lands are known, the tract boundaries are definite, and, with only one exception, no substantial objection was heard to extending complete statutory protection over these 45 areas in 12 States.[3] (The one exception is with regard to the San Gorgonio Wild Area in the San Bernardino National Forest, Calif. Provision has been made to assure that the Secretary of Agriculture will restudy the suitability of a portion of the area for other purposes as discussed in a subsequent portion of this report.)

The bill gives statutory status to all existing administrative regulations and establishes the basic general principle that hereafter all changes in land use for large areas (defined by the bill as over 5,000 acres each) shall be accomplished by act of Congress. This principle will apply equally to wilderness preservation and other uses.

Discussion

I. WILDERNESS PRESERVATION

The desire to retain the past while preparing for the future is nowhere brought into greater conflict than in the proposals to preserve some land areas in their primitive state. In a nation striving constantly to find new means of developing its economy through developing its resources, there is a great need for the retention of some zones where those who follow may see what this country was like before the bulldozer arrived, zones where others may go for peace in a troubled world, or merely zones where we can all share in the knowledge that *here* science may study nature undisturbed.

To the extent that wilderness preservation has been a matter of controversy for the past several years, the focal points of argument have been not *whether* there should be some areas reserved as wilderness, but, rather, (1) where the areas should be, (2) how their reservation should be accomplished, and (3) how fully they should be protected. The most outspoken critics of wilderness legislation did not, for the most part, challenge the desirability of maintaining forever in their natural state some of the land areas that are our national heritage.

In the years preceding the 87th Congress, various proposals for wilderness legislation were debated. On September 7, 1961, S. 174, as passed by the Senate, was referred to this committee for consideration along with several bills sponsored by Members of the House of Representatives. So it was that, in the hearings held by the Subcommittee on Public Lands, proponents and opponents alike centered their arguments on the provisions of the Senate-passed bill, recommending amendment or retention of one part or another of that act.

Field hearings were held in October and November 1961 at McCall, Idaho; Montrose, Colo.; and Sacramento, Calif. In accordance with announced plans, the committee scheduled final hearings as soon as it became certain that the study report of the Outdoor Recreation Resources Review Commission on the subject of wilderness and recreation would be published April 16, 1962 (the Commission's report had been filed January 31, 1962). These hearings were held by the subcommittee between May 7 and 11, 1962. The committee

[3] The specific areas are listed in the appendix to this Report.

SRP04764

and the witnesses appearing before it therefore had very valuable reference sources relative to this vital subject. The committee takes this opportunity to compliment the Outdoor Recreation Resources Review Commission and its staff and coworkers on the outstanding contribution to our knowledge and thinking in an area that until recently has been all but neglected. The Commission findings, as well as the recommendations contained in the study report prepared under contract by the Wildland Research Center of the University of California at Berkeley, were referred to continuously and given careful consideration by the committee during its deliberations on this legislation.

Although many witnesses, representing primarily users or potential users of public lands, appeared before the committee and expressed their satisfaction with existing administrative regulations under which 14.6 million acres of land in national forests have been classified as wilderness-type areas and managed so as to protect their wilderness characteristics, the committee, as indicated above, agrees with the proponents of wilderness legislation and the recommendation of the Outdoor Recreation Resources Review Commission that Congress should act in this field and assure permanent reservation of such areas. As stated by the Commission:

> Primitive areas satisfy a deep-seated human need occasionally to get far away from the works of man. Prompt and effective action to preserve their unique inspirational, scientific, and cultural values on an adequate scale is essential, since once destroyed they can never be restored.
>
> * * * * *
>
> * * * Congress should take action to assure the permanent reservation of these and similar suitable areas in national forests, national parks, wildlife refuges, and other lands in Federal ownership. * * * The purpose of legislation to designate outstanding areas in this class in Federal ownership as wilderness areas is to give the increased assurance of attaining this objective that action by the Congress will provide.

The committee, however, rejected the suggestion of the study report that only tracts having 100,000 acres or more possess the characteristics necessary for permanent preservation as wilderness. Although the committee recognizes that size is a relative matter, with some comparatively small areas being capable of providing human isolation, it has adopted the size standard of a 5,000-acre minimum which was adopted by the Senate.

Basic Premise

In approaching the details of wilderness preservation, the committee, in addition to being guided by the underlying principles previously enumerated, agreed on the following fundamentals for the implementation of its decision to support the enactment of legislation:

> Those areas that previously have been studied thoroughly and had their boundaries set after public scrutiny should be given immediate permanent status and legislatively protected, subject to respect for existing rights. Contrariwise, the committee con-

SRP04765

cluded that areas that had not been studied thoroughly should not be given greater protection than they now enjoy, until such studies are completed.

Analysis

There is included in the appendix to this report an analysis of the rights and restrictions within various wilderness-type areas at the present time compared with the provisions of the Senate-passed bill and H.R. 776, as reported by the committee. In summary, the highlights, together with background, are—

1. Areas within the national forests designated as "wilderness," "wild," and "canoe" have been established under regulations providing for adequate public notice and in many instances are modified and reclassified primitive areas from which portions with incompatible uses have been deleted. These boundaries are well-established; and the only exception to continuing protection of these areas as presently constituted was expressed in connection with the San Gorgonio Wild Area in the San Bernardino National Forest, Calif.

(*a*) Convincing arguments were made to the Committee for the *consideration* of a 3,500-acre tract within the 33,890-acre San Gorgonio Wild Area for development with skiing facilities that would be beneficial for both the mass recreation of an important metropolitan area and the development of a national ski potential in international sport competition. The committee, however, did not undertake to evaluate competing uses.

(*b*) The history of the area shows that in 1931 the San Gorgonio primitive area was set aside under regulation L-20 referred to above; in 1947 the Department of Agriculture rejected proposals for the deletion of sufficient area to provide ski facilities; and in 1956, following a public notice, the area was reclassified as the San Gorgonio Wild Area.

(*c*) All determinations concerning use must be made in relation to time. Therefore, regardless of whether the decision in 1947 concerning ski facilities was correct, it is proper within the framework of the committee philosophy to review this matter once again in conjunction with the enactment of this legislation and the creation of permanent statutory protection.

(*d*) The committee is not equipped, and does not intend to provide the staff, to engage in detailed studies of this nature. The bill, therefore, provides that the Secretary of Agriculture shall restudy the problem and, if he finds the development of ski facilities to be the highest and best use of a portion of this wild area, to take the necessary action to permit such development.

(1) The committee points out, in this connection, that inasmuch as only a 3,500-acre tract is required for skiing utilization, the Secretary of Agriculture would have authority under the bill to take the action without specific legislative sanction. Further, the committee is

SRP04766

cognizant that the Secretary of Agriculture, in testimony before the committee, stated his view that skiing, with its related access roads and ski tows, is not compatible with wilderness standards. It will then be appropriate for the Secretary, if he finds skiing to be the highest and best use of this particular area, to delete it from the San Gorgonio Wild Area and thereby modify the boundaries of that area. This he can do under the bill; but the specific provision has been included in order to emphasize the committee's concern for a current determination of the highest and best use based on an evaluation of all possible uses.

(*e*) Finally, the committee considered the findings of the Outdoor Recreation Resources Review Commission which emphasizes the need for "mass recreation areas" near urban centers and points out that, "Because of the localized nature of the activities (such) areas may often occur as enclaves" in other type areas including, occasionally, primitive or wilderness areas. It is expected that the Secretary of Agriculture will give weight to these principles in making his determinations.

At the present time there is limited grazing, but no commercial timber harvesting, no roads for commercial activities, and no commercial services in these wilderness and wild areas. However, with two minor exceptions, the lands are part of the public domain and have been kept open to exploration, location, and patenting under the mining laws. The committee recognizes that *unrestricted* mining activities are inconsistent with wilderness preservation. The committee, being reluctant to prohibit exploration and mining or oil and gas leasing without some assurance that the interests of the Nation will be served better by such action, therefore suggests controlled and supervised mineral development.

The Senate-passed bill seeks to meet this problem by (1) permitting continued prospecting to the extent that such may be compatible with wilderness preservation and (2) authorizing the President at any time to permit prospecting and mining upon his determination that this would better serve the interests of the United States and the people thereof than will its denial. The Senate approach demonstrates the concern of that body for this subject; but this committee believes the proposed solution to be unrealistic at best.

It is argued that the provisions of S. 174 will provide access to mineral resources if and when they are needed. However, it is known that easily discovered minerals have been found previously and that those that remain to be discovered are deep-lying ore bodies for which modern technology requires at least mechanical modes of discovery. The fact that this can be accomplished, in the early stages, through the use of seismological equipment attached to aircraft, only underscores the fact that such exploration could be construed as being incompatible with the noiseless atmosphere of the wilderness environment. Furthermore, and of possible greater significance, is the fact that it is naive to believe that private enterprise will expend the funds necessary for this type of exploration while uncertain as to whether permission would ever be granted to develop the resources if discovered.

00158—62——2

SRP04767

Likewise, the authority in the President would have little meaning if it has not been determined in advance where the necessary minerals are located. Assuming, for example, a national emergency requiring additional sources of domestic minerals, the length of time required to explore, locate, and develop those minerals would preclude their procurement and use during that particular emergency. So, the location must come first and development be ready to proceed when needed.

If private industry has no incentive to locate these resources, the Government must do it itself.

The Wildland Research Center study report for the Outdoor Recreation Resources Review Commission, and the Secretary of the Interior in his testimony before the subcommittee, recognized this factor. Both supported the philosophy behind obtaining information concerning subsurface resources before putting these resources out of practical reach for practical development. This is particularly true during a period such as is currently being experienced by our depressed domestic minerals industries. The study report quotes the Bureau of Mines as having pointed out that—

> Many deposits within wilderness areas that presently are uneconomic would be mineable with higher prices and greater demand.

The report poses the problem and concludes that—

> legislation restricting development and access only to legitimate deposits and mining activities appears to be the most efficient, practical and fair solution to this problem.

The Secretary of the Interior when asked to comment on the situation in which we would find ourselves under the Senate version expressed his personal opinion that "this is a defect in the Senate bill that I think this committee should consider." He went on to suggest that—

> * * * perhaps if there was reason to believe that there is one of these minerals that is needed by the country, a deposit in an area, that perhaps some Federal agency, for example, the Bureau of Mines, or the Geological Survey, should move in and attempt to make a determination before an area is thrown open.

Leading proponents of the wilderness preservation concept likewise agreed, during a committee discussion concerning review of wilderness-type areas, that in any such review the administrative officer would be expected to call upon available Federal agencies to provide added information and knowledge of any of the areas; *provided* that these surveys and comments could not be utilized as devices for delaying tactics that would detour the main course of the investigation being made.

Finally it should be noted that in the Senate bill there is no reference to the mining laws and that, accordingly, if someone were actually able to locate a claim he could proceed to patent, not only the minerals but the surface, and obtain fee title thereto permitting him thereafter to use the land in any way he saw fit. This is completely inconsistent with other aspects of the proposed legislation and par-

SRP04768

ticularly the concept that nonconforming use areas should be eliminated rather than created.

In H.R. 776, as amended, the committee has met the complex of problems surrounding mining by seeking to steer a middle course which will ultimately provide for the complete withdrawal from entry and appropriation under the public land laws of all lands and minerals involved. In the interim such mineral deposits as could be developed would be kept open during a 25-year period; but, even then, title would be restricted to the subsurface mineral deposits alone with the locator entitled to no rights in the surface except those required directly incident to the mining operation. Recognizing that not all the areas may be surveyed by private industry within the 25-year period, that new technology will be developed, and that minerals presently unknown will be discovered, the committee has assigned to the Bureau of Mines and the Geological Survey the responsibility of making surveys in designated wilderness areas for the purpose of determining whether mineral deposits are present.

The committee believes this is a reasonable solution, which provides a reasonable time period for discovery and development; and assures the ability to make affirmative determinations concerning the national interest based upon facts rather than presumption. The committee further provided that the Secretary of Agriculture may establish reasonable regulations requiring restriction of surface disturbance. It is recognized that it would be infeasible to require the filling of large underground mines and restoration is not intended to include such work. However, restoration of the surface would satisfy the requirements of the section and the requirements of visitors viewing it.

Nonetheless the committee recognizes that some situations could conceivably develop where a mining operation would be completely incompatible with a wilderness environment. If this develops there are ample procedures for the removal of such lands from within the protected area and still leave sufficient acreage for enjoyment as wilderness. This conclusion is based on the facts brought out during the committee hearings, including the question, discussed above, relating to the acreage required to make preservation "worthwhile," the small percentage of land area physically occupied by all mining operations, and the comparatively small acreage occupied by the average mine. The risk of major interference with wilderness is, we think, slight; but, if a risk there be, we must assume it in the interest of achieving our goal of obtaining the maximum good for the maximum number and thereby attaining conservation in its true sense.

Other differences between the Senate-passed bill and the bill recommended by the committee, relative to areas heretofore designated as wilderness, wild, or canoe, are considered minor. For example, the Senate bill preserves the authority of the Federal Power Commission under the Federal Power Act to license hydroelectric projects and the President may authorize transmission lines in certain circumstances, while H.R. 776, as amended, permits the Secretary of Agriculture to authorize either power projects or transmission lines upon a determination similar to the one required of the President under the Senate bill; and, in connection with grazing, the committee has modified the Senate proposal which would permit continued grazing where "well-established" by deleting the word "well" (which, at best, would

SRP04769

require some definition) and providing that administrative regulations controlling grazing must be reasonable and consistent with the use of the lands for such purpose.

2. Primitive areas within national forests, aggregating 7.8 million acres of land in 38 areas of 10 States, were established between 1929 and 1939 in accordance with departmental regulations referred to earlier in the report. However, because of the more restrictive regulations that were added in 1939 there are portions of these areas that are not now deemed suitable for continued preservation as wilderness and should accordingly be deleted before the areas are designated for permanent wilderness preservation.

The Senate-passed bill would solve this problem by providing for administrative reviews by the Secretary of Agriculture (with hearings to be held only if the Secretary thinks there is a "demand" therefor) after which the President would submit his recommendations to Congress for inclusion or exclusion of areas. Thereafter each recommendation would automatically become effective unless either House of Congress exercised a veto power given to it by S. 174. As indicated previously, this process does not meet one of the basic principles upon which this committee is operating, namely, that Congress should act affirmatively and stop avoiding its constitutional responsibilities in the field of public land use and disposition.

3. Approximately the same situation is true with respect to roadless areas within units of the national park system and selected portions of units within the national wildlife system. In connection with these areas, the Secretary of the Interior under S. 174 would initiate the reporting but otherwise the procedure for a Presidential recommendation subject to Congressional veto is provided.

The amended bill recommended by the committee provides that all existing protection, prohibitions, and uses, in areas in excess of 5,000 acres, shall be maintained until such time as they are modified or revoked by affirmative act of Congress. This means that there will be no commercial timber harvesting in primitive areas and that other commercial activities will be barred as they have been in the past. However, of course, the primitive areas, being open to mining, would continue open to prospecting, location, and mineral development.

National parks, having been created by statute, have statutory protection as specified by act of Congress, as do many of the national monuments. Laws relating to the establishment and administration of the national park system and individual units thereof involve hundreds of statutes with varying provisions for use or nonuse. The act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1), established the National Park Service and the initial charter for administration of the national parks, with the purpose for the establishment of national parks, monuments, and reservations being—

> to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

The committee endorses this statement of purpose and submits that it is in large measure similar to the broad guideline objectives in wilderness preservation specified in the Senate-passed bill. It is

SRP04770

therefore considered doubly necessary to examine closely precise uses that are advocated for portions of areas previously set aside as parks or monuments. While maintaining the natural condition of the area for the future, it is also the purpose of parks and monuments to provide recreational facilities for large numbers of users simultaneously, as distinguished from the desire for more secluded surroundings in true wilderness areas. There must therefore be a balance.

The committee is concerned about the development of national park areas and submits that it has too long relinquished to the Secretary of the Interior and the Director of the National Park Service complete responsibility for determining whether, and to what extent, areas of national parks should be developed. By providing for affirmative congressional action before designated portions of parks and monuments may be set aside for wilderness preservation, and requiring that the report include a master plan for development of the entire park area, the committee insures that it will have an opportunity of reviewing *with an effective voice* plans for the use of such areas. Parenthetically, it is also noted that the Senate-passed bill is interpreted by the Secretary of the Interior to require continued mining in those few areas of the park system involved in the bill and open to mining, a situation that would not be changed by H.R. 776 as amended.

In units of the National Wildlife Refuge System there is even greater need for effective congressional review but, pending such review, the present protected status would be maintained in each instance. This status varies from refuge to refuge and range to range depending upon the specific terms of the executive proclamation or public land order setting the area aside. It must be borne in mind that, while the degree of protection was determined to the extent deemed necessary by the executive agency creating a particular unit, this was a unilateral action, with or without advance public notice, and subject to none of the scrutiny that is involved in processing an act of Congress.

H.R. 776, as amended, requires the submission of reports within a 10-year period under a timetable that will bring in comments of all interested parties without permitting any of them thereby to create contrived delay of the machinery. It is our belief and hope that the hearings held by the executive agencies, together with their comprehensive reports, will permit action on a majority of cases with a minimum of delay by the committee handling any legislation designed to implement the executive recommendations.

Relationship Between Wilderness and Other Uses

So long as land and our other natural resources remained plentiful, there was no problem such as the one we are faced with today. As a matter of fact, an American tradition that is one of our most cherished hallmarks throughout the world was the policy of giving land in return for and in consideration of its development and use. Never before and nowhere since has any nation embarked on a program designed to transfer from the hands of the sovereign to the hands of private enterprise virtually all of the unused lands of a nation.

We gave land as rewards to our heroes and we gave land for the establishment of schools of higher learning—the land-grant college

SRP04771

system—based on the promise and hope that our Nation would be developed. The West and the country at large have been developed; and much of it is traceable directly to the land-grant policies, the mining laws, the Homestead Act, and the other great conservation measures of the past century.

In recent years we have discovered that land is becoming scarcer. We have been threatened with mechanization. We see our open spaces being closed through urbanization. It is therefore natural and proper to plan for the changed conditions of the 1960's.

The committee submits that, if there is to be a major departure from past policies and procedures, only the Congress can direct it. For us to do otherwise would be to shirk our responsibilities under the Constitution. During the years when land was plentiful it mattered little that an area was devoted to one use or another: there were sufficient areas for all uses. Now that there are no longer sufficient areas for all uses, existing procedures must be reexamined and new procedures instituted to permit the conservation of our public lands within the philosophy enunciated by the committee at the beginning of this report.

Setting aside land for power projects to foster possible industrial development, or setting aside areas for reclamation projects to foster agricultural development, and setting aside areas for wilderness preservation are all interrelated. We cannot consider any one without also considering, for example, the national need for domestic sources of minerals.

The Senate-passed bill, S. 174, seeks to treat wilderness preservation as a separate use and would grant to it alone the added strength of legislative stature. This would have the effect of placing the preservation of wilderness areas on a higher plane than any other general use.

To avoid this pitfall and still meet the urgent need to preserve wilderness areas, H.R. 776, as reported by the committee, provides a comprehensive system for procedures in future withdrawals, reservations, restrictions, classifications or use designations of public, forest, and shelf lands for any purpose.

The bill unequivocally asserts the authority of Congress in this field, and enunciates the underlying policies for public land use and management, based on the principle of multiple-use *unless otherwise directed by act of Congress.* Accordingly, the bill provides that in virtually all actions involving over 5,000 acres of land there shall be prior notification to Congress, with an act of Congress required before most of such actions may be consummated or large land areas set aside for single purpose use.

Administrative Flexibility

The committee, aware of its equal responsibility to permit administrative agencies to proceed with their normal day to day activities, has provided that actions required (1) in implementation of some other act of Congress or (2) for administration of a land area, shall not require an act of Congress.

However, the committee learned that in the past many *proposed* actions were permitted to remain in a pending status for years during which time the lands and resources were segregated, thereby effectively

SRP04772

removing them from use without having completed all regulatory or statutory requirements. As of December 1960 (the last date for which the testimony revealed statistical data) there were 78 withdrawal "applications" pending, some of which, to the knowledge of the committee, had been protested. The action was nonetheless effective although several had been then pending for many years.

The committee therefore has limited the segregative effect to a 4-year period, which should be ample to permit final determination of the proposal either administratively or legislatively.

The committee has also made it clear that use designations and classifications when proposed must be meaningful to the average person. In the past it was possible for the Secretary of Agriculture, for example, to create a new "classification" which nobody had heard of and the limitations of which could not be ascertained in any published regulations that were available to the public. It was also possible for the Secretary or even the Chief of the Forest Service to announce the designation of an area without consultation with vitally interested people or groups.

H.R. 776 as reported by the committee defines the various categories of actions and precludes future designations before notification to those affected and interested.

Finally, this title of the bill also provides for similar controls over shelf lands off the U.S. coast.

Outer Continental Shelf Lands

The Outer Continental Shelf Lands Act of August 7, 1953 (67 Stat. 462; 43 U.S.C. 1521 et seq.), defines the term "Outer Continental Shelf" as—

> all submerged lands lying seaward and outside of the area of lands beneath navigable waters as defined in section 1301 of this title (the Submerged Lands Act of May 22, 1953).

The Submerged Lands Act defines the term "land beneath navigable waters" to mean—

> (1) all lands within the boundaries of each of the respective States which are covered by nontidal waters that were navigable under the laws of the United States at the time such State became a member of the Union, or acquired sovereignty over such lands and waters thereafter, up to the ordinary high water mark as heretofore or hereafter modified by accretion, erosion, and reliction;
>
> (2) all lands permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward to a line three geographical miles distant from the coastline of each such State and to the boundary line of each such State where in any case such boundary as it existed at the time such State became a member of the Union, or as heretofore approved by Congress extends seaward (or into the Gulf of Mexico) beyond three geographic miles, and
>
> (3) all filled in, made, or reclaimed lands which formerly were lands beneath navigable waters, as hereinabove defined.

SRP04773

The committee has been impressed with the need to discover new and additional sources of mineral resources. The Outer Continental Shelf offers the hope of such source. The committee also is cognizant of the fiscal implications of oil and gas leasing in these areas in view of the fact that a recent offering resulted in the acceptance on the part of the Department of the Interior of bids aggregating $446.7 million covering 412 tracts of shelf land. Since the inception of the leasing program under section 15 of the 1953 Outer Continental Shelf Lands Act, total collections have exceeded $1.2 billion.

The Outer Continental Shelf Act itself recognized in section 12 that it might be necessary in the interest of defense to withdraw certain of the lands from leasing. The President was authorized to withdraw any of the unleased lands and the Secretary of Defense, with the approval of the President, was authorized to designate areas as restricted from exploration and operation if needed for national defense. The act of February 28, 1958, supra, superseded the 1953 act to the extent that it requires an act of Congress to restrict areas in excess of 5,000 acres from the operation of the Outer Continental Shelf Lands Act.

Although no statutory restrictions have been enacted, the committee has been advised that necessary defense installations and ranges have not been jeopardized; nor has there been any significant interference with the logical pattern of exploration and mineral development in these areas. The committee is anxious to achieve the maximum degree of compatibility between defense use and oil and gas leasing and is convinced, after considerable study including inspection of typical overwater ranges, that the agencies of Government working in cooperation with the oil and gas industry will be successful in accomplishing necessary accommodations to permit both to move forward.

Against this background the committee and its Subcommittee on Public Lands gave considerable thought to the procedures to be followed. Consideration was particularly given to the Defense Department request that the national security requires such a high degree of secrecy that withdrawals and restrictions of Outer Continental Shelf areas should be excluded from the provisions of the act. The committee understands the need for some secrecy; but is also aware of the fact that classification has, on occasion, been used as a screen behind which information was hidden when it could have been divulged without damaging the national security.

The committee, accordingly, has continued the statutory requirement that actions involving over 5,000 acres of shelf lands shall be accomplished by act of Congress, with the clear understanding that, when necessary, the defense agency involved may submit the information to the Congress with the proper degree of classification. Provision has been made to permit omission of publication from the Federal Register when publicity is considered to be inimical to the national security. While a bill or public law cannot be classified, the committee believes that generalized descriptions can be combined so as to avoid pinpointing a particular classified installation. There are a number of overwater ranges that are not classified and no logical reason has been advanced to omit these from the scope of the act.

The committee submits that it is possible for the Congress to exercise its responsibilities in this area, as in others, and thereby permit

SRP04774

national defense activities to continue while at the same time obtaining the maximum benefits for both oil and gas development and the monetary return to the United States.

SECTION-BY-SECTION ANALYSIS

TITLE I

Section 101 sets forth as a basic national policy the need for Congress to exercise greater supervision over the use and disposition of America's lands and resources in order to secure for all Americans for all time the maximum beneficial use thereof, including perpetuation of some areas of wilderness. The section sets forth the principle that public lands shall be managed generally on a multiple-use basis but recognizes that the expanding population might not leave any lands in the United States in their natural condition unless steps are taken immediately.

Section 102 establishes the principle that any action involving the use of over 5,000 acres of public, national forest, or shelf land, in one unit or cumulatively during a 5-year period, will require an act of Congress with certain exceptions as follows:

1. Interdepartmental permits will not require an act of Congress. However, if the permit is in excess of 1 year, or if permanent damage to the lands is anticipated, there will be a 180-day waiting period after notification to Congress before the permit can be issued. The respective Committees on Interior and Insular Affairs could shorten the period.
2. Actions necessary for defense purposes in time of a war or a future national emergency could be accomplished without an act of Congress if provision is made for the users to effect necessary decontamination and dedudding.
3. During congressional adjournment periods, defense actions could be accomplished if the Secretary of Defense certifies that a delay will be prejudicial to the national security.
4. No additional action by Congress will be required where a project has been specifically authorized based on a proposal involving the use of public, forest, or shelf lands.
5. A 180-day waiting period, subject to reduction of time by committee action, will be required where the action is being taken (1) by the agency having primary jurisdiction of the land in connection with its administration of such land or (2) under an existing public land law with the objective of permitting the lands to be sold or settled.

Section 103 provides for notification to Congress and publication in the Federal Register relative to all actions on parcels of land in excess of 5,000 acres, except for interdepartmental permits for 1 year or less. The section lists detailed data to be furnished in the notice in order to provide ample information for both the public and the Congress to permit prompt evaluation of the proposal.

Section 104 continues the principle that the filing of an application for the use of public lands, or the publication of notice of proposed use in the Federal Register, effectively segregates the land from disposition, appropriation, or entry. The section limits segregative

SRP04775

effect to 2 years with the option of the administrative agency to extend such segregation for an additional 2-year period upon notice to the Congress.

Sections 105–108 are technical. *One section (107)* repeals that portion of the act of February 28, 1958 (72 Stat. 27), which established the principle that land actions involving defense use of areas in excess of 5,000 acres may be accomplished by act of Congress only: and, accordingly, *section 105* restates certain exceptions contained in the 1958 act. *Section 106* gives to the President authority to issue regulations to insure uniform administration among the various agencies; and *section 108* states that the act shall become effective on the date of enactment, but specifies that proposed actions submitted under the 1958 act will not have to be resubmitted under this act.

Section 109 contains a series of definitions of the basic terms that form the special language of the act.

TITLE II

This title is the Wilderness Act and *section 201* sets this forth.

Section 202 details the characteristics of a wilderness area, defines it, and sets forth the urgent need for Congress to designate wilderness areas to be administered for the use and enjoyment of all Americans. The section further provides that no lands shall be designated as wilderness areas except as provided in the act.

Section 203 designates as wilderness areas the 6.8 million acres of of lands presently classified by the Department of Agriculture as wilderness, wild, and canoe. The section further provides that detailed descriptions shall be filed with the respective Interior and Insular Affairs Committees and that the Secretary of Agriculture shall maintain, for public use, records, descriptions, and regulations pertaining to these areas. The section then sets forth the principle that primitive areas of national forests, roadless portions of units of the National Park Service, and selected portions of units of the National Wildlife Refuge System that meet the wilderness definition may be designated as wilderness areas by act of Congress. The section concludes with a requirement that wilderness areas be reviewed at least once every 25 years; and makes it clear that the Secretary of Agriculture may make adjustments not to exceed 5,000-acre increases or decreases of land acreage in any one area. (Note: Taken in conjunction with sec. 102, the 5,000-acre limitation would refer to one unit or cumulatively over a 5-year period.)

Section 204 establishes procedures for the Secretaries of Agriculture and the Interior to prepare and submit reports to Congress in order to provide basic information and data relative to action to be taken with regard to designation of additional areas of wilderness.

In connection with each report the Secretary is required to give public notice through both the Federal Register and a local newspaper, hold a local public hearing, obtain the views of the Governor and local officials, obtain the views of Federal agencies whose activities may be involved, and give consideration to alternative uses in order to provide a basis for a recommendation as to whether a specific area should or should not be designated for preservation as wilderness. State and local officials, as well as other Government agencies, would also have

SRP04776

an opportunity to review the proposed report before it is submitted. If their comments are not received within the time limited, the comments will not be included within the report when actually submitted.

Section 205 requires the periodic review, once every 25 years, of areas designated for preservation as wilderness, with procedures substantially the same as those involved in initial designation to be followed in order to provide the basis for a report and recommendation to the President and Congress.

Section 206 sets up the uses that may be permitted and those that are prohibited within areas designated as wilderness by the act. The section also specifies that the Wilderness Act does not supersede or modify existing statutory authority for the establishment of the units out of which wilderness areas either are or will be carved. Subject to existing private rights, the section prohibits commercial enterprise, permanent roads, and motorized or mechanized equipment in excess of the minimum required for administration. Special provisions are made for exceptions or reiterations of existing law as follows:

1. The use of aircraft and motorboats may be permitted where established previously.
2. The Secretary is given authority to take necessary action for control of fire, insects, and diseases.
3. Mining and mineral leasing laws are permitted to continue until December 31, 1987, only, to the same extent as applicable at this time, after which areas designated by the act as wilderness are withdrawn from entry and appropriation. Provision is made for the Secretary of Agriculture to regulate those entering under the mineral leasing and mining laws; where essential, the use of mechanized ground or air equipment will be permitted; restoration of the surface will be required after prospecting and location under the mining laws and after oil and gas discovery, exploration, drilling, and production; areas held for mining claims could be used for mining and related uses only; and patents within wilderness areas will grant title to mineral deposits only, with no rights in the surface except the minimum required in connection with mining.
4. The Geological Survey and the Bureau of Mines are charged with the responsibility of surveying designated and proposed wilderness areas to determine what mineral values may be present.
5. Within the designated wilderness areas, the Secretary of Agriculture could, upon his determination that it will better serve the interests of the United States and the people thereof than will its denial, specify areas for development with facilities needed in the public interest.
6. Grazing of livestock is permitted to continue where established previously, subject to departmental regulations.
7. Commercial services necessary in connection with the recreational or other purposes of wilderness areas may be performed.
8. Hunting and fishing are to be permitted by the Secretary of Agriculture if compatible with wilderness preservation.
9. Federal-State relationships concerning water laws and wildlife are maintained without change.
10. If no practicable alternate route is available, the Secretary of Agriculture may authorize a temporary road across a wilderness

SRP04777

area to transport timber from outside a wilderness area subject to (1) no other use of the road and (2) restoration of the surface when the road has served its purpose.

11. The Secretary of Agriculture may designate approximately 3,500 acres presently within the San Gorgonio Area, Calif., for development of ski facilities if the Secretary finds this to be the highest and best use of the lands.

Section 207 is concerned with the non-Federal lands within the areas designated by the act for wilderness preservation and provides:

1. If State-owned land is surrounded, the State will receive either adequate access or an opportunity for exchange for any like lands in the same State.

2. Ingress and egress would be regulated by the Secretary of Agriculture to privately owned lands, mining claims, and other occupancies.

3. The Secretary of Agriculture could acquire surrounded privately owned land if the owner concurs or Congress specifically authorizes the acquisition.

4. Gifts and donations could be accepted by the Secretary of Agriculture of land either within or adjacent to designated wilderness areas.

Cost

The full fiscal implications of H.R. 776, as amended, cannot be ascertained at this time.

Departmental Recommendations

The various executive agencies involved have recommended enactment of legislation generally designed for the preservation of wilderness areas as indicated in the reports below. Although the Departments were not unanimous in their views concerning congressional review of actions involving areas of over 5,000 acres of public land, the Bureau of the Budget indicated no objection to enactment of such legislation as stated in its letter of June 19, 1961, which is set forth below together with the reports of the Departments and agencies involved:

Executive Office of the President,
Bureau of the Budget,
Washington, D.C., June 19, 1961.

Hon. Wayne N. Aspinall,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

My Dear Mr. Chairman: This is in response to your letter of June 12, 1961, relative to H.R. 4060, H.R. 1785, H.R. 3342, H.R. 5252, and H.R. 6377, and departmental reports thereon.

It was our judgment that your committee would find the somewhat diverse agency views on this subject of benefit to its deliberations.

With respect to the substance of this matter, we are not aware of

SRP04778

any urgent need to bring nonmilitary withdrawals under review. In general, however, if there is to be any congressional action on the bills we would prefer the approach embodied in H.R. 4060 to that embodied in the other bills. This view is incorporated in our report to the Senate committee on S. 1757, copies of which are enclosed for your information. We would recommend adoption of the amendments to H.R. 4060 recommended by the Departments of the Interior and Agriculture. So far as we are aware, there is no companion bill to H.R. 4060 pending in the Senate.

Since the subject bills involve the degree to which the Congress wishes to review public land withdrawals, we believe that the question is primarily one for the Congress to decide.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., June 12, 1961.

Hon. CLINTON P. ANDERSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget on S. 1757, a bill to require an act of Congress for public land withdrawals in excess of 5,000 acres in the aggregate for any project or facility of any department or agency of the Government.

Although the Bureau of the Budget would have no objection to the enactment of S. 1757, we believe the committee may wish to give consideration to alternative ways of dealing with this matter. Another method is embodied in H.R. 4060, to provide that withdrawals and reservations of public lands for nondefense uses shall take effect only upon certain conditions, and for other purposes. We believe the method there proposed, subject to the views of the various departments and agencies concerned, would offer certain advantages not contained in S. 1757. Reports on H.R. 4060 have been submitted to the House Interior and Insular Affairs Committee by the Departments of Agriculture, Interior, and Defense, the Federal Power Commission, and the Atomic Energy Commission.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 2, 1961.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H.R. 4060, 87th Congress, a bill to provide that withdrawals and reservations of public lands for nondefense uses shall take effect only upon certain conditions, and for other purposes. The Secretary

SRP04779

of Defense has delegated to the Department of the Air Force the responsibility for expressing the views of the Department of Defense thereon.

Sections 1, 2, and 3 of H.R. 4060 pertain to the use of public lands for nondefense purposes, including use by the Department of Defense in connection with its civil functions. Under the bill, all Government agencies and departments seeking to obtain the use of public lands for nondefense purposes by the means of a withdrawal, secondary withdrawal or reservation, or a special land use permit, would be required under certain conditions to file an application for such use with the head of the department or agency having administrative jurisdiction over the land proposed to be affected thereby. These applications would not be effective until the expiration of 60 calendar days from the date the agency or department head having administrative jurisdiction over the public lands involved would have notified the Interior and Insular Affairs Committees of the House and Senate of the nature and scope of the proposed land use unless: (*a*) The committee approves an earlier date; (*b*) less than 5,000 acres of public land is involved; or (*c*) the proposed withdrawal is governed by the act of February 28, 1958. Under the existing law (act of February 28, 1958; Public Law 85-337; 72 Stat. 27), the Department of Defense is required to obtain an act of Congress for withdrawals, reservations, or restrictions of public lands if the land is to be used for defense purposes and if more than 5,000 acres is involved.

Section 4 of H.R. 4060 provides that no application for withdrawal or reservation or for a renewal or extension thereof, as related to the use of public lands in excess of 5,000 acres, shall have the effect of segregating such lands until notice of such application has been filed for publication in the Federal Register. The present procedure applicable to the Department of Defense provides that lands are segregated when the application is filed.

Section 5 of H.R. 4060 would amend the act of February 28, 1958 by adding a new section that would require the Department of Defense to obtain an act of Congress for renewals or extensions of withdrawals, reservations, or restrictions of public land, water, or land and water areas, for secondary withdrawals, reservations, or restrictions of such areas which are already withdrawn, reserved, or restricted and renewals or extensions thereof, and for grants, renewals, or extensions of special permits for the use of such areas and of national forest lands in excess of 5,000 acres. The act of February 28, 1958 requires an act of Congress only for withdrawals, reservations, and restriction of public land and water areas.

Section 6 of H.R. 4060 would make certain technical amendments to the act of February 28, 1958, as related to the recent admission to statehood of Alaska and Hawaii.

The Department of the Air Force on behalf of the Department of Defense recommends:

1. That section 4 of H.R. 4060 be deleted. It is considered desirable to retain existing procedures whereby segregation of public land becomes effective when an application for use of that land has been made to the agency having administrative jurisdiction over such land. The proposal that segregation become effective from the date notice is published in the Federal Register may result in additional cost to the Government because of settlement, location, selection, entry,

SRP04780

lease, or other form of disposal under the public land laws that may be placed on the land between the time application is filed and notice is published in the Federal Register. In addition, existing procedures are considered preferable to the entirely new concept introduced by section 4 of the bill providing for the expiration of the segregative effect 1 year after the date of application, or such earlier date for termination as may be determined by the Department head having jurisdiction over the lands, unless a notice of renewal is filed and the Committee on Interior and Insular Affairs notified of the reasons necessitating a renewal.

2. That the proposed amendment to the act of February 28, 1958, contained in section 5 of H.R. 4060, be completely redrafted to extend to the Department of Defense the procedure described in section 1 of H.R. 4060 for obtaining withdrawals and reservations of public lands. To continue the requirement that the Department of Defense obtain an act of Congress for such purposes while nondefense agencies of the Government are authorized to utilize a more expeditious procedure is considered to be inequitable. Also, that portion of section 5 of the bill which would require the Department of Defense to obtain an act of Congress for grants, renewals, or extensions of special permits for the use of public lands could seriously hamper the military effort. The time and delay that probably would be involved in obtaining such an act for special permits for a definite period to meet an urgent mission could jeopardize important defense programs. Such permits are generally temporary in nature, nonexclusive, and do not segregate the lands involved from entry by the public. Accordingly, it is also recommended that existing procedures for obtaining special land-use permits by any Government department or agency be retained and that the procedures proposed in sections 1 and 5 of H.R. 4060 concerning permits be deleted. Approval of the recommendations in this paragraph would provide uniform procedures for defense and nondefense agencies and would expedite the use of public lands needed for defense purposes by the Department of Defense.

3. That all of the proposed amendments to the act of February 12, 1958 (Public Law 85-337) be included in a single section of H.R. 4060, and that present section 6 of the bill be deleted.

4. The procedures that would be applicable for the withdrawal or reservation of public domain lands for nondefense uses would encompass the civil functions of the Department of Defense of the Army. These civil functions involve water resource development projects and the establishment of national cemeteries. It is anticipated that enactment will not in any way affect the establishment and maintenance of national cemeteries. However, because of the procedures involved in planning, authorization, and funding of water resource development projects, this might seriously impede a particular project. It is accordingly suggested that, if your committee favors enactment of H.R. 4060, the following section be added thereto:

"SEC. 7. The provisions of this Act shall not be applicable to any project which has been specifically authorized by Congress based on a proposal setting forth the proposed use of public domain lands in connection therewith."

Subject to the recommendations set forth above and as incorporated in the attached draft of the proposed amendments, the Department of

SRP04781

the Air Force, on behalf of the Department of Defense, interposes no objection to the enactment of H.R. 4060. It should be noted that if the recommendation to delete the present section 4 is accepted, the attached proposed substitute draft of section 5 would in actuality constitute section 4 of H.R. 4060, as amended, and succeeding sections would be changed accordingly.

Enactment of H.R. 4060 would not involve the expenditure of any Department of Defense appropriations.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

LYLE S. GARLOCK,
Assistant Secretary of the Air Force.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 2, 1961.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense with respect to H.R. 1785, H.R. 3342, H.R. 6377, and H.R. 5252, substantially identical bills to require an act of Congress for public land withdrawals in excess of 5,000 acres in the aggregate for any project or facility of any department or agency of the Government. The Secretary of Defense has delegated to this Department the responsibility for expressing the views of the Department of Defense.

The Department of the Air Force, on behalf of the Department of Defense, has considered the above-mentioned bills, the purpose of which is stated in their titles, and submits the following comment for the consideration of the committee. The act of February 28, 1958 (72 Stat. 27; Public Law 85-337) provides that, except by act of Congress, no public land, water, or land and water areas in excess of 5,000 acres may be "(1) withdrawn * * * for the use of the Department of Defense for defense purposes; (2) reserved for such use; or (3) restricted * * *". The above-mentioned bills would extend this requirement to any department or agency of the Government.

The effect of the proposed amendment would accordingly be to include within the provisions of the act of February 28, 1958, the withdrawal or reservation of public domain lands for use in connection with the civil functions of the Department of the Army as well as defense use. These civil functions involve water resource development projects and the establishment of national cemeteries. It is anticipated that enactment of the amendment will not in any way affect the establishment and maintenance of national cemeteries. However, because of the procedures involved in planning, authorization, and funding of water resource development projects, the amendment might seriously impede a particular project.

SRP04782

Surveys by the Chief of Engineers for water resource development projects under the jurisdiction of the Secretary of the Army, determine, first, the economic feasibility and, secondly, the recommended specific location of necessary structures, such as the dam and related works. Thereafter, Congress, based on preliminary plans incorporated in a definite project report, authorizes construction of the project and frequently at approximately the same time appropriates funds with which to initiate construction. Although the definite project report will have indicated whether or not it is proposed to utilize public domain lands, the specific area will be delineated after surveys, which are accomplished simultaneously with initial construction. Therefore, if it is necessary to obtain an act of Congress for the withdrawal or reservation of areas in excess of 5,000 acres, there will, on the one hand, be a duplicate congressional review while, on the other hand, project progress will be such as to virtually preclude shifting the site. In this connection, the committee's attention is invited to the fact that, during the planning and authorization stages, public hearings are held both in the field and by the legislative committees of Congress. In addition, the project report is reviewed by the Department of the Interior. If there are any objections to the use of any public domain lands, they will have been voiced and considered prior to authorization to proceed with the project.

It is accordingly suggested that if your committee favors the principle of extending the act of February 28, 1958, to include withdrawals and reservations of use for other than defense purposes, provision be made to avoid duplicate congressional action. This could be accomplished by revising section 2 of the bill to read as follows:

"SEC. 2. Section 1 of the Act of February 28, 1958 (Public Law 85-337, 72 Stat. 27), is amended as follows:

"(1) By striking out the words 'the Department of Defense for defense purposes' and inserting the words 'any department or agency of the Government' in place thereof.

"(2) By striking out the word 'and' at the end of subparagraph (3).

"(3) By striking out the period at the end of subparagraph (4) and inserting the word '; and' in place thereof.

"(4) By adding the following new subparagraph at the end thereof:

" '(5) sections 1, 2, and 3 of this Act shall not be applicable to any project which has been specifically authorized by Congress based on a proposal setting forth the proposed use of public domain lands in connection therewith.' "

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

LYLE S. GARLOCK,
Assistant Secretary of the Air Force.

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SRP04783

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 2, 1961.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR CONGRESSMAN ASPINALL: This is in reply to your request of February 27, 1961, for a report on H.R. 4060, a bill to provide that withdrawals and reservations of public lands for nondefense uses shall take effect only upon certain conditions, and for other purposes, to your request of February 22, 1961, for a report on H.R. 1785 and H.R. 3342, and to your request of April 19, 1961, for a report on H.R. 6377, substantially identical bills, to require an act of Congress for public land withdrawals in excess of 5,000 acres in the aggregate for any project or facility of any department or agency of the Government. We will also report at this time on H.R. 5252 which is identical to H.R. 3342.

We recommend against enactment of H.R. 3342, H.R. 1785, H.R. 6377, and H.R. 5252. We recommend that H.R. 4060 not be enacted unless it is amended as suggested herein.

H.R. 3342, H.R. 1785, H.R. 6377, and H.R. 5252 would amend the act of February 28, 1958 (72 Stat. 27), now applicable only to withdrawals of public lands for the use of the Department of Defense, to extend it to withdrawals for all departments and agencies of the Government. Under the 1958 act, as these bills would amend it, no withdrawal or reservation of public land for the use of any department or agency, or restriction from operation of the mineral leasing provisions of the Outer Continental Shelf Lands Act (67 Stat. 462), which would result in the withdrawal, reservation, or restriction of more than 5,000 acres for any one project, could be made except by act of Congress. Under the 1958 act, applications for withdrawals, reservations, or restrictions must contain detailed information, including: (1) Description; (2) gross and net area of public lands and water; (3) purpose and period of proposed use; (4) impact on conservation, utilization, and development of mineral, timber, grazing, fish and wildlife, and water resources and recreation and other values; and (5) whether use of water will be involved and whether rights thereto will be obtained under State law.

H.R. 4060 would: (1) Provide that no withdrawal or reservation, including secondary withdrawals or reservations, of public lands for any public purpose, and no exclusion of land from the mineral leasing provisions of the Outer Continental Shelf Lands Act, and no land-use permit for public lands or national forest lands, and no renewal or extension of any of these shall be effective until 60 days after the Interior and Insular Affairs Committees of the Senate and House are notified, unless (*a*) each committee approves an earlier effective date, (*b*) less than 5,000 acres in the aggregate are affected, or (*c*) the proposal is governed by the above referred to act of February 28, 1958; (2) require that all applications contain detailed information similar to that referred to above, as required by the 1958 act; (3) provide that applications under the bill and under the 1958 act would not have the effect of segregating the land from disposition under the public lands laws, including the mining laws, until notice of application is published in the Federal Register; and if the application is not acted on in 1 year it would have to be republished; (4) amend the 1958 act so that it

SRP04784

would apply to renewals and extensions of withdrawals, reservations, and restrictions, and also to grants, renewals, and extensions of land-use permits to the Department of Defense for the use of public lands and waters, and use of national forest lands; and (5) make technical amendments to the 1958 act, relating to Alaska and Hawaii.

Withdrawals of public lands require intensive field studies of the lands involved and technical determination of the need for and suitability of the lands for the purposes intended. Correlation of existing and intended uses of designated lands, and possible surrounding or adjoining lands as well, between the agency administering the lands prior to withdrawal and the agency for which withdrawal is made, is essential. These studies and determinations and this correlation can best be accomplished by the executive agencies involved.

Enactment of H.R. 3342, H.R. 1785, H.R. 6377, and H.R. 5252 would add measurably and unnecessarily to the legislative workload of both Congress and the executive agencies concerned, since each withdrawal, reservation, or restriction in excess of 5,000 acres would require enactment of separate legislation by the Congress. This requirement could delay Federal programs in connection with projects such as forest, range, and other research installations of this Department and many projects of other Departments.

For the above reasons, we believe that enactment of H.R. 3342, H.R. 1785, H.R. 6377, and H.R. 5252 is undesirable.

H.R. 4060 would apply to primary withdrawals of unreserved public domain for national forests. It would apply to secondary withdrawals of national forest lands needed by other agencies in furtherance of their activities.

H.R. 4060 also would apply to secondary withdrawals of national forest lands requested by this Department for purposes related to the national forests. The exact application would depend in part, upon the interpretation of the term "for the benefit of the same project or facility." Withdrawals of this type might include ranger stations and other administrative and fire protection facilities, public use areas such as picnic areas and campgrounds, areas of historic or scientific importance such as forest and range research areas, and areas of public interest from the scenic or esthetic standpoint, such as roadside strips along highways. Areas involved in such withdrawals usually are small. With the anticipated expansion of national forest recreation use and of public transportation systems, including major highways, involving national forest lands, additional withdrawals of this kind will be essential to protect the public interest.

Such withdrawals generally do not change the basic status or administration of the lands involved and do not prevent public use. Lands withdrawn for national forests are not subject to disposition under the general land laws but are subject to location and entry under the mining laws. These secondary withdrawals give particular areas protection against mining locations which would interfere with public use or needs.

Prompt and continuous segregation of such lands from appropriation under the mining laws, following application for such withdrawals, is essential. This is necessary to forestall the filing of mining claims on national forest lands needed in recreation, research or other public projects, after such projects have been announced. Under present procedures, the filing of a withdrawal application with the manager

SRP04785

of the U.S. land office and his posting of it on the land records acts to segregate such lands. We strongly urge that this procedure be continued. Lack of immediate and continuing segregation of the lands would permit filing of claims, including nuisance claims, in much greater numbers than under the present procedure and so add measurably to the cost and work of protecting the public needs in the lands involved.

For the above reasons, we recommend that if H.R. 4060 is favorably considered, it be amended, to except those secondary withdrawals made to further the related purposes of the agency already administering the lands, as follows:

Page 1, line 7, insert after "reserved" and before the comma, the words "other than secondary withdrawals or reservations requested by the agency having primary jurisdiction of the land for purposes related to its administration thereof,".

Special land-use permits for national forest lands, which would be affected by H.R. 4060, commonly are terminable and include conditions to protect the national forests and the public interests therein. They usually do not exclude other uses except where security or safety makes exclusions necessary. For the foregoing reasons, we recommend that, if H.R. 4060 is favorably considered, it be amended to exclude from its provisions the requirements concerning land-use permits for national forest lands. This can be accomplished as follows:

Page 2, line 1, strike the words "or national forest lands".

Page 5, lines 1–3, strike subsection (c).

Page 5, line 4, redesignate "(d)" as "(c)".

Page 6, lines 12–13, strike the words "and of national forest lands".

This Department would object to enactment of H.R. 4060 unless amended as above recommended.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., June 2, 1961.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. ASPINALL: Your committee has requested reports on H.R. 1785 and H.R. 3342, identical bills to require an act of Congress for public land withdrawals in excess of 5,000 acres in the aggregate for any project or facility of any department or agency of the Government. There is also pending before your committee two other bills, H.R. 5252 and H.R. 6377, which are identical to H.R. 1785 and H.R. 3342.

In addition, this replies to your request for a report on H.R. 4060, a bill to provide that withdrawals and reservations of public lands for nondefense uses shall take effect only upon certain conditions, and for other purposes.

SRP04786

We recommend that the H.R. 1785 group not be enacted.

We also recommend that H.R. 4060 not be enacted at this time.

The H.R. 1785 group would generally extend the provisions of the act of February 28, 1958 (72 Stat. 27; 43 U.S.C., secs. 155–158), to nondefense withdrawals. The act of February 28, 1958, provides that no public lands shall be withdrawn (or reserved or restricted) for the use of the Department of Defense for defense purposes, except by act of Congress, if that withdrawal will result in the withdrawal of more than 5,000 acres in the aggregate for any one defense project or facility.

H.R. 4060 would require the reporting of proposed withdrawals to the Senate and House Committees on Interior and Insular Affairs; would require Federal Register publication of a withdrawal request in order to segregate lands from entry, sale, or leasing; and limit segregative effect of an application to 1 year unless renewed, republished, and notice of renewal given the committees.

It is noted that without the enactment of either of these legislative proposals, the Secretary of the Interior has, under various statutes, authority to make various types of public land withdrawals. By delegation, the Secretary also carries out the statutory authority of the President in making withdrawals under the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), as amended, and under the President's implied authority to make withdrawals. Executive Order No. 10355, May 26, 1952, provides certain safeguards and controls on the Secretary's authority to make public land withdrawals.

The Secretary of the Interior under his rules and regulations has implemented this statutory and delegated authority. These rules and regulations in 43 CFR 295.10 are designed to give ample public notice and provide a forum in which he can fully evaluate any land use before taking final action on a withdrawal application. Under existing procedures the Bureau of Land Management determines the status of the lands to be withdrawn and the impact on local or national programs. Where necessary, public hearings are held so that the Bureau can provide the Secretary of the Interior with a complete picture of public sentiment and make appropriate recommendations, including such alternatives to withdrawal that will effectuate public programs and still allow certain public use. Moreover, under present informal withdrawal procedures the Department notifies the chairman of the House Committee on Interior and Insular Affairs of all proposed withdrawals and reservations of more than 5,000 acres. Furthermore, our existing departmental regulations on withdrawal applications provide substantially what H.R. 4060 provides in section 2 and in relation to segregation our regulations appear preferable to those proposed in section 4.

Departmental regulations provide that the segregative effect begins with the notation of the application on the land records of the office of record. H.R. 4060 would have the segregative effect begin with the filing of the notice of such application for publication in the Federal Register.

This section would also have the segregative effect terminate 1 year after the date of application unless the application is renewed 30 days prior to that date and notice of renewal is filed for publication in the Federal Register.

SRP04787

The segregation of land under existing procedures, at the time of notation, provides actual and constructive notice at an office which is open to the public and is the general office of record for those who have an interest in or use and seek to acquire title to public lands under the public land and mineral laws. Although publication in the Federal Register is a procedure which is followed under existing regulations for the purpose of allowing objections to be heard, we feel that the risk of adverse appropriation of lands needed for a Federal land program would be of serious concern to agencies seeking withdrawals for programs which have legislative sanction, if the segregation was not effected at the earliest possible date.

While we do not object to informal reporting of delayed actions on applications to the Interior and Insular Affairs Committees, we do object to limitations on the segregative effect. This appears to be objectionable for the reason that a clerical error or oversight could lead to loss of protection to Federal lands for which some agency has a continuing Federal need. Under present delegations of authority, it seems further undesirable because it would place the Secretary of the Interior in a position to jeopardize or embarrass inadvertently the program of another agency by failure to act quickly on an application or to take the action specified by section 4.

We would have no objection to an expression of the sense of Congress that regulations should provide for control of the segregative effect of applications.

It is recognized that the military mission involves a special and restricted area, and that the military establishment and the Congress are better able to determine military needs in the national defense than is the Department of the Interior. However, whether in the military, nonmilitary, or conservation areas, we believe the Department of the Interior is fully able to evaluate the needs for particular tracts of land in relation to other needs or demands and to take whatever steps are necessary to protect the public interest. The new and additional reporting requirements, as portrayed by these bills, would appear to constitute unneeded legislative restriction in what would normally be considered administrative functions. Also, the present procedures provide rather full opportunity to the respective committees to keep themselves informed.

In the circumstances, we question whether either of these proposed legislative approaches to the problem is needed. The H.R. 1785 group would appear to be particularly burdensome not only to the executive branch of the Government but also to the Congress. In view of the reasons presented above, the Department does not recommend enactment of H.R. 4060 at this time. It believes sufficient time should be permitted, under the present administration, to try out the existing provisions of law to determine if they cannot be made to work administratively for the interests of the country before introducing new more complicated procedures.

Our objections to enactment of H.R. 4060 would not apply to sections 5 and 6. That is to say, we would have no objection to enactment of these sections which would perfect and make current the act of February 28, 1958.

From the context of the bills, it is believed that they are intended to apply to applications to withdraw land for use by the applicant agencies. We doubt that there is intent to apply the withdrawal

SRP04788

restrictions to the mineral and waterpower classifications made by our Geological Survey in aid of administration of the various public land laws and in conservation and development of the mineral and waterpower resources of the public lands. However, to the extent that such classifications have the effect of restricting disposals that would interfere with the conservation, development, and utilization of water and mineral resources, it is possible that the restrictive provisions of the bills could be construed as applying to the mineral and waterpower classifications. Therefore, we recommend that if either bill is enacted, there be included a clarifying provision making the restrictions inapplicable to the mineral and waterpower classification activities of the Geological Survey.

H.R. 1785 should read "1961" on line 4, page 1, and on line 21, page 2 instead of "1959".

If H.R. 4060 is considered favorably we recommend the following amendments:

1. Insert the words "or of any withdrawn or reserved lands" following the word "lands" as it appears in line 5, page 1, and delete the words "and no secondary withdrawal or reservation of lands theretofore withdrawn or reserved" as they appear in lines 6 and 7, page 1. These changes would avoid the necessity of defining "secondary withdrawals and reservations" which do not have established meanings.

2. In lines 3 and 4, page 2, place commas after "permit" and "Government". This would make clear that the proposal is a Government proposal.

3. In lines 7 and 8, page 2, strike out "having * * * thereby" and substitute "proposing to effect such action." This is to avoid any confusion as to the official to notify the committees.

4. Replace the number "73" as it appears in line 25, page 2, with the number "72".

5. In lines 15, 16, and 17, page 5, the reference probably should be to the official who would effect the withdrawal or reservation rather than the official specified.

6. In line 19, page 5, the word "and" may have been omitted after "Register".

7. Replace the word "secondary" as it appears in line 8, page 6, with the word "additional."

Let us take this opportunity to express our appreciation to the committee for the interest it has demonstrated in obtaining the best overall policies and procedures in this vital area of public land withdrawals. Be assured that we in turn will be glad to fully cooperate with the committee and with the Congress in helping to resolve any problems that arise.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

JOHN A. CARVER, Jr.,
Assistant Secretary of the Interior.

SRP04789

FEDERAL POWER COMMISSION,
Washington, June 16, 1961.

Re public land withdrawals, H.R. 1785, 3342, 6377, 4060, 87th Congress.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is with further reference to your letters of February 22 and 27, and April 19, 1961, and the Commission's reports thereon transmitted with my letter of June 2, 1961.

At the hearing on June 6, 1961, Representative Ralph J. Rivers of Alaska made a statement in support of his bill, H.R. 3342 and pointed out that the purpose and effect of H.R. 3342 and the other similar bills are the same as S. 2587 of the 86th Congress which passed the Senate on July 1, 1960 (106 Congressional Record, 14416). The report of the Senate Committee on Interior and Insular Affairs (S. Rept. No. 1669, 86th Cong.), at pages 8 and 9, makes it very clear that S. 2587 was not intended to apply to public land withdrawals made under section 24 of the Federal Power Act (16 U.S.C. 818).

Since, as stated by Representative Rivers, the purpose and effect of H.R. 3342 and the other similar bills of the 87th Congress are the same as S. 2587 of the 86th Congress, it appears that they could not be construed as affecting the Commission's functions under the Federal Power Act relating to powersite lands. However, in order to eliminate any necessity for reference to their legislative history for clarification, it would be desirable to amend the bills as suggested in the last paragraphs of the respective reports submitted by the Commission on June 2, 1961.

Sincerely yours,

JEROME K. KUYKENDALL, *Chairman.*

FEDERAL POWER COMMISSION,
Washington, June 2, 1961.

Re withdrawals and reservations of public lands for nondefense uses, H.R. 4060, 87th Congress.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request of February 27, 1961, there are enclosed three copies of the report of the Federal Power Commission on the subject bill.

It is contemplated that this report may be released to the public within 3 working days from the date of this letter unless there is a request that its release be withheld.

Sincerely yours,

JEROME K. KUYKENDALL, *Chairman.*

SRP04790

Federal Power Commission Report on H.R. 4060, 87th Congress

A BILL To provide that withdrawals and reservations of public lands for nondefense uses shall take effect only upon certain conditions, and for other purposes.

The Public Land Withdrawals Act of 1958 (72 Stat. 27) provides that withdrawals or reservations by the Department of Defense aggregating more than 5,000 acres of public lands of the United States for defense purposes shall not become effective until approved by act of Congress. This bill in effect would broaden the 1958 act by making its provisions applicable to withdrawals and reservations in excess of 5,000 acres "by any department or agency of the Government." Any such withdrawal or reservation, including a renewal or extension of same, "notwithstanding any other provisions of law" would be ineffective unless the House and Senate Committees of Congress on Interior and Insular Affairs are notified and the head of the department or agency of the Government having administrative jurisdiction over affected lands concurs in the proposed action within 60 days after notice and opportunity for hearing.

Section 2 of the bill states that an application for a withdrawal, reservation, exclusion, permit, or renewal or extension thereof shall specify, among other things, "whether and, if so, to what extent the proposed use will affect continuing full operation of the public land laws and Federal laws and regulations relating to the conservation, utilization, and development of mineral, timber, and other material resources; grazing, fish, wildlife and water resources; and scenic, wilderness, recreation, and other values."

The Federal Power Act (16 U.S.C. 791a–825r) authorizes the Federal Power Commission to issue licenses to non-Federal entities for the purpose of constructing, operating, and maintaining waterpower developments on any of the streams over which Congress has jurisdiction under its authority to regulate interstate and foreign commerce, or upon public lands and reservations of the United States, or for the purpose of utilizing surplus water or waterpower from any Government dam.

Under section 24 of the Federal Power Act any lands of the United States included in a proposed project "shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress."

Since withdrawals of land under the Federal Power Act are now effected automatically by the filing of an application pursuant to the terms of the act, rather than by administrative action of the Commission, the bill apparently would not apply to powersite lands within the purview of the Power Act. To clarify this point, however, we believe it would be desirable to amend the bill to expressly exempt from its provisions powersite lands withdrawn or reserved by operation of law under the Federal Power Act.

Although we do not construe the bill as affecting the functions of this Commission under the Federal Power Act, we believe that the Congress will be interested in the following information concerning the effect its enactment would have on powersite lands, if the bill should be amended to make it applicable to such withdrawals.

SRP04791

No complete check has been made to determine what the effect of a 5,000-acre limitation could have had on existing hydroelectric projects if such limitation had been in effect in prior years or what effect such a limitation could have on potential projects that might be constructed in the future. However, a preliminary check indicates that during the past 6½ years there have been at least 11 applications filed for permits or licenses (with conflicting applications eliminated) which effected withdrawals of Government lands in excess of 5,000 acres. Data on these applications are given in the attached table. It should be noted though that some applications for permits or licenses which are filed with the Commission cover several units of development where the aggregate withdrawal exceeds 5,000 acres, but the individual units require less than 5,000 acres of land. Unless the bill can be made more specific in this regard, it will be difficult to accurately assess the true scope and effect of the proposed legislation, assuming, of course, that the bill is applicable.

It is our view that all interests of the public and the Government in powersite lands are adequately safeguarded under existing laws and procedures, and that no useful purpose would be served by placing a 5,000-acre statutory limitation on reservations or withdrawals of such powersite lands.

The provisions of section 24 of the Power Act contemplate use of powersite lands for purposes other than power either concurrently with its use for power purposes or until such time as a particular parcel of powersite lands is required exclusively for power purposes. Concurrent or interim use is accomplished under the following provisions of section 24:

"* * * Whenever the Commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as powersites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes and under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the Commission, for the purposes of this part, which right shall be expressly reserved in every patent issued for

SRP04792

such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this part, upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, * * *."

Up to July 1, 1960, lands of the United States which have been classified, reserved, or withdrawn for power purposes totaled about 9,612,000 acres of which about 2,395,000 acres have been removed from such reserves.

The Mining Claims Rights Restoration Act of 1955 (69 Stat. 681) provides for the location and patent for mining purposes of powersite lands which are not included in an outstanding permit or license. Furthermore, powersite lands may be used for other than power purposes, such as grazing, oil and gas production, timber harvesting, sand and gravel removal, and many other purposes under land use permits, leases, or rights-of-way stemming from various acts of Congress.

Section 4(e) of the Federal Power Act provides that licenses shall be issued within any reservation only after a finding by the Commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as are deemed necessary for the adequate protection and utilization of such reservation.

From the standpoint of our primary concern with hydroelectric power matters under the Federal Power Act and related acts of Congress, we believe, for the reasons stated above, that a 5,000-acre limitation on powersite reservations or withdrawals is not needed, and that such a limitation under the procedures prescribed by this bill could prove detrimental to effective development and utilization of the Nation's waterpower resources.

While we do not construe the bill as affecting the provisions of section 24 or any other provisions of the Federal Power Act, we suggest that the bill be amended to expressly state that nothing therein shall be construed as modifying or repealing any of the provisions of the Federal Power Act.

FEDERAL POWER COMMISSION,
By JEROME K. KUYKENDALL, *Chairman*.

SRP04793

Applications for permit or license filed since July 1, 1954 which effected withdrawals of more than 5,000 acres of Government land [1]

Project			Applicant	Location		Ultimate installed capacity, kilowatts
No.	Application [2]	Name		Stream	State	
2101	L	Upper American	Sacramento Municipal Utility District.	Rubicon River, South Fork American River.	California	204,200
2114	L	Priest Rapids, Wanapum	Public Utility District No. 2 of Grant County, Wash.	Columbia River	Washington	2,591,600
2179	L	Bagby, Exchequer, Snelling	Merced Irrigation District	Merced River	California	166,000
2193	P	Lower American	Sacramento Municipal Utility District.	American River	do	114,000
2215	P	Wood Canyon	Central Alaska Power Association, Inc.	Copper River	Alaska	1,100,000
2235	P	Ben Franklin	Washington Public Power Supply	Columbia River	Washington	600,000
2243	L	High Mountain Sheep	Pacific Northwest Power Co	Snake River	Idaho-Oregon	1,750,000
2246	P	Greater Yuba	County of Yuba	Yuba River	California	298,000
2248	L	Bridge Canyon, Marble Canyon	Arizona Power Authority	Colorado	Arizona	1,390,000
2259	L	Round Butte	Portland General Electric Co	Deschutes River	Oregon	247,050
2269	P	Squaw Hollow, Collierville	Calaveras County Water District	North Fork Stanislaus	California	333,000
		Total				8,793,850

[1] This table may not include all applications of this type because investigations of Government lands affected have not been completed for all applications filed since July 1, 1954.

[2] L, application for license. P, application for preliminary permit.

SRP04794

FEDERAL POWER COMMISSION,
Washington, June 2, 1961.

Re public land withdrawals H.R. 1785, 3342, 6377, 87th Congress.

HON. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your requests of February 22, 1961, and April 19, 1961, there are enclosed three copies each of the reports of the Federal Power Commission on the subject bills.

It is contemplated that these reports may be released to the public within 3 working days from the date of this letter unless there is a request that the release be withheld.

Sincerely yours,

JEROME K. KUYKENDALL, *Chairman.*

FEDERAL POWER COMMISSION REPORT ON H.R. 1785 AND H.R. 3342, 87TH CONGRESS

BILLS To require an act of Congress for public land withdrawals in excess of of five thousand acres in the aggregate for any project or facility of any department or agency of the Government.

The Public Land Withdrawals Act of 1958 (72 Stat. 27) provides that withdrawals or reservations by the Department of Defense aggregating more than 5,000 acres of public lands of the United States for defense purposes shall not become effective until approved by act of Congress. Either of these bills, if enacted, would broaden the 1958 act by making its provisions applicable to aggregate withdrawals and reservations "by any department or agency of the Government."

The Federal Power Act (16 U.S.C. 791a–825r) authorizes the Commission to issue licenses to non-Federal entities for the purposes of constructing, operating, and maintaining waterpower developments on any of the streams over which Congress has jurisdiction under its authority to regulate interstate and foreign commerce, or upon public lands and reservations of the United States, or for the purpose of utilizing surplus water or waterpower from any Government dam.

Under section 24 of the Federal Power Act any lands of the United States included in a proposed project "shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress."

Since withdrawals of land under the Federal Power Act are now effected automatically by the filing of an application pursuant to the terms of the act, rather than by administrative action of the Commission, these bills apparently would not apply to powersite lands within the purview of the Power Act. To clarify this point, however, we believe it would be desirable to amend the bills to expressly exempt from their provisions powersite lands withdrawn or reserved by operation of law under the Federal Power Act.

Although we do not construe these bills as affecting the functions of this Commission under the Federal Power Act, we believe that the Congress will be intersted in the following information concerning

SRP04795

the effect enactment of either would have on powersite lands, if either bill should be amended to make it applicable to such withdrawals.

No complete check has been made to determine what the effect of a 5,000-acre limitation could have had on existing hydroelectric projects if such limitation had been in effect in prior years or what effect such a limitation could have on potential projects that might be constructed in the future. However, a preliminary check indicates that during the past 6½ years there have been at least 11 applications filed for permits or licenses (with conflicting applications eliminated) which effected withdrawals of Government lands in excess of 5,000 acres. Data on these applications are given in the attached table. It should be noted though that some applications for permits or licenses which are filed with the Commission cover several units of development where the aggregate withdrawal exceeds 5,000 acres, but the individual units require less than 5,000 acres of land. Unless the bills can be made more specific in this regard, it will be difficult to accurately assess the true scope and effect of the proposed legislation, assuming, of course, that the bills are applicable.

It is our view that all interests of the public and the Government in powersite lands are adequately safeguarded under existing laws and procedures, and that no useful purpose would be served by placing a 5,000-acre statutory limitation on reservations or withdrawals of such powersite lands.

The provisions of section 24 of the Power Act contemplate use of powersite lands for purposes other than power either concurrently with its use for power purposes or until such time as a particular parcel of powersite lands is required exclusively for power purposes. Concurrent or interim use is accomplished under the following provisions of section 24:

"* * * Whenever the Commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as powersites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes and under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the Commission, for the purposes of this part, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this part, upon payment of any damages

SRP04796

to crops, buildings, or other improvements caused thereby to the owner thereof, * * *."

Up to July 1, 1960, lands of the United States which have been classified, reserved, or withdrawn for power purposes totaled about 9,612,000 acres of which about 2,395,000 acres have been removed from such reserves.

The Mining Claims Rights Restoration Act of 1955 (69 Stat. 681) provides for the location and patent for mining purposes of powersite lands which are not included in an outstanding permit or license. Furthermore, powersite lands may be used for other than power purposes, such as grazing, oil and gas production, timber harvesting, sand and gravel removal, and many other purposes under land use permits, leases, or rights-of-way stemming from various acts of Congress.

Section 4(e) of the Federal Power Act provides that licenses shall be issued within any reservation only after a finding by the Commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as are deemed necessary for the adequate protection and utilization of such reservation.

From the standpoint of our primary concern with hydroelectric power matters under the Federal Power Act and related acts of Congress, we believe, for the reasons stated above, that a 5,000-acre limitation on powersite reservations or withdrawals is not needed, and that such a limitation could prove detrimental to effective development and utilization of the Nation's waterpower resources.

While we do not construe these bills as affecting the Commission's functions under the Federal Power Act relating to powersite lands, we suggest that they be amended to expressly state that nothing therein shall be construed as modifying or repealing any of the provisions of the Federal Power Act.

FEDERAL POWER COMMISSION,
By JEROME K. KUYKENDALL, *Chairman.*

FEDERAL POWER COMMISSION REPORT ON H.R. 6377, 87TH CONGRESS

A BILL To require an act of Congress for public land withdrawals in excess of 5,000 acres in the aggregate for any project or facility of any department or agency of the Government.

The Public Land Withdrawals Act of 1958 (72 Stat. 27) provides that withdrawals or reservations by the Department of Defense aggregating more than 5,000 acres of public lands of the United States for defense purposes shall not become effective until approved by act of Congress. This bill, if enacted, would broaden the 1958 act

Applications for permit or license filed since July 1, 1954 which effected withdrawals of more than 5,000 acres of Government land [1]

Project			Applicant	Location		Ultimate installed capacity, kilowatts
No.	Application [2]	Name		Stream	State	
2101	L	Upper American	Sacramento Municipal Utility District.	Rubicon River, South Fork American River.	California	204,200
2114	L	Priest Rapids, Wanapum	Public Utility District No. 2 of Grant County, Wash.	Columbia River	Washington	2,591,600
2179	L	Bagby, Exchequer, Snelling	Merced Irrigation District	Merced River	California	166,000
2193	P	Lower American	Sacramento Municipal Utility District.	American River	do	114,000
2215	P	Wood Canyon	Central Alaska Power Association, Inc.	Copper River	Alaska	1,100,000
2235	P	Ben Franklin	Washington Public Power Supply	Columbia River	Washington	600,000
2243	L	High Mountain Sheep	Pacific Northwest Power Co.	Snake River	Idaho-Oregon	1,750,000
2246	P	Greater Yuba	County of Yuba	Yuba River	California	298,000
2248	L	Bridge Canyon, Marble Canyon	Arizona Power Authority	Colorado	Arizona	1,390,000
2259	L	Round Butte	Portland General Electric Co.	Deschutes River	Oregon	247,050
2269	P	Squaw Hollow, Collierville	Calaveras County Water District	North Fork Stanislaus	California	333,000
		Total				8,793,850

[1] This table may not include all applications of this type because investigations of Government lands affected have not been completed for all applications filed since July 1, 1954.

[2] L, application for license. P, application for preliminary permit.

SRP04798

by making its provisions applicable to aggregate withdrawals and reservations "by any department or agency of the Government."

The Federal Power Act (16 U.S.C. 791a-825r) authorizes the Commission to issue licenses to non-Federal entities for the purposes of constructing, operating, and maintaining waterpower developments on any of the streams over which Congress has jurisdiction under its authority to regulate interstate and foreign commerce, or upon public lands and reservations of the United States, or for the purpose of utilizing surplus water or waterpower from any Government dam.

Under section 24 of the Federal Power Act any lands of the United States included in a proposed project "shall from the date of filing of application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress."

Since withdrawals of land under the Federal Power Act are now effected automatically by the filing of an application pursuant to the terms of the act, rather than by administrative action of the Commission, this bill apparently would not apply to powersite lands within the purview of the Power Act. To clarify this point, however, we believe it would be desirable to amend the bill to expressly exempt from its provisions powersite lands withdrawn or reserved by operation of law under the Federal Power Act.

Although we do not construe the bill as affecting the functions of this Commission under the Federal Power Act, we believe that the Congress will be interested in the following information concerning the effect enactment would have on powersite lands, if the bill should be amended to make it applicable to such withdrawals.

No complete check has been made to determine what the effect of a 5,000-acre limitation could have had on existing hydroelectric projects if such limitation had been in effect in prior years or what effect such a limitation could have on potential projects that might be constructed in the future. However, a preliminary check indicates that during the past 6½ years there have been at least 11 applications filed for permits or licenses (with conflicting applications eliminated) which effected withdrawals of Government lands in excess of 5,000 acres. Data on these applications are given in the attached table. It should be noted though that some applications for permits or licenses which are filed with the Commission cover several units of development where the aggregate withdrawal exceeds 5,000 acres, but the individual units require less than 5,000 acres of land. Unless the bill can be made more specific in this regard, it will be difficult to accurately assess the true scope and effect of the proposed legislation, assuming, of course, that the bill is applicable.

It is our view that all interests of the public and the Government in powersite lands are adequately safeguarded under existing laws and procedures, and that no useful purpose would be served by placing a 5,000-acre statutory limitation on reservations or withdrawals of such powersite lands.

The provisions of section 24 of the Power Act contemplate use of powersite lands for purposes other than power either concurrently with its use for power purposes or until such time as a particular parcel of

90158—62——4

SRP04799

powersite lands is required exclusively for power purposes. Concurrent or interim use is accomplished under the following provisions of section 24:

"* * * Whenever the Commission shall determine that the value of any lands of the United States so applied for, or heretofore or hereafter reserved or classified as powersites, will not be injured or destroyed for the purposes of power development by location, entry, or selection under the public land laws, the Secretary of the Interior, upon notice of such determination, shall declare such lands open to location, entry, or selection, for such purpose or purposes and under such restrictions as the Commission may determine, subject to and with a reservation of the right of the United States or its permittees or licensees to enter upon, occupy, and use any part or all of said lands necessary, in the judgment of the Commission, for the purposes of this part, which right shall be expressly reserved in every patent issued for such lands; and no claim or right to compensation shall accrue from the occupation or use of any of said lands for said purposes. The United States or any licensee for any such lands hereunder may enter thereupon for the purposes of this part, upon payment of any damages to crops, buildings, or other improvements caused thereby to the owner thereof, * * *."

Up to July 1, 1960, lands of the United States which have been classified, reserved, or withdrawn for power purposes totaled about 9,612,000 acres of which about 2,395,000 acres have been removed from such reserves.

The Mining Claims Rights Restoration Act of 1955 (69 Stat. 681), provides for the location and patent for mining purposes of powersite lands which are not included in an outstanding permit or license. Furthermore, powersite lands may be used for other than power purposes, such as grazing, oil and gas production, timber harvesting, sand and gravel removal, and many other purposes under land use permits, leases, or rights-of-way stemming from various acts of Congress.

Section 4(e) of the Federal Power Act provides that licenses shall be issued within any reservation only after a finding by the Commission that the license will not interfere or be inconsistent with the purpose for which such reservation was created or acquired, and shall be subject to and contain such conditions as are deemed necessary for the adequate protection and utilization of such reservation.

From the standpoint of our primary concern with hydroelectric power matters under the Federal Power Act and related acts of Congress, we believe, for the reasons stated above, that a 5,000-acre limitation on powersite reservations or withdrawals is not needed, and that such a limitation could prove detrimental to effective development and utilization of the Nation's waterpower resources.

While we do not construe this bill as affecting the Commission's functions under the Federal Power Act relating to powersite lands, we suggest that it be amended to expressly state that nothing therein shall be construed as modifying or repealing any of the provisions of the Federal Power Act.

FEDERAL POWER COMMISSION,
By JEROME K. KUYKENDALL, *Chairman.*

Applications for permit or license filed since July 1, 1954, which effected withdrawals of more than 5,000 acres of Government land [1]

Project			Applicant	Location		Ultimate installed capacity, kilowatts
No.	Application [2]	Name		Stream	State	
2101	L	Upper American	Sacramento Municipal Utility District.	Rubicon River, South Fork American River.	California	204,200
2114	L	Priest Rapids, Wanapum	Public Utility District No. 2 of Grant County, Wash.	Columbia River	Washington	2,591,600
2179	L	Bagby, Exchequer, Snelling	Merced Irrigation District	Merced River	California	166,000
2193	P	Lower American	Sacramento Municipal Utility District.	American River	do	114,000
2215	P	Wood Canyon	Central Alaska Power Association, Inc.	Copper River	Alaska	1,100,000
2235	P	Ben Franklin	Washington Public Power Supply	Columbia River	Washington	600,000
2243	L	High Mountain Sheep	Pacific Northwest Power Co	Snake River	Idaho-Oregon	1,750,000
2246	P	Greater Yuba	County of Yuba	Yuba River	California	298,000
2248	L	Bridge Canyon, Marble Canyon	Arizona Power Authority	Colorado	Arizona	1,390,000
2259	L	Round Butte	Portland General Electric Co	Deschutes River	Oregon	247,050
2260	P	Squaw Hollow, Collierville	Calaveras County Water District	North Fork Stanislaus	California	333,000
		Total				8,793,850

[1] This table may not include all applications of this type because investigations of Government lands affected have not been completed for all applications filed since July 1, 1954.

[2] L, application for license. P, application for preliminary permit.

SRP04801

ATOMIC ENERGY COMMISSION,
Washington, D.C., June 6, 1961.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. ASPINALL: This is in response to your letter of February 27, 1961 requesting a report on H.R. 4060, a bill to provide that withdrawals and reservations of public lands for nondefense uses shall take effect only upon certain conditions, and for other purposes.

As we understand H.R. 4060, it provides that no public lands withdrawals, reservation, exclusion, or use permit, or renewal or extension thereof, for any public purpose, by any department or agency of the Government, will be effective until the expiration of 60 calendar days from the date on which the head of the department or agency having administrative jurisdiction over the lands proposed to be affected shall have notified the Committees on Interior and Insular Affairs of the Senate and House of Representatives of the nature and scope of the proposal and of his concurrence therein. Excepted from the application of this bill are public land proposals as to which the abovementioned committee, or, when Congress is not in session, the chairman and ranking minority member of each of the committees shall approve on an earlier date, and also land withdrawals of less than 5,000 acres in the aggregate for any one project or facility. The bill also contains other restrictions and conditions applicable to the withdrawal or reservation of public lands.

The Atomic Energy Commission does not oppose enactment of H.R. 4060.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

A. R. LUEDECKE, *General Manager.*

ATOMIC ENERGY COMMISSION,
Washington, D.C., June 6, 1961.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. ASPINALL: This is in response to your requests of February 22, 1961, and April 19, 1961, for reports on H.R. 1785, H.R. 3342, and H.R. 6377, identical bills to require an act of Congress for public land withdrawals in excess of 5,000 acres in the aggregate for any project or facility of any department or agency of the Government.

The proposed legislation would amend sections 1 and 2 of Public Law 85-337, approved February 28, 1958. The effect of the amendment would be to extend the provisions of that law to any department or agency of the Government, including the Commission. Thereafter, withdrawals and reservations of public lands for the use of the Commission, where such action would involve 5,000 acres or more in the aggregate for any one project or facility, could be accomplished only by act of Congress.

SRP04802

Commission research and development programs sometimes require testing of experimental reactors or detonation of nuclear devices. For example, tests of experimental reactors have been required in the development of reactor propelled rockets; detonations of nuclear devices will be required in Plowshare experiments and in determining seismic detection capabilities. For security reasons, or to insure adequate protection of public health and safety, it is often necessary to conduct these tests on large tracts of land from which the public is excluded. The most desirable areas are often located on the public lands. Under present procedures, arrangements for access to and reservation of the necessary public lands for the Commission's use can be accomplished rapidly. If, however, such reservations must be accomplished by act of Congress, some Commission research and development programs may be delayed for extended periods. For example, should the Commission have to conduct seismic detection experiments, the program in which prompt action is most likely to be essential, and the necessary geological conditions exist only on public lands, a minimum delay of 3 or 4 months could be experienced if Congress was not in session when the need for the experiments arose.

In addition, under existing procedures the publication of an application to withdraw public lands operates to segregate the lands included in the withdrawal application. Other parties may not, thereafter, establish rights in the segregated lands until the withdrawal application is acted upon and denied. The proposed bills do not appear to provide a similar procedure for preventing others from establishing rights in public lands subsequent to requests by a Government department or agency for legislation to withdraw the public lands.

In view of these considerations, the Commission believes legislation of the type proposed in H.R. 4060 introduced by you on February 9, 1961, which provides a mechanism for prompt withdrawals when that is necessary in the national interest and also preserves the segregation effect of applications for withdrawals of public lands is preferable to that proposed in H.R. 1785, H.R. 3342, and H.R. 6377.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

A. R. LUEDECKE, *General Manager.*

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, May 31, 1962.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of the Department of Defense with respect to H.R. 8783, a bill to provide a uniform policy and procedure for the withdrawal, reservation, or restriction of public lands, including lands of the Outer

SRP04803

Continental Shelf, and for other purposes. The Secretary of Defense has delegated to this Department the responsibility for expressing the views of the Department of Defense.

It is understood that H.R. 8783 will replace H.R. 1785, H.R. 3342, H.R. 6377, H.R. 5252, and H.R. 4060, concerning which your committee has previously held hearings. In this connection, reference is also made to the comments of this Department and draft of bill handcarried to you on or about August 8, 1961.

The Department of the Air Force, on behalf of the Department of Defense, concurs in general with the purpose of H.R. 8783 insofar as military requirements are concerned, and would interpose no objection to its enactment, subject however to amendment as set forth below.

The following technical amendments are recommended in the interest of clarity and simplicity:

1. Delete "or" following the semicolon in clauses (1), (2), (3), (4), and (5), section 2.

2. Delete "and" following the semicolon in clause (6), section 3.

3. Substitute "clause" for "paragraph" in line 11, section 3, and line 11, section 4.

4. Substitute the numerals (1), (2), (3), (4), and (5) for the letters (a), (b), (c), (d), and (e), respectively, to designate the clauses in section 5; delete "the term" following each numeral; and substitute the capital letters (A), (B), and (C) for the numbers (1), (2), and (3), respectively, in lines 9 and 11 on page 7.

5. Delete lines 15, 16, 17, 18, and that portion of line 19 preceding the comma, clause (2), section 2, and substitute the following:

> "(2) in time of war, or of national emergency hereafter declared by the Congress or the President, the withdrawal, reservation, or restriction is made for defense purposes by the President or by a military department, * * *"

6. Revise section 6 to read "The President may issue such regulations as he considers necessary to insure uniform administration of this Act."

7. Delete "hereby" from line 19, section 7.

8. Substitute "Becomes effective" for "shall take effect," and delete "its," line 20, section 8, and insert a comma following "enactment," line 21.

9. Delete section 9 and substitute the following: "If a provision of this Act is invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid applications."

The committee's attention is also invited to section 4, which provides that no application for a withdrawal, reservation, or restriction other than a withdrawal, reservation, or restriction to which clause 1, 2, 3, 6, or 7 of section 2 is applicable, shall have the effect of segregating such lands until notice of such application has been filed for publication in the Federal Register, and such segregative effect shall cease 1 year from the date of application or such earlier date as the head of the department or agency having administrative jurisdiction over the lands involved may determine, unless the application is renewed and notice of such renewal is given to the President of the Senate and the Speaker of the House of Representatives and published in the Federal

SRP04804

Register. Section 4 would appear to apply only to a withdrawal, reservation, or restriction to which clause (4) or (5) of section 2 is applicable. Existing law and regulations would not be changed with respect to a withdrawal, reservation, or restriction to which clause (1), (2), (3), (6), or (7) is applicable, and segregation with respect to these categories which become effective upon the filing of an application for withdrawal, reservation, or restriction with the Department of the Interior.

Section 4 is objectionable for the following reasons:

(1) The established procedure whereby lands become immediately segregated for withdrawal, reservation, or restriction when the application is noted on the tract book of the appropriate land office of the Department of Interior is a sound antispeculative measure. This procedure protects the United States by preventing the filing of claims after the application is submitted. With respect to a withdrawal, reservation, or restriction to which clauses (4) and (5) of section 2 are applicable, section 4 would make it possible for claims to be filed after an application is submitted to the Department of the Interior, but prior to the effective date of segregation. Since this would not be in the best interest of the United States, it is recommended that the procedures established under existing law and regulations not be changed, so that segregation will become effective upon the submission of an application to the Department of the Interior with respect to clauses (4) and (5) of section 2 as well as the other clauses. Should Congress adopt this view, uniformity would be obtained as to the effective date for segregation. Attention is invited to the fact that Congress would still have the opportunity for the review contemplated by the bill, and the "withdrawal, reservation, or restriction" with respect to clauses (4) and (5) of section 2 would not become effective until Congress had had the opportunity to act.

(2) The Department of Defense does not oppose the purpose of the provision which would terminate the segregative effect of an application with respect to clauses (4) and (5) of section 2, but the provision that the segregative effect shall cease at the expiration of 1 year could jeopardize a Federal program in the event claims were filed between the time segregation ceased and legislation was enacted to withdraw the land. It is suggested that a 3-year period of segregation would be more reasonable.

(3) It is suggested that earlier termination of the segregative effect should, more appropriately, be determined by the head of the agency initiating the withdrawal rather than the head of the agency having administrative jurisdiction over the lands involved. In view of the foregoing, it is recommended that section 4 be revised as follows:

"The filing of an application with the Department having administrative jurisdiction over land proposed for withdrawal, reservation, or restriction shall have the effect of segregating such land from settlement, location, sale, selection, entry, lease or other form of disposal under the public land laws, including the mining and mineral leasing laws. Such segregative effect shall, with respect to withdrawal, reservation, or restriction, to which clause (4) or (5) of section 2 of this Act is applicable, cease three years from the date of application or such earlier date as the head of the department or agency filing the application for such withdrawal, reservation, or restriction may determine, unless not more than 90 days nor less than 60 days

SRP04805

prior to the expiration of such three year period, the application is renewed and notice of such renewal, including a statement of the necessity for continued segregation, is given to the President of the Senate and the Speaker of the House of Representatives and filed for publication in the Federal Register."

Section 5 includes within the meaning of withdrawal, reservation, or restriction any permit for the use of public lands or national forest lands. Military requirements for use of large areas of public land for a one-time, specific purpose such as maneuvers, are often of short duration. To include one-time, short duration use of public lands within the scope of the bill could prove to be burdensome. Accordingly, it is recommended that section 5 be amended by inserting "for a period in excess of one year" following "lands" in line 20.

In the past Congress has recognized the military requirements for the various areas over the Federal lands and waters of the Outer Continental Shelf and off the coast of Alaska, and the importance of these areas as they relate to the national defense. This recognition is reflected in section 12(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)) which provides in part:

"(d). The United States reserves and retains the right to designate by and through the Secretary of Defense, with the approval of the President, as areas restricted from exploration and operation that part of the Outer Continental Shelf needed for national defense; * * *"

The importance of the areas was again recognized in clause (3) of section 1 of the act of February 28, 1958 (Public Law 85-337; 43 U.S.C. 155) which provides:

"(3) nothing in this Act shall be deemed to be applicable to the warning areas over the Federal lands and waters of the Outer Continental Shelf and Federal lands and waters off the coast of the Territory of Alaska reserved for use of the military departments prior to the enactment of the Outer Continental Shelf Lands Act (67 Stat. 462); and"

Because of the current world situation the need for the various areas for defense purposes is greater now than at any other time in the history of our Nation. Since section 7 would repeal section 1 of the act of February 28, 1958, the Department of Defense strongly urges that Congress preserve the status of these areas, together with the other areas provided for in clauses (2) and (4) of section 1 of the act of February 28, 1958, by adding a new section to H.R. 8783 using substantially the same language as contained in clauses (2), (3), and (4) of that act. The Department of Defense, while emphasizing the importance of these areas for defense purposes, recognizes the the importance of developing the mineral resources of the Outer Continental Shelf. Accordingly, a provision should be included in the bill which would insure maximum exploration and exploitation of the mineral resources within the Outer Continental Shelf areas excluded from the requirements of the bill and limited only when such exploration or exploitation would be inconsistent with defense requirements. It is therefore recommended that the bill be amended by adding a new section 5 after line 2 on page 7, and renumbering the succeeding sections accordingly. The new section should read as follows:

SRP04806

"SEC. 5. (a) Nothing in sections 2, 3 or 4 of this Act shall be deemed applicable—

(1) to the withdrawal or reservation of public lands specifically as naval petroleum, naval oil shale, or naval coal reserves;

(2) to the Federal lands of the Outer Continental Shelf required for use by the military departments;

(3) to those reservations or withdrawals which expired due to the ending of the unlimited national emergency of May 27, 1941, and which are now used by the military departments with the concurrence of the Department of the Interior; or

(4) to the withdrawal of public domain lands of the Marine Corps Training Center, Twentynine Palms, California, and the naval gunnery ranges of the State of Nevada designated as Basic Black Rock and Basic Sahwave Mountain.

(b) The Secretary of the Interior, may, with the concurrence of the Secretary of Defense, grant mineral leases pursuant to the provisions of the Outer Continental Shelf Lands Act (43 U.S.C. 1332–1343) and subject to such other terms and conditions as they shall agree upon within any of the areas excluded by clause (2) of Section 5(a) of this Act."

Finally, the Department of Defense recommends that the committee obtain the views of the Department of Justice regarding the constitutionality of sections 2(5) and 2(7) of the bill, which appear to present questions of constitutionality discussed in the Attorney General's Opinion of August 8, 1957 (41 Op. Atty. Gen. 47).

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

GEORGE S. ROBINSON,
Deputy Special Assistant for Installations.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., June 1, 1962.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: This is in reply to your request of August 21, 1961, for a report on H.R. 8783, a bill to provide a uniform policy and procedure for the withdrawal, reservation, or restriction of public lands, including lands of the Outer Continental Shelf, and for other purposes.

We do not favor enactment of this bill in its present form.

H.R. 8783 expresses its purpose to assure that unnecessary and unjustifiably extensive withdrawals and reservations from, or restrictions upon, the lands owned by the United States are not made.

H.R. 8783 would require an act of Congress to make effective any withdrawal, reservation, or restriction of public land, unless—

SRP04807

(1) The withdrawal, reservation, or restriction together with like actions for the same project or facility within the preceding 5 years affects less than 5,000 acres;

(2) the action is taken for defense purposes during a time of war or unlimited national emergency;

(3) the action is in connection with a project specifically authorized by Congress and which contemplated the action;

(4) the action is in aid of pending legislation;

(5) neither the Senate nor House Committee on Interior and Insular Affairs concludes that the action materially affects the public interest and within 60 days following receipt of notice of the proposed action so signifies by ordering the introduction of, or favorably reporting upon, a bill to approve or disapprove the action;

(6) the action is for defense purposes during a period when Congress is in adjournment for more than 3 days and the Secretary of Defense certifies to the President of the Senate and the Speaker of the House that delay would be prejudicial to the national security; or

(7) both the Senate and House Committees on Interior and Insular Affairs conclude that the action does not materially affect the public interest and so notify the officer or agency of the Government proposing the action.

H.R. 8783 would require that, except for those to which the foregoing item (1) is applicable, notice of any proposed withdrawal, reservation, or restriction shall be given to the President of the Senate and the Speaker of the House of Representatives and shall be published in the Federal Register. Such notice would include, among other things, specific detailed information regarding the acreage, location and description, present uses, purpose of action, period of withdrawal, extent the proposed use will affect operation of the public land laws and the development and utilization of the resources, possibility of contamination of the area by the proposed use, relationship of proposed use with State water rights, and whether nonpublic land within the exterior boundaries of the area has been or will be acquired.

The bill would also provide that no application for withdrawal, reservation, or restriction other than those to which items (1), (2), (3), (6), or (7) above would apply would have the effect of segregating the land from disposition under the public land laws, including the mining laws, until notice of application is filed for publication in the Federal Register; and if the application is not acted on in 1 year, notice of renewal including a statement of the need for continued segregation would be given to the President of the Senate and the Speaker of the House of Representatives and would be published in the Federal Register.

The bill would supersede and repeal sections 1, 2, and 3 of the act of February 28, 1958 (72 Stat. 27) pertaining to withdrawals for the Department of Defense for defense purposes.

The term "withdrawal, reservation, or restriction" is defined to include withdrawals and reservations of lands commonly referred to as public domain and also any permit for the use of any national forest lands.

SRP04808

Lands owned by the United States are withdrawn in aid of various programs of this Department. But the withdrawals with which we are mainly concerned are those pertaining to the national forests.

H.R. 8783 would apply to four different types of withdrawal or reservation actions in connection with the national forests. It would apply to primary withdrawals of unreserved public domain for national forests; it would apply to secondary withdrawals of national forest lands needed by other agencies in furtherance of their activities; it would apply to secondary withdrawals of national forest lands requested by this Department for purposes related to the national forests; and it would apply to land use permits for national forest lands.

The provisions of the bill which would affect secondary withdrawals of national forest lands for purposes related to the national forests and those which would affect land use permits on national forest lands give us the greatest concern.

The exact application the bill would have upon secondary withdrawals of national forest lands requested by this Department for purposes related to the national forests would depend upon the interpretation of the term "for the same project or facility" in paragraph (1) of section 2. These withdrawals are requested for various purposes and for many separate and distinct installations. The purposes include those for ranger stations and other administrative and fire protection facilities, public use areas such as picnic and recreation areas and campgrounds, areas of historic and scientific importance such as forest and range research areas, and areas of public interest from the scenic or esthetic standpoint such as roadside strips along highways. Questions would arise as to whether requests for withdrawals for these various purposes or for the separate installations within these purposes would be "for the same project or facility." If the withdrawal requests were to be considered cumulatively, a question would arise as to whether the ranger district, the national forest, or some other administrative unit should be considered as the project area. The individual areas involved in such withdrawals are usually small, but they are quite numerous. With the anticipated expansion of national forest recreation use and of public transportation systems, including major highways involving national forest lands, additional withdrawals of this kind will be essential to protect the public interest.

Such withdrawals generally do not change the basic status or administration of the lands involved and do not prevent public use. Public domain lands withdrawn for national forests are not subject to disposition under the general land laws but generally are subject to location and entry under the mining laws. These secondary withdrawals give particular areas protection against mining locations which would interfere with public use or needs.

Prompt and continuous segregation of such lands from appropriation under the mining laws following application for such withdrawals is essential. This is necessary to forestall the filing of mining claims on national forest lands needed in recreation, research, or other public projects after such projects have been announced. Under present procedures, the filing of a withdrawal application with the manager of the U.S. land office and his posting of it on the land records acts to segregate such lands. We strongly urge that this procedure be

SRP04809

continued. Lack of immediate and continuing segregation of the lands would permit filing of claims, including nuisance claims, in much greater numbers than under the present procedure and so add measurably to the cost and work of protecting the public needs in the lands involved.

We believe that the restriction which the bill would place on issuance, renewal, or extension of land use permits for national forest lands are undesirable and unnecessary. Various types of permits are issued for the use of national forest lands, including not only the so-called permits for other Federal departments or agencies to use portions of the national forests in connection with their programs or operations, but also permits for such uses as grazing, summer homesites, and other types of occupancy. Where expressly authorized by statute some of these permits may be for specific terms of years. Most commonly they are terminable and include conditions to protect the national forests and the public interest. They usually do not exclude other uses except where security, safety, or the particular type of use permitted make exclusions necessary. Most of the permits are for small areas but the number of permits issued for each national forest or ranger district is usually large.

Withdrawals and reservations of public lands require intensive field studies of the lands involved and technical determination of the need for and suitability of the lands for the purposes intended. Correlation of existing and intended uses of designated lands, and possible surrounding or adjoining lands as well, is essential. These studies and determinations and this correlation in the public interest particularly with respect to secondary withdrawals of national forest lands for purposes related to the national forests and to land use permits can best be accomplished by the executive agencies involved. Review functions as to these could be performed by the Interior and Insular Affairs Committees under arrangements similar to those now in effect. Enactment of H.R. 8783, which would require separate notice with detailed information for each application for each withdrawal, reservation, or restriction in excess of 5,000 acres, would add measurably and we believe unnecessarily to both the workload of this Department and of your committee.

We do not believe that H.R. 8783 is intended to apply to areas needed in the construction and maintenance of the national forest road and trail system, in the forest highway program, or in the State and Federal-aid highway programs. Easements are issued in connection with some of the lands needed in these road programs. Permits are relied upon in connection with others. And, of course, for the forest development roads and trails no actual permits are issued and generally no formal withdrawal requests are made.

If H.R. 8783 is considered favorably we recommend that it be amended so as to remove the restrictions it would place on secondary withdrawals or reservations for administrative purposes of the agency having primary jurisdiction of the land and to remove the restrictions it would place on issuance, renewal, or extension of land use permits on national forest lands. This can be accomplished as follows:

Page 7, line 8, place a comma after the word "lands" and insert the words "other than secondary withdrawals or reservations requested by the agency having primary jurisdiction of the land for purposes related to its administration thereof,".

SRP04810

Page 7, lines 19 and 20, strike the words "any permit for the use of public lands or national forest lands;".

Page 7, lines 21 and 22, insert the word "or" before the word "restriction", change the comma at the end of line 21 to a semicolon, and strike the words "or permit;".

Page 8, lines 8–11, strike subsection (d).

Page 8, line 12, redesignate "(e)" as "(d)".

The Bureau of the Budget advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., May 31, 1962.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill H.R. 8783, to provide a uniform policy and procedure for the withdrawal, reservation, or restriction of public lands, including lands of the Outer Continental Shelf, and for other purposes.

The bill would, in substance, impose the requirements of sections 1, 2, and 3 of the act of February 28, 1958 (75 Stat. 27; 43 U.S.C. 155, 156, and 157), which apply to the withdrawal, reservation, or restriction of public lands for the use of the Department of Defense for defense purposes, on all withdrawals, reservations, or restrictions of public lands not within the exceptions of the act. The bill would repeal sections 1, 2, and 3 of the act.

The bill would appear to have the general effect of placing additional duties upon the Congress as to the disposal or the use of public lands and to curtail correspondingly the authority of the executive branch. The President would be authorized to issue regulations to insure uniform administration of the provisions of the bill, and as to the withdrawal, reservation, or restriction of public lands excepted from the requirement of approval by act of Congress, the objective of uniformity of administration would be the responsibility of the executive branch. However, as to withdrawals, reservations, or restrictions of public lands not excepted from the bill, the first section of the bill provides that the purposes of the bill are to be attained not only through congressional action, but also through the exercise "by duly authorized committees" of the powers of Congress to dispose of, and to make needful rules and regulations governing the use of, lands and resources. Express provision for disposal and the making of rules and regulations by such committees is not contained in the bill, and such provision may be in contemplation at the time Congress confers authority upon its committees. In such event, the result would be to delegate legislative powers to the committees and to divide between the congressional committees and the executive branch the enforcement and administration of the law, raising question with respect to the constitutional separation of governmental functions.

SRP04811

Clauses (5) and (7) of section 2 of the bill are objectionable from the standpoint of infringement of the constitutional powers of the executive branch. The two clauses are so closely allied in substance as to require consideration of them together. Their effect would be to permit a withdrawal proposed by the executive branch with the consent of the Senate and House committees, the consent to be manifested either affirmatively (clause (7)) or by inaction for 60 calendar days (clause (5)). Although those clauses do not specify that the committees are to approve or disapprove the withdrawals, their effect is in substance the equivalent. The provision for obtaining consideration by the Congress in the event of committee disapproval of immediate withdrawal is of no legal significance, in this respect.

This Department, in view of the foregoing, objects to enactment of the bill.

If the bill were to receive favorable consideration, it is recommended that consideration be given to substituting for the objectionable provisions a provision requiring consultation by the executive branch with the appropriate congressional committees prior to withdrawal; e.g., 10 U.S.C. 7426(e), or a provision requiring that a proposed withdrawal should not take effect until the expiration of a specified number of days after notice to the Congress; e.g., 10 U.S.C. 2662. Such provision would not be subject to objection on constitutional grounds, and would provide substantially for the legislative oversight sought by the bill.

Mention should also be made as to the need for deleting the words "and waters" from the definition of "shelf lands" in clause (c) of section 5. Only lands beneath the navigable waters over the Outer Continental Shelf are included in the definitions referred to (43 U.S.C. 1331 and 1332(a)).

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

NICHOLAS DEB. KATZENBACH,
Deputy Attorney General.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., May 31, 1962.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. ASPINALL: This responds to your request for the views of this Department on H.R. 8783, a bill to provide a uniform policy and procedure for the withdrawal, reservation, or restriction of public lands, including lands of the Outer Continental Shelf, and for other purposes.

We object to the enactment of this bill, unless amended as set out below.

H.R. 8783 would in effect supersede the first three sections of the act of February 28, 1958 (72 Stat. 27; 43 U.S.C., 155–157). These

SRP04812

sections of the 1958 act provide, with certain exceptions, that approval by act of Congress is necessary to withdraw public lands for defense purposes, if the project involved in the withdrawal would thereafter embrace more than 5,000 acres in the aggregate for any one defense project or facility of the Department of Defense. H.R. 8783, with certain exceptions would extend the requirement of congressional approval to nonmilitary withdrawals embracing more than 5,000 acres in the aggregate.

Section 1 of H.R. 8783 indicates its purpose to prevent "unnecessary or unjustifiably extensive withdrawals and reservations of lands owned by the United States" from disposition and use of the lands or from development and exploitation of their resources under applicable laws and regulations.

Section 2 of the bill would relax the stringency of the requirement on congressional approval by listing several exceptions. One exception relates to withdrawals in aid of pending legislation. Provision is also made in section 2 of H.R. 8783 for determinations by the congressional committees involved that a particular proposed withdrawal does not so affect the public interest as to necessitate congressional consideration as provided by the bill.

The special character of defense withdrawals, the extensive areas embraced by them, the growth of the Nation's military requirements, and at times the urgency of decisionmaking have been a cause for particular concern. Under any circumstances, it is difficult to appraise national military requirements in comparison with the need for full development and use of the natural resources of the public lands. The partial relaxation of the present statutory requirement of congressional approval of defense withdrawals by the addition of the exceptions provided for in H.R. 8783 should prove of benefit in achieving a greater degree of administrative flexibility in withdrawing public lands needed for national defense purposes.

There is no question but that at times in the past, the Department of Defense used its withdrawal authority excessively and unwisely. However, during the period beginning with Theodore Roosevelt's Presidency the executive withdrawal power has been one of the chief tools of conservation, and many of our finest national parks and wildlife refuges were originally preserved and protected by the wise use of this executive authority.

A review of the history of the Antiquities Act of 1906 (34 Stat. 225, 16 U.S.C. 431) shows clearly that the power granted under this act has been used to assist the Congress in some of the major conservation accomplishments of this century. To name a few: Grand Canyon, Olympic, Teton, Zion, Bryce, and Carlsbad National Parks were originally preserved as national monuments in order to give Congress a full opportunity later to consider their eligibility for full national park status. Wise and timely use of this executive power has also resulted in the establishment of many of our outstanding wildlife refuges such as Wichita Mountains, Tule Lake, Fish Springs, and Red Rock Lakes.

Reclamation withdrawals again demonstrate the need to preserve this authority in the executive branch of our Government and that this delegation be exercised cautiously. Carefully considered withdrawals at the planning stage, long prior to congressional authorization

SRP04813

for a project, will continue to mean tremendous financial savings to the taxpayers.

It is the view of this Department that these executive powers should, at present, be used sparingly and only after the most careful consideration has been given to all of the values involved, but it is unquestionable that such power can still be one of the principal conservation tools used to preserve a rich heritage of public lands for future generations.

Our regulation, 43 CFR 295.12, requires publication in the Federal Register of proposed withdrawals to give ample public notice and provide a suitable forum in which the Department can fully evaluate any proposed land use before final action is taken on a withdrawal application. The notice must give the public the opportunity to object to, or comment on, the proposed withdrawal. The regulation requires sufficient publicity to inform the interested public of the proposed withdrawal, and a public hearing when appropriate.

This Department's facilities and experience permit it to provide this type of detailed study and evaluation of the need for withdrawals and their impact on other land values in the areas concerned.

Our review of such withdrawals must be guided by the policies, criteria, and other guidelines established by statutes of the Congress. It appears to us preferable that the Congress maintain an adequate control over public land withdrawals through statutory guidelines and "oversight" procedures rather than require the Congress as a routine matter to make specific decisions on proposed nonmilitary withdrawals of more than 5,000 acres.

The area involved in a withdrawal may have little relation to its effect on resource development and enjoyment or its impact on local communities. Only by a thorough and detailed evaluation of resource values and public needs, related to the specific area affected, can a reliable determination be reached as to what uses are appropriate and how they can best be combined.

During the decade between 1950 and 1960 there have been as many as 14 withdrawals in a single year of more than 5,000 acres each. There are now pending about 80 applications for nondefense withdrawals exceeding 5,000 acres each, embracing in the aggregate over 15 million acres of land. The processing of withdrawal requests is very time consuming. A considerable burden would be placed on the Congress if its prior approval were required for these withdrawals.

We have had informal arrangements with the interested committees of Congress to keep them currently informed of the extent and status of withdrawals. We believe this arrangement works well and avoids the more rigid provisions of a statutory requirement.

We recommend, therefore, the amendment of the bill to limit its operation to withdrawals, reservations, or restrictions for defense purposes only. It would be best also to revise section 4 of H.R. 8783 which would limit the segregative effect under our regultions, 43 CFR 295.11, of any withdrawal applications not covered by the exceptions (1), (2), (3), (6), or (7) of section 2 of H.R. 8783.

Under section 4, the segregative effect would only commence with the filing of the notice of the application for publication in the Federal Register. The segregation of land under this Department's regulations, 43 CFR 295.11, at time of notation of the application on the public records is a preferable rule. It provides actual and construc-

SRP04814

tive notice at an office which is open to the public and is the general office of record for those who have an interest in or use and seek to acquire title to public lands under the public land and mineral laws. Although publication in the Federal Register is a procedure which is followed under existing regulations for the purpose of allowing objections to be heard, we feel that the risk of adverse appropriation of lands needed for a Federal land program would be of serious concern to agencies seeking withdrawals for programs which have legislative sanction, if the segregation was not effected at the earliest possible date.

We feel that limitations on the segregative effect are undesirable for the reason that a clerical error or oversight could lead to loss of protection to Federal lands for which some agency has a continuing Federal need. Under present delegations of authority, it seems further undesirable because it would place this Department in a position to jeopardize or embarrass inadvertently the program of another agency by failure to act quickly on an application or to take the action specified by section 4. We believe that to safeguard the public interest the segregative effect of an application should continue indefinitely pending final action on an application for withdrawal.

The question of water rights raised by subsection (8) of section 3 of H.R. 8783 is one directly posed by other pending legislation, e.g., H.R. 151, H.R. 5078, H.R. 5207, and H.R. 5224. We believe that the issue will be considered fully in connection with such proposed legislation. Consequently, we recommend that subsection (8) of section 3 be deleted from the bill.

We believe that the withdrawal restrictions envisaged by H.R. 8783 are not intended to, and would not, apply to the mineral and other classifications made by this Department under the various public land laws. Similarly, it is our view that H.R. 8783 is not intended to, and would not, restrict the appropriation and use of public lands by Federal agencies for such purposes as transmission line rights-of-way and substations of the Bonneville Power Administration, the other power marketing administrations of the Department and the Bureau of Reclamation.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

ATOMIC ENERGY COMMISSION,
Washington, D.C., May 31, 1962.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. ASPINALL: This is in response to your request of August 21, 1961, for a report on H.R. 8783, a bill to provide a uniform policy and procedure for the withdrawal, reservation, or restriction of public lands, including lands of the Outer Continental Shelf, and for other purposes.

SRP04815

As we understand this bill, it would repeal sections 1, 2 and 3 of Public Law 85–337, and substitute procedures for all Federal agencies relating to the withdrawal, reservation, or restriction of public lands. Among other things, the bill would provide that no such action could become effective until approved by act of Congress, unless one of seven conditions were met. These conditions include (*a*) that less than 5,000 acres has been withdrawn over the preceding 5 years for the same project; (*b*) that neither the Senate nor House Committee on Interior and Insular Affairs, within 60 days following notice of the proposed action, introduces or favorably reports upon a bill concerning the proposed withdrawal (there are excluded from this 60-day period those days on which either the Senate or the House of Representatives is not in session); and (*c*) that both such committees interpose no objection to the withdrawal and so notify the agency concerned. The bill also provides for specific information to be included in the notice of proposed withdrawal and limits the segregative effect of an application for withdrawal to a maximum of 1 year, subject to renewal of the application.

Commission research and development programs sometimes require testing of experimental reactors. For example, tests of experimental reactors have been required in the development of reactor propelled rockets. For security reasons, or to insure adequate protection of public health and safety, it is often necessary to conduct these tests on large tracts of land from which the public is excluded. The most desirable areas are often located on the public lands. Under present procedures, arrangements for access to and reservation of the necessary public lands for the Commission's use can be accomplished rapidly. If, however, such reservations must be accomplished by act of Congress, some Commission research and development programs may be delayed for extended periods. For example, should the Commission have to conduct one of the above-mentioned experiments, and the necessary geological conditions exist only on public lands, a minimum delay of 3 or 4 months could be experienced if Congress was not in session when the need for the experiments arose.

We recognize that the bill contains seven exceptions to the requirement that public land withdrawals be approved by act of Congress, some of which have been listed above. However, we believe these exceptions do not provide sufficient flexibility to take care of possible emergency situations. In view of this fact, the Commission believes legislation of the type proposed in H.R. 4060 introduced by you on February 9, 1961, which provides a mechanism for prompt withdrawals when that is necessary in the national interest, is preferable to that proposed in H.R. 8783. We note, however, that the requirement for filing renewal applications for withdrawal of lands, set forth in section 4 of H.R. 4060, has been relaxed somewhat in H.R. 8783. We regard relaxation of this requirement as desirable.

The Bureau of the Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

DWIGHT A. INK,
Assistant General Manager.

SRP04816

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 2, 1962.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. ASPINALL: We have considered carefully the questions raised by your letter of January 12, concerning the wilderness bill, S. 174, which has been passed by the Senate and referred to your committee.

My assistant and legislative counsel, Max N. Edwards, has been in frequent communication and has discussed this matter with Mr. Milton A. Pearl of your staff. We appreciate your desire to schedule hearings on this bill as soon as possible and we shall cooperate fully with your committee on this matter.

I wish to reemphasize my continued strong support for this legislation. We participated in the consideration of this bill by the Senate Committee on Interior and Insular Affairs, and we have subsequently reexamined it in the form that it passed the Senate. In our judgment, it is a highly significant proposal.

Your letter raises four major questions which we will comment upon separately, as follows:

(1) You request specific comment concerning the effect of section 4 with reference to the extent of the new authority that would be granted for the acquisition of privately owned lands presently within the perimeter of areas under our control that would be included within the proposed wilderness preservation system.

Section 4 would authorize this Department and the Department of Agriculture to acquire privately owned lands within wilderness areas under their respective jurisdictions. Such acquisition would, of course, be subject to the approval of necessary appropriations by the Congress. If the need should arise this authorization would be helpful. However, in those instances where the Congress by special enactments has specifically restricted our land acquisition authority, we would expect to abide by those restrictions. As you know, the Congress has appropriated funds for acquisition of "inholdings" within areas of the national park system from time to time and we presume will continue to do so. So far as wildlife refuges are concerned, this feature of the bill is of relatively minor significance because there has been very little acquisition of "inholdings" in the types of wildlife areas to which this bill relates.

(2) Your letter suggests that it would be helpful if we could furnish information concerning: (*a*) The extent of private holdings within the proposed wilderness areas; (*b*) the estimated cost of acquisition; and (*c*) our estimate of whether the need for acquisition by the Federal Government would be modified in any way by changing the status of the lands from their current position to that of "wilderness."

Concerning the first part (*a*) of this question, because of the fact that the selection of areas which we administer that may be included in the wilderness system will be accomplished over a 10-year period, during which time surveys and findings of fact will be made with respect to the individual areas, it would be impossible for us to advise you at this premature time as to the extent of private holdings within such areas not yet selected or recommended for wilderness status.

SRP04817

The second part (*b*) of this question as to the estimated cost of acquisition also involves a matter that would be virtually impossible to determine until the specific areas are selected in accordance with the procedures set forth in this legislation.

Concerning the third part (*c*) of this question as to whether the need for acquisition by the Federal Government would be modified by changing the status of lands from their current position to that of "wilderness," we have certain views that we hope will be of assistance. These prospective wilderness areas are already within Federal reservations; i.e., national parks, monuments, wildlife refuges, and game ranges. We believe the inclusion of a portion of any such reservation within the wilderness system will not alter materially the present purposes of such areas. Consequently, we see no reason at present that such change in designation should of itself create a need for acquisition of "inholdings."

(3) You request information identifying portions of the national park system, wildlife refuges, and game ranges, and acreages thereof by States that would "appear" to qualify for incorporation into the wilderness system under section 3(c) and (1) and (d).

As indicated in this question, we can only suggest at this time those areas which may "appear" to qualify for review and consideration for possible wilderness status. We enclose, accordingly, a list of the various national park system areas as well as certain wildlife refuge system areas, by States, portions of which may upon further examination, warrant wilderness status, or may not.

We wish to emphasize, however, that in the event of the enactment of this legislation, all of the areas that we administer will be examined and reviewed according to the terms of the bill. It is, of course, possible that some areas, or parts thereof, that are not included in the list, may qualify for wilderness status. Also, some of the areas named may, upon further examination, be found to be unsuitable for wilderness status. It would be impracticable to furnish acreages involved, as at this point we have no way of knowing what portions of the individual park or wildlife refuge areas may be selected hereafter. At this stage we believe that a guess concerning such acreages also would be impracticable.

(4) You request that we indicate the uses that are now allowed within areas under our control that might be incorporated within the wilderness system which would be prohibited under the act as passed by the Senate. You also request the extent of such activities at present and the effect that continuation or expansion of such activities might have.

In answering this question, we are particularly mindful of the first sentence in section 6 of the bill which reads as follows:

"Nothing in this Act shall be interpreted as interfering with the purposes stated in the establishment of, or pertaining to, any park, monument, or other unit of the national park system, or any national forest, wildlife refuge, game range, or other area involved, except that any agency administering any area within the wilderness system shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes as also to preserve its wilderness character."

We believe that, under this provision of the bill, existing uses within areas selected for wilderness status would continue to be

SRP04818

permitted in accordance with applicable law. While existing uses in particular areas or parts thereof will naturally be considered in making our recommendations pursuant to this legislation, we believe this provision in the bill should cause no serious difficulty.

We hope these views will be of assistance to you and to your committee in considering this important measure. If we may be of further assistance, please call upon us. You may be assured of our full cooperation.

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

NATIONAL PARK AND WILDLIFE AREAS

Alaska:
- Aleutian Islands National Wildlife Refuge.
- Arctic National Wildlife Range.
- Clarence Rhode National Wildlife Range.
- Glacier Bay National Monument.
- Izembek National Wildlife Range.
- Katmai National Monument.
- Kenai National Moose Range.
- Kodiak National Wildlife Refuge.
- Mount McKinley National Park.
- Nunivak National Wildlife Refuge.

Arizona:
- Cabeza Prieta Game Range.
- Canyon de Chelly National Monument.
- Chiricahua National Monument.
- Grand Canyon National Monument and Grand Canyon National Park.
- Kofa Game Range.
- Organ Pipe Cactus National Monument.
- Petrified Forest National Monument.
- Saguaro National Monument.
- Wupatki National Monument.

California:
- Death Valley National Monument.[1]
- Joshua Tree National Monument.
- Kings Canyon National Park.
- Lassen Volcanic National Park.
- Lava Beds National Monument.
- Pinnacles National Monument.
- Sequoia National Park.
- Yosemite National Park.

Colorado:
- Black Canyon of the Gunnison National Monument.
- Colorado National Monument.
- Dinosaur National Monument.[1]
- Mesa Verde National Park.
- Great Sand Dunes National Monument.
- Rocky Mountain National Park.

[1] Extends into another State.

SRP04819

Florida: Everglades National Park.
Georgia: Okefenokee National Wildlife Refuge.
Hawaii: Hawaii National Park.
Idaho:
- Craters of the Moon National Monument.
- Yellowstone National Park.[1]

Michigan: Isle Royale National Park.
Montana:
- Fort Peck Game Range.
- Glacier National Park.
- Yellowstone National Park.[1]

Nevada:
- Charles Sheldon Antelope Range.
- Death Valley National Monument.[1]
- Desert Game Range.

New Mexico:
- Bandelier National Monument.
- Carlsbad Caverns National Park.
- White Sands National Monument.

North Carolina: Great Smoky Mountains National Park.[1]
Oregon: Crater Lake National Park.
South Dakota:
- Badlands National Monument.
- Wind Cave National Park.

Tennessee: Great Smoky Mountains National Park.[2]
Texas: Big Bend National Park.
Utah:
- Arches National Monument.
- Bryce Canyon National Park.
- Capital Reef National Monument.
- Dinosaur National Monument.[2]
- Zion National Park.

Washington:
- Mount Rainier National Park.
- Olympic National Park.

Wyoming:
- Grand Teton National Park.
- Yellowstone National Park.[2]

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 17, 1961.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. ASPINALL: Your committee has requested reports on H.R. 293, H.R. 299, H.R. 496, H.R. 776, H.R. 1762, H.R. 1925, and

[1] Extends into another State.
[2] Extends into other States.

SRP04820

H.R. 2008, all of which relate to the establishment of a National Wilderness Preservation System.

We urge the enactment of this proposed legislation for the establishment of a National Wilderness Preservation System. We recommend that it be amended in conformance with a similar proposal, S. 174, and our suggested amendments thereon, as set forth in our report of February 24, 1961, copies of which are enclosed.

Wilderness resources contain basic values and provide undeniable benefits to the American people. Establishment of a wilderness system is in the public interest and we believe the current proposals recognize equitably the various facets to the problem of wilderness preservation. We believe that many if not all of the objections that have been raised in the past to wilderness proposals are resolved by the current bills.

These proposals would delimit the wilderness system to well-defined areas and would prescribe an orderly method for establishment of the system. Also, these proposals prescribe sound procedures applicable to both executive and legislative branches of the Government in determining the particular areas or parts of Federal reservations to be included in the wilderness system.

The Bureau of the Budget has advised that, subject to your consideration of our recommended amendments, the enactment of this proposed legislation would be in accord with the President's program.

Sincerely yours,

JAMES K. CARR.
Acting Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 24, 1961.

Hon. CLINTON P. ANDERSON,
Chairman, Committee on Interior and Insular Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR ANDERSON: Your committee has requested a report on S. 174, a bill to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.

We urge the enactment of this proposal. We suggest hereafter certain minor amendments to the bill that we believe would be desirable.

Wilderness resources contain basic values and provide undeniable benefits to the American people. We believe this has been amply demonstrated from the previous hearings of your committee on wilderness proposals. In our opinion the establishment of a wilderness system, along the lines outlined in this bill, is in the public interest.

This proposal recognizes equitably the various facets to the problem of wilderness preservation. We believe that it resolves many, if not all, of the objections that have been raised in the past to wilderness proposals. It clearly delimits the wilderness system to well-defined areas and prescribes an orderly method for establishment of the system. It prescribes sound procedures applicable to both the executive and legislative branches of the Government in determining the particular areas or parts of Federal reservations to be included in the wilderness system.

The system to be established by this bill would be composed of federally owned lands. Portions of the national park system, wildlife refuges, and game ranges administered by this Department, and portions of the national forests administered by the Department of Agriculture would be included in the system. It should be

SRP04821

noted in this connection that the national park system areas, wildlife refuges, and game ranges that we administer would not be included immediately following enactment of the proposal in the wilderness system. Portions of these areas would be selected and included in this system over a 10-year period, in accordance with prescribed procedures set forth in the bill. In the case of the national forest areas, however, there would be included in the wilderness system immediately upon enactment of the legislation those national forest areas classified by the Department of Agriculture as wilderness, wild, primitive, or canoe. The primitive group of areas, however, would be subject to subsequent review over a 15-year period in order to determine which of these areas should be retained in the system.

One of the major provisions of the bill is contained in section 3(h). This subsection provides that the addition of new wilderness areas to the system or the elimination of the areas from the system that are not specifically provided for by the bill shall be made only after specific authorization by law for such addition or elimination. We believe this requirement is desirable.

Section 2 of the bill contains a statement of policy that would express the desire of the Congress to secure for present and future generations the benefits of an enduring resource of wilderness. Sections 2 and 6 contain the general provisions that would govern the administration of wilderness areas as well as prescribe the purposes and uses of the system. Significantly, the bill provides that the system shall be administered for the use and enjoyment of the American people, in such manner as will leave the system unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of the areas, and the preservation of the wilderness character. This provision is very similar to the requirements now applicable, pursuant to the basic National Park Act of 1916 (16 U.S.C. 1–3), to the national park system. On this point we observe that wilderness type areas constitute an important segment of the national park system and have contributed heavily over the years to the enjoyment by the American people of wilderness values.

We believe that section 6(a) is worthy of special note. This subsection provides that nothing in the act shall be interpreted as interfering with the purposes stated in the establishment of or pertaining to, any park, monument, or other unit of the national park system, or any national forest, wildlife refuge, game range, or other area involved, except that any agency administering any area within the wilderness system shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes and also to preserve its wilderness character. This provision, we believe, has the effect of preserving the status quo to the maximum extent in the management of the Federal reservations in question, subject however to the overall requirement that the administering agencies carry out the essential requirements set forth in the bill for wilderness preservation.

While the bill prohibits, consistently with wilderness preservation, as prescribed in section 6(b), commercial enterprises within the wilderness system, roads, motor vehicles, motorized equipment, et cetera, it provides in section 6(c)(4) that commercial services may be performed within the wilderness system to the extent necessary for activities which are proper for realizing the recreational or other purposes of the system.

In addition to the general provisions relating to administration of the wilderness system, there are specific provisions in the bill that are applicable to national forest areas. These provisions would permit certain uses to continue that are already well established within the forest areas in question. Also, certain additional uses may be authorized by the President upon his determination that such use or uses in the specific area will better serve the interests of the United States and the people thereof than will its denial. In the case of wildlife refuges and game ranges, the bill provides that any existing use or form of appropriation authorized or provided for in the Executive order or legislation establishing such areas and which use exists on the effective date of the act may be continued under such authorization or provision. In this connection, we note that the bill makes no provision for special uses within the national park system. We believe this is appropriate and is consistent with long-established policies and standards established by the Congress for administration of that system.

SRP04822

There are other provisions that are worthy of mention. Boundary adjustments may be made in wilderness areas in accordance with certain prescribed procedures whereby the appropriate Secretary after public notice and hearing, subsequent recommendations to the President and transmittal of such recommendations to the Congress the boundary adjustment may be accomplished if the Congress makes no objection thereto. We note that in the case of areas of the national park system the bill provides for the inclusion of those areas of more than 5,000 acres where such areas exist without roads. The Secretary would be required to determine what portions of the parks would be required for roads, utilities, et cetera. The bill contains no minimum acreage limitations regarding wildlife refuges and game ranges to be included in the system.

We recommend the following amendments to this bill:

(1) On page 5, line 7, strike out the word "ten" and insert in lieu thereof the word "fifteen".

This amendment is suggested in the interest of uniformity. Fifteen years are allowed in the bill for the review of certain national forest areas to determine their suitability for inclusion in the wilderness system. We believe that national park system areas, as well as the wildlife refuges and game ranges, should be governed by the same requirement.

(2) On page 6, line 16, beginning with the word "Further" strike out the language in the sentence up to and including the word "area" in line 20, and substitute in lieu thereof "The purposes of this Act are hereby declared to be within and supplemental to but not in interference with the purposes for which parks, monuments, and other units of the National Park System are administered".

This amendment is desirable in the interest of clarification. It is in harmony with a similar provision relating to national forests in section 3(b)(2).

(3) On page 7, line 10, strike out the word "ten" and insert in lieu thereof the word "fifteen".

As previously explained regarding a similar amendment relating to national parks, this amendment is suggested for the purposes of uniformity. If this amendment is adopted, in the interest of promoting further clarification, the next amendment would be desirable.

(4) On page 7, line 10, insert a period immediately following the word "Act" and strike out the rest of the sentence beginning with ", and" in line 10 and ending with the word "jurisdiction." in line 16.

(5) On page 8, line 10, following the word "shall" insert ", if found to be justified by the Secretary,".

(6) On page 9, revise line 8 to read "(g) Public notice when given by either the Secretary of the".

We consider this amendment to be desirable in the interest of clarification. Subsection (g) provides that "*The* public notice by either the Secretary of the Interior or the Secretary of Agriculture that any areas to be *proposed* under the provisions of this Act for incorporation as part of the wilderness system shall segregate such area from any or all appropriation under the public land laws to the extent deemed necessary by such Secretary." [Italic supplied.] The only requirement for the giving of public notice, however, is contained in subsection (e) concerning modification of boundaries. We believe the language of subsection (g) probably would be limited in application to boundary modifications under subsection (e). On the other hand, it appears that the intent of subsection (g) is to have the provision apply also to new areas. Our amendment is suggested in order to permit the giving of notice, and the segregation of the lands in question from the public land laws pursuant to subsection (g), in the discretion of the particular Secretary. There would be no need to give notice or use the authority under subsection (g) to segregate the lands within the national park system from the public land laws as these areas are already segregated from such laws.

(7) On page 9, line 22, following the word "any" insert the word "new".

This is a clarifying amendment.

(8) On page 10, line 7, strike out the words "privately owned" and insert in lieu thereof the words "non-Federal".

This is a clarifying amendment.

(9) On page 10, line 25, and on page 11, line 1, strike out the words ", except that any", and insert in lieu thereof ". Each".

SRP04823

This amendment is suggested for clarification. So far as the national parks are concerned, the present language indicating that an exception is required to preserve the areas for wilderness purposes is inaccurate. These areas, as we have indicated previously are administered in keeping with wilderness standards.

The Bureau of the Budget has advised that, subject to your consideration of the foregoing amendments, enactment of S. 174 would be in accord with the President's program.

Sincerely yours,

STEWART L. UDALL,
Secretary of the Interior.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., April 5, 1962.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your request of January 13, 1962, for a report on S. 174, to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes, as passed by the Senate on September 6, 1961.

We strongly recommend that the bill be enacted, insofar as it affects this Department, with the amendments hereinafter recommended.

This report should be considered in connection with the previous report made by this Department to the Senate Interior and Insular Affairs Committee concerning the bill, as included in that committee's Report No. 635. You also have our report of May 23, 1961, to your committee, concerning H.R. 293, H.R. 299, H.R. 496, H.R. 776, H.R. 1762, H.R. 1925, and H.R. 2008, all bills to establish a National Wilderness Preservation System.

S. 174, as amended, would establish a National Wilderness Preservation System, which would include certain national forest areas, national park system areas, and national wildlife refuge and game range areas. The bill would provide that the Federal lands within the wilderness system would be administered, by the secretaries of the departments having jurisdiction, to provide for the preservation of their wilderness character.

All areas within the national forests classified on the effective date of the act as wilderness, wild, primitive, or canoe would be included in the wilderness system. Primitive areas included would be subject to review within 10 years as to their suitability for preservation as wilderness. Provision would be made for the submission to the Congress of the President's recommendations with respect to the continued inclusion within, or exclusion from, the system of such areas. Disapproval by either the Senate or the House of Representatives by resolution within a full session of Congress after receipt of a recommendation by the President concerning such a primitive area would prevent that recommendation from becoming effective.

S. 174 would provide that the addition to, or the elimination from, the wilderness system of any area which is not specifically provided

SRP04824

for in the bill could be made only after specific affirmative authorization by law. It is understood that this would apply to the addition of a completely new wilderness-type area to the system or the complete elimination of a wilderness-type area from the system.

In the national forests there are 83 designated wilderness-type (wilderness, wild, primitive, and canoe) areas covering about 14.7 million acres. The Forest Service in this Department pioneered the wilderness preservation concept in establishing in 1924 the first such area, comprising a large part of what is now the Gila Wilderness Area in New Mexico. In the last 20 years, there has been little net change in the acreage of designated areas. We do not envision a major change in the future.

This Department has consistently supported wilderness legislation ever since it first reported on a wilderness bill in 1957. We did not at that time favor the specific bill but recommended that the Congress consider substitute legislation submitted with that report. S. 174 is a revision of the previous wilderness bills which were introduced in the 85th and 86th Congresses. The recommendations which we have made concerning the previous bills are substantially taken care of in S. 174.

Your letter requests: (1) That we comment particularly on the amendments added in the Senate; (2) specific comment concerning the effect of section 4 which would authorize the acquisition of privately owned lands and requests certain information as to private inholdings; (3) information as to areas administered by this Department that would be incorporated in the wilderness system; and (4) information and comments on permitted uses in wilderness-type areas. We shall comment on the Senate amendments after we take the other items up in order.

ACQUISITION AUTHORITY AND PRIVATE INHOLDINGS

Section 4 of S. 174 would authorize the Secretaries of the Interior and Agriculture to acquire lands within areas of the wilderness system under their respective jurisdictions. Section 5 would authorize each Secretary to accept gifts or bequests of lands.

The Secretary of Agriculture has authority to acquire land by various methods and for various purposes for the national forests. The authority that would be given by S. 174 would be construed as being in addition to and not in substitution for other authority to acquire land for national forest purposes.

Consolidation of ownership and the acquisition of key tracts including tracts needed for recreational purposes, is part of the development program for the national forests which President Kennedy transmitted to the Congress on September 21, 1961. Part of the land acquisition contemplated in that program would be in national forest wilderness-type areas which S. 174 would cover into the wilderness system. We believe that the need for the acquisition by the Federal Government of lands within the presently designated wilderness-type areas in the national forests would in no way be modified by the enactment of S. 174.

SRP04825

The total of non-Federal land within wilderness-type areas in the national forests is about 275,000 acres. Over half of such lands are in the Boundary Waters Canoe Area in Minnesota.

Non-Federal lands in the Boundary Waters Canoe Area are largely State owned, with some 15,700 acres of county ownership and a similar area of private land. Acquisition in the canoe area is being carried out under the act of June 22, 1948, as amended (16 U.S.C. 577c–577h), and land exchange and donation authorizations. Cost of the remaining necessary but unfinanced acquisition in this area is estimated at $2 million. Appropriation of this additional amount has been authorized in a recent amendment to the 1948 act and it is included in the President's budget. Additionally, some county and the State lands may be acquired through exchange of national forest lands outside the canoe area.

Non-Federal lands in the other national forest wilderness-type areas are predominantly in private ownership. There is less than 1,300 acres of county-owned land in these areas and only about 6,000 acres in State ownership. Some of the non-Federal lands in primitive areas may be within areas or portions of areas likely to be recommended for exclusion from the wilderness system when the primitive areas are reviewed as provided in S. 174. We hope to acquire most of the State-owned land and some county-owned land through exchanges. We hope that a substantial portion of the privately owned lands may be acquired through land exchange or donation. It is likely that, not counting the canoe area, there will be need to purchase over a period of years between 60,000 and 70,000 acres. These lands vary greatly in character, resources, adaptability to private uses, and accessibility. We do not have at this time appraisals or other specific information on which to base a firm cost estimate. Values of particular tracts will, of course, vary widely. We would anticipate that at today's values as much as $5 to $6 million might be required to purchase such lands.

DEPARTMENT OF AGRICULTURE AREAS THAT WOULD BE INCORPORATED INTO WILDERNESS SYSTEM

The enclosed tabulation lists by States the 83 areas within the national forests presently designated as wilderness, wild, primitive, and canoe. Under S. 174 the areas so designated on the date of the act would be included in the wilderness system.

USES IN WILDERNESS-TYPE AREAS

The management of the Boundary Waters Canoe Area differs from that of wilderness, wild, and primitive areas. It is managed for the general purpose of maintaining, without unnecessary restrictions on other uses, including that of timber, the primitive character of the area, particularly in the vicinity of lakes, streams, and portages. In effect the same management principles would continue in this area under the provisions of section 6(c)(3) of S. 174.

SRP04826

With respect to the wilderness, wild, and primitive areas in the national forests, we believe that a general discussion of the use or nonuse of the various resources will be helpful.

Timber.—Commercial timber harvesting is not now permitted in these wilderness-type areas and we have no plans to alter this policy. It would not be allowed in such areas under the provisions of S. 174. Timber may be cut for the purpose of controlling fire, insects, and diseases and could be under S. 174.

Grazing.—Livestock grazing may be permitted in these wilderness-type areas under present policy. It is now permitted in slightly more than half the areas. Our most recent figures show about 59,000 head of cattle and horses and 309,000 head of sheep and goats under permit in these areas. Under the terms of S. 174, this grazing of livestock would be permitted to continue. With reference to the language of the bill pertaining to this, the report of the Senate committee makes it clear that the enactment of S. 174 shall not be the cause for terminating or reducing grazing in wilderness-type areas in the national forests. It is also made clear, however, that the Secretary of Agriculture would have authority to regulate and control grazing in such areas and would have authority to reduce or terminate grazing within these areas for all other purposes and reasons that he could with respect to other national forest lands. Where grazing is not now well established it would not be allowed to start under the bill.

Mining.—Authority now exists under which mineral leases can be issued for leasable minerals in the wilderness, wild, and primitive areas either under the Mineral Leasing Act of 1920 or the Mineral Leasing Act for acquired lands. It is the policy of this Department to recommend against, and the policy of the Department of the Interior to withhold, the issuance of mineral leases in these areas unless directional drilling or other methods can be used which will avoid any invasion of the surface of the wilderness, wild, or primitive area.

Under S. 174, mining, including the production of leasable minerals, would be prohibited unless it involved only subsurface use such as directional drilling within such areas or unless the President as to specific areas determines that to permit it would better serve the interests of the United States than would its denial.

Prospecting for leasable minerals and for locatable minerals where the mining laws apply is allowed at this time. It must be done in a manner consistent with applicable regulations, including restrictions on the use of mechanized transportation. Under the provisions of S. 174, prospecting could be carried on in a manner not incompatible with the preservation of the wilderness environment.

In those portions of the wilderness, wild, and primitive areas to which the mining laws apply, mining locations may now be made. Upon valid discoveries, mining operations may be carried out with or without an application for patent. S. 174 would not affect valid, existing rights. But, subject to existing rights, it would prohibit mining unless it involved only subsurface use such as directional

SRP04827

drilling or shafts driven from outside the area or unless the President as to specific areas determines that to permit it would better serve the interests of the United States than would its denial.

In March of last year, it was estimated that there were about 13,000 unpatented mining claims in these areas. Also, there were six mines in active operation, all in primitive areas. The existence of operating mines and the concentration of unpatented mining claims will be significant factors in reviewing primitive areas and in formulating recommendations as to which areas or portions of areas should continue in the wilderness system or be excluded therefrom.

Active mining operations, the use of heavy equipment in prospecting and mining, and the construction and maintenance of roads and other facilities incident thereto would interfere materially with the purpose for which these wilderness-type areas are designated and managed. We strongly believe that such activities should not be permitted in these areas without the Presidential authorization which S. 174 would require.

Water developments.—Water developments for the storage and diversion of water for irrigation, domestic, and other uses have been allowed in these wilderness-type areas. The works generally have been constructed and maintained by means which did not involve motorized transportation. There are 144 such projects. We would construe the provisions of S. 174 as permitting the continued maintenance of these existing projects by means which would not involve motorized transportation as in the past. The bill would allow new water developments if the President determined that such uses in specific areas would better serve the interests of the United States than would its denial.

The Federal Power Commission has authority under the Federal Power Act to issue licenses for the construction and maintenance of power projects on these wilderness-type areas of the national forests as well as on other national forest lands. Licenses have been issued for seven such projects in these areas. Under the provisions of section 11 of S. 174, the provisions of the Federal Power Act would not be affected in any way and licenses could continue to be issued by the Federal Power Commission in these areas. We will comment on this later.

Recreation.—Recreation uses of these wilderness-type areas are of the kind, including hunting and fishing, normally associated with wilderness enjoyment. These uses would continue. Commercial services to the extent necessary for the recreational or other purposes of the wilderness system may now be performed, and could continue to be performed, in the areas. Hotels, resorts, summer homes, and other such types of recreational developments are not now, and would not be, permitted.

There are within these areas trails and facilities of a primitive nature for camping. These include primitive-type sanitary facilities. These will continue under our present policy and could continue

SRP04828

under the bill. Also, in certain of these areas, as well as in portions of the Boundary Waters Canoe Area, the use of motorboats is presently allowed and could continue under the provisions of the bill. In certain of the wilderness, wild, and primitive areas, the landing of aircraft at established locations is permitted and could continue under the bill. Motorized transportation by the public by ground vehicles is not permitted except on those roads in primitive areas presently open to public use and would not be permitted under the bill.

Roads.—Roads open to public use are not allowed in wilderness and wild areas.

There are some such roads in some of the primitive areas. In the three States in which the Public Lands Subcommittee recently held hearings the mileage of roads in primitive areas is for Idaho, 142 miles; for Colorado, 71 miles; and for California, 91 miles. The mileage of roads in such areas in other States is smaller. The existence of roads would have material bearing on the reviews and recommendations as to the suitability of primitive areas or portions thereof for continued inclusion in the wilderness system or exclusion therefrom. Under the provisions of S. 174, the existing roads in such areas could continue to be maintained and used pending the review and effectiveness of a recommendation for the area to remain in the wilderness system. Temporary roads which are essential in the control of fire, insects, and diseases or to meet the minimum requirements for the administration of the areas may now be permitted in these areas. The bill would continue to allow these.

COMMENTS AND RECOMMENDATIONS ON SENATE AMENDMENTS

The Senate committee made 14 amendments, all of which were adopted. These are discussed in order:

(1) This reduced from 15 to 10 the years in which the review of primitive areas would be made. This would require an acceleration of the rate of our review of these areas and we have no objection.

(2) This prescribes in more detail the procedure as to the submission of recommendations for the continuation in, or exclusion from, the wilderness system of primitive areas or portions thereof. The principal features, with comments, are—

(*a*) Any primitive area recommended to be continued in the wilderness system could not, with any recommended alteration of its boundaries for additions and exclusions, exceed the size of that area on the date of the act. This would make a subsequent act of Congress necessary in those cases where net additions to a few of the primitive areas might be desirable. We would prefer not to be so restricted, but if such a restriction is considered essential we suggest that a leeway of up to 10 percent be allowed. This could be accomplished by adding after the word "Act" and before the period in line 20 on page 4 the words "by more than 10 percent".

SRP04829

(*b*) Provision would be made for reconsideration, modification, and resubmission of a recommendation as to a primitive area if the original recommendation is disapproved by either the Senate or the House of Representatives. This is desirable.

(*c*) It would be made clear that in the absence of a recommendation as to a primitive area having been submitted and become effective by the end of the prescribed period such area would cease to be a part of the wilderness system and would be administered as other national forest land. This is consistent with the principle that primitive areas should be reviewed and that positive recommendations should be made as to them before they remain permanently in the wilderness system.

(*d*) The language in the first proviso of this amendment would suggest that primitive areas are not considered as having national forest status since it would provide that the President's recommendation could be for "the exclusion and return to national forest status." They do have such status and it is recommended that this be clarified by deleting from lines 13 and 14 on page 4 the words "return to national forest land status" and inserting in lieu thereof the words "administration as other national forest land".

(3), (4), and (5) These amendments deal with the method by which either the Senate or the House of Representatives could disapprove a recommendation made by the President under the bill. We have no objection.

(6) This is a clarifying amendment. No objection.

(7) This makes it clear that the addition of any complete new wilderness-type area to the wilderness system, or the complete elimination of any such area therefrom, other than under the provisions of the act could be accomplished only by an act of Congress. At the present time, wilderness and wild areas are designated under regulations of the Secretary of Agriculture. Upon the enactment of S. 174, there would be no authority in this Department to make any new such designations. This is consistent with the basic principles of the bill.

(8), (9), and (10) These are primarily clarifying. No objection.

(11) This makes it clear that grazing will not be reduced or terminated solely because of the enactment of S. 174. With the Senate committee's explanation of this amendment, referred to above in the discussion of grazing use, there is no objection.

(12) This would provide for the gathering of information about mineral resources, including prospecting, in a manner which is not incompatible with the preservation of wilderness environment. On the floor of the Senate this amendment was further amended to include the gathering of information about water and to provide for completely subsurface uses. Such activities would include the construction of a tunnel completely under one of the wilderness-type areas. All these activities would have to be done in a manner not incompatible with the preservation of wilderness environment. Without the amendment such activities probably would have been pro-

SRP04830

hibited unless there was a Presidential authorization. The preservation of the wilderness environment is assured. We approve the amendment.

(13) This is a substitute section which deals more adequately with reports and records. There is no objection if the word "superintendents" in line 15 on page 18 is changed to "supervisors".

(14) This can be called the Alaska amendment and would provide for the establishment of a Presidential Land Use Commission to advise and make recommendations to the Secretary of the Interior as to how federally owned land can best be utilized, developed, protected, and preserved. The amendment was further amended on the floor of the Senate to recognize that the national forests are administered by the Secretary of Agriculture. The scope of the duties of the Commission goes to all federally owned land and not just to lands in wilderness-type areas. We recognize that Federal ownership of about 99 percent of the land area of the State of Alaska presents a situation peculiar to that State and have no particular objection to such a Commission in relation to Alaska. However, we question whether provision for such a Commission to concern itself with all Federal land and resources should be included in legislation which otherwise deals only with wilderness-type areas. We therefore suggest that all of section 9 on page 19 be deleted and the succeeding sections be renumbered accordingly.

The amendments made on the floor of the Senate, other than the ones above referred to, are discussed in the order in which they appear in the bill as it passed the Senate.

(1) and (2) These are reflected in subsection (d) of section 3 and do not concern lands administered by this Department.

(3) The word "minor" was added in the first line of subsection (e) of section 3 to make it clear that major modifications or adjustments of boundaries of areas in the wilderness system could not be made except by an act of Congress. There is no objection.

(4) A procedural provision was added as a last proviso in subsection (f) of section 3 concerning the handling of a resolution of opposition to a recommendation by the President. There is no objection.

(5) A clarifying change was made in subsection (g) of section 3.

(6) A new subsection (i) was added to section 3 to provide for obtaining and submitting to Congress the views of the Governor of the affected State concerning recommendations submitted to the President. The Governor of such State would be given 90 days within which to submit his views. There is no objection.

(7) A new subsection (j) was added to section 3 which provides that where State-owned lands are completely surrounded by land incorporated into the wilderness system, the State would be given either adequate access for itself and its successors in interest or vacant, unappropriated, and unreserved land in exchange. The Federal Government would have the election of whether to give the access or the land in exchange. There is no objection.

90158—62——6

SRP04831

(8) Changes were made in paragraph (1) of subsection (c) of section 3 which would not affect this Department.

(9) A clarifying change was made in paragraph (2) of subsection (c) of section 3. No objection.

(10) Section 10 was added to provide for annual reports to the Congress on the status of the wilderness system. There is no objection.

(11) Section 11 was added to provide that nothing in the act would supersede, modify, repeal, or otherwise affect the provisions of the Federal Power Act. Before this section was added, the provisions of section 6 would have prohibited the construction and maintenance (other than of existing developments) of power projects and works on national forest lands within the wilderness system unless the President made a determination that to permit such projects would better serve the interests of the United States than would the prohibition thereof. The effect of this would have been that the Federal Power Commission could not have issued licenses for power projects within national forest areas in the wilderness system until there had been such a Presidential determination. But upon such a determination, the project would have been authorized as at present by a license issued by the Federal Power Commission. With the addition of section 11, the Federal Power Commission could issue licenses for Federal power projects for areas in the wilderness system without the Presidential determination required for other types of industrial and commercial uses. Power projects within a wilderness-type area would have the same detrimental effects upon the purposes for which the area is included in the wilderness system as would mining, the establishment and maintenance of reservoirs and water conservation projects for purposes other than power, and other developments involving heavy construction and the use of heavy equipment. We recognize that under some circumstances the permitting of power developments in areas of the wilderness system might be more in the public interest than their denial. However, we strongly believe that the same Presidential determination should be required with reference to them as would be required for other types of industrial and commercial developments. We, of course, believe that upon such Presidential determination, the license for the power project should be issued by the Federal Power Commission in the same manner as such licenses are issued elsewhere. Therefore, we recommend that the section be deleted or modified by deleting the word "Nothing" in line 6 on page 20 and inserting in lieu thereof "Except as provided in section 6, nothing".

The Bureau of the Budget advises, subject to the committee's consideration of the recommended amendments, the enactment of this proposed legislation would be in accord with the program of the President.

Sincerely yours,

ORVILLE L. FREEMAN.

SRP04832

Summary of wilderness-type areas in national forests, as of Dec. 31, 1961

State	Number of areas	Net acreage	State	Number of areas	Net acreage
Arizona	9	673,926	New Mexico	7	1,014,085
California	18	1,557,822	North Carolina	1	7,655
Colorado	11	810,362	Oregon	10	749,547
Idaho	3	3,004,069	Utah	1	240,717
Minnesota	1	886,673	Washington	4	1,384,196
Montana	8	1,921,347	Wyoming	8	2,354,892
Nevada	1	64,667			
New Hampshire	1	5,400	Total	83	14,675,358

National forest wilderness-type areas, name, date of establishment, and acreage of area and national forest, by States, as of Dec. 31, 1961

WILDERNESS AREAS

State, name, and date established as primitive area	Date established	National forest	Net area (acres)
Arizona:			
Mazatzal (1932)	1940	Tonto	205,000
Superstition (1939)	1940	do	124,140
California:			
Marble Mountain (1931)	1953	Klamath	213,283
Yolla Bolly-Middle Eel (1931)	1956	Mendocino	72,916
		Shasta-Trinity	36,399
Total			109,315
Montana: Bob Marshall (1931-33)	1940	Flathead	710,000
		Lewis and Clark	240,000
Total			950,000
New Mexico:			
Gila [1] (1933)	1953	Gila	438,360
Pecos (1933)	1953	Carson	25,000
		Santa Fe	140,000
Total			165,000
Oregon:			
Eagle Cap (1930)	1940	Wallowa	136,010
		Whitman	80,240
Total			216,250
Three Sisters (1937)	1957	Deschutes	59,875
		Willamette	136,833
Total			196,708
Washington: Glacier Peak	1960	Mount Baker	212,850
		Wenatchee	245,255
Total			458,105
Wyoming:			
Bridger (1931)	1960	Bridger	383,300
North Absaroka (1932)	1951	Shoshone	359,700
South Absaroka (1932)	1951	do	505,552
Teton (1934)	1955	Teton	563,460
Total			4,888,173

[1] Portion of area remains in primitive area classification.

SRP04833

National forest wilderness-type areas, name, date of establishment, and acreage of area and national forest, by States, as of Dec. 31, 1961—Continued

WILD AREAS

State, name, and date established as primitive area	Date established	National forest	Net area (acres)
Arizona:			
Chiricahua (1933)	1940	Coronado	18,000
Galiuro (1932)	1940	do	55,000
Sierra Ancha (1933)	1951	Tonto	20,850
California:			
Caribou (1931)	1961	Lassen	19,080
Cucamonga (1931)	1956	San Bernardino	9,022
Hoover (1931)	1957	Inyo	9,000
		Toiyabe	33,800
Total			42,800
San Gorgonio (1931)	1956	San Bernardino	33,898
San Jacinto (1931)	1960	do	20,565
Thousand Lakes (1931)	1955	Lassen	15,695
Colorado:			
LaGarita (1932)	1961	Gunnison	26,300
		Rio Grande	22,700
Total			49,000
Maroon Bells-Snowmass (1933)	1956	White River	66,100
Mount Zirkel-Dome Peak (1931)	1949	Routt	53,400
Rawah (1932)	1953	Roosevelt	25,579
West Elk (1932)	1957	Gunnison	62,000
Montana: Gates of the Mountains	1948	Helena	28,562
Nevada: Jarbidge	1958	Humboldt	64,667
New Hampshire: Great Gulf	1959	White Mountain	5,400
New Mexico:			
San Pedro Parks (1931)	1940	Santa Fe	41,132
Wheeler Peak	1960	Carson	6,051
White Mountain (1933)	1957	Lincoln	28,118
North Carolina: Linville Gorge	1951	Pisgah	7,655
Oregon:			
Diamond Peak	1957	Deschutes	19,240
		Willamette	16,200
Total			35,440
Gearhart Mountain	1943	Fremont	18,709
Kalmiopsis	1946	Siskiyou	78,850
Mount Hood (1931)	1940	Mount Hood	14,160
Mount Washington	1957	Deschutes	8,625
		Willamette	38,030
Total			46,655
Mountain Lakes (1930)	1940	Rogue River	23,071
Strawberry Mountain	1942	Malheur	33,004
Washington:			
Goat Rocks (1931)	1940	Gifford Pinchot	59,740
		Snoqualmie	22,940
Total			82,680
Mount Adams	1942	Gifford Pinchot	42,411
Total			1,047,554

CANOE AREAS

Minnesota: Boundary Waters Canoe Area:			
Caribou Division	1948	Superior	36,059
Little Indian Sioux Division	1939	do	64,117
Superior Division	1936	do	786,497
Total			886,673

SRP04834

National forest wilderness-type areas, name, date of establishment, and acreage of area and national forest, by States, as of Dec. 31, 1961—Continued

PRIMITIVE AREAS

State, name, and date established as primitive area	Date established	National forest	Net area (acres)
Arizona:			
Blue Range [2]	1933	Apache (Arizona part)	180,139
		Apache (New Mexico part)	36,598
Total			216,737
Mount Baldy	1932	Apache	7,400
Pine Mountain	1933	Prescott	8,530
		Tonto	8,915
Total			17,445
Sycamore Canyon	1935	Coconino	21,207
		Kaibab	5,807
		Prescott	18,938
Total			45,952
California:			
Agua Tibia	1931	Cleveland	25,995
Desolation Valley	1931	Eldorado	41,343
Devil Canyon-Bear Canyon	1932	Angeles	35,267
Emigrant Basin	1931	Stanislaus	97,020
High Sierra	1931	Inyo	204,954
		Sequoia	7,040
		Sierra	181,905
Total			393,899
Mount Dana-Minarets	1931	Inyo	43,005
		Sierra	39,176
Total			82,181
Salmon Trinity Alps	1932	Klamath	28,576
		Shasta-Trinity	194,724
Total			223,300
San Rafael	1932	Los Padres	74,160
South Warner	1931	Modoc	68,870
Ventana	1931	Los Padres	52,129
Colorado:			
Flat Tops	1932	White River	117,800
Gore Range-Eagle Nest	1933	Arapaho	32,379
		White River	28,825
Total			61,204
San Juan	1932	San Juan	238,080
Uncompahgre	1932	Uncompahgre	53,252
Upper Rio Grande	1932	Rio Grande	56,600
Wilson Mountains	1932	San Juan	9,600
		Uncompahgre	17,747
Total			27,347
Idaho:			
Idaho	1931	Boise	223,996
		Challis	74,293
		Payette	685,336
		Salmon	240,951
Total			1,224,576
Sawtooth	1937	Boise	144,300
		Challis	7,900
		Sawtooth	48,742
Total			200,942

[2] Blue Range primitive area enumerated for Arizona; not in New Mexico.

SRP04835

National forest wilderness-type areas, name, date of establishment, and acreage of area and national forest, by States, as of Dec. 31, 1961—Continued

PRIMITIVE AREAS—Continued

State, name, and date established as primitive area	Date established	National forest	Net area (acres)
Idaho—Continued			
Selway-Bitterroot [1]	1936	Bitterroot (Idaho part)	476,999
		Clearwater	143,000
		Lolo	251,600
		Nezperce	706,952
		Bitterroot (Montana part)	290,805
Total			1,869,356
Montana:			
Absaroka	1932	Gallatin	64,000
Anaconda-Pintlar	1937	Beaverhead	55,000
		Bitterroot	40,000
		Deerlodge	49,940
Total			144,940
Beartooth	1932	Custer	175,000
		Gallatin	55,000
Total			230,000
Cabinet Mountains	1935	Kaniksu	42,900
		Kootenai	47,000
Total			89,900
Mission Mountains	1931	Flathead	73,340
Spanish Peaks	1932	Gallatin	49,800
New Mexico:			
Black Range	1933	Gila	169,196
Gila	1933	do	129,630
Oregon: Mount Jefferson	1933	Deschutes	25,710
		Mount Hood	3,470
		Willamette	57,520
Total			86,700
Utah: High Uintas	1931	Ashley	166,794
		Wasatch	73,923
Total			240,717
Washington: North Cascade	1935	Mount Baker	434,200
		Okanogan	366,800
Total			801,000
Wyoming:			
Cloud Peak	1932	Bighorn	93,880
Glacier	1937	Shoshone	177,000
Popo Agie	1937	do	70,000
Stratified	1932	do	202,000
Total			7,852,958

[1] Selway-Bitterroot primitive area enumerated for Idaho; not in Montana.

SRP04836

DEPARTMENT OF AGRICULTURE,
Washington, D.C., May 23, 1961.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR CONGRESSMAN ASPINALL: This is in reply to your request of March 1, 1961, for a report on H.R. 293, H.R. 299, H.R. 496, H.R. 776, H.R. 1762, H.R. 1925, and H.R. 2008, all bills to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.

We strongly recommend that these bills be enacted insofar as they affect this Department if they are amended as suggested herein.

Legislation relating to the establishment of a wilderness system has been proposed in various bills over several sessions of Congress. Although these proposals present different versions for the establishment and management of the wilderness system, all of them have similar objectives.

These bills would declare a policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. For that purpose, the bills would establish a National Wilderness Preservation System, which would include national forest areas, national park system areas, and national wildlife refuge and game range areas. The bills would provide that the federally owned lands within areas of the wilderness system would be administered in such a way as to leave them unimpaired and to provide for the protection and preservation of their wilderness character. They would provide for the gathering and dissemination of information regarding their use and enjoyment as wilderness.

This Department believes that the establishment and maintenance of wilderness-type areas is a proper use of the national forests and has steadfastly maintained continuity of policy in this regard for over 35 years. In 1924, the first area for the preservation of wilderness in the national forests was established. It comprised a large part of what is now the Gila Wilderness Area in the Gila National Forest in New Mexico. In 1926, parts of the Superior National Forest in northern Minnesota were given special protection. These areas later became parts of areas designated as roadless areas and which are now designated as the Boundary Waters Canoe Area. The first primitive area in the national forests was established in 1930 under regulations of the Secretary of Agriculture. By 1939, there were 73 primitive areas and two roadless areas, totaling 14.2 million acres.

In 1939, new secretarial regulations were issued, providing for the establishment of wilderness and wild areas in the national forests. The term "wilderness area" originated on the national forests. These regulations provided for somewhat more stability and protection to the areas established thereunder than did the earlier regulation for the establishment of primitive areas issued 10 years previously. Wilderness and wild areas provided for in these regulations meet essentially

SRP04837

the same criteria except that wilderness areas exceed 100,000 acres in area, and wild areas range from 5,000 to 100,000 acres. Wilderness areas are established by the Secretary of Agriculture, whereas the Chief of the Forest Service may establish wild areas.

No new primitive areas were established after 1939. Since that time, primitive areas have been managed in accordance with the regulations applicable to wilderness areas. The Department has been restudying primitive areas and reclassifying those areas or parts of areas which are predominantly valuable for wilderness as wilderness areas. We are continuing that study and plan to complete the study as to all remaining primitive areas.

As of this date, there are the following wilderness-type areas within the national forests:

Kind of area	Number	Acreage
Wilderness	14	4,888,173
Wild	28	979,154
Primitive	40	7,907,416
Canoe	1	886,673
Total	83	14,661,416

In the restudy and reclassification of primitive areas, boundary adjustments have been made to eliminate portions not predominantly of wilderness value or to add adjacent national forest lands that are predominantly of wilderness value. Some new areas have been established, including two established within the last year. Taking into consideration the transfers to national parks of lands previously within primitive or wilderness areas in the national forests and corrections in area calculations, the total area of national forest land classified for administration as wilderness has remained about the same as it was in 1939.

The wilderness, wild, primitive, and roadless areas of the national forests include some of the most remote and scenic areas of the Nation. They have unique and special values, which have long been recognized by wilderness enthusiasts, and by the Forest Service. They comprise valuable and essential parts of the national forests.

The wilderness-type areas within the national forests have been established and are administered pursuant to administrative action under the regulations of the Secretary of Agriculture. Until last year, they had no specific statutory recognition. The establishment and maintenance of such areas has long been maintained by this Department to be within the concept of multiple-use management, which this Department has applied to the national forests for over half a century. For the first time the Multiple-Use Sustained Yield Act of June 12, 1960, Public Law 86-517 (74 Stat. 215), which directs the Secretary of Agriculture to administer the renewable surface resources of the national forests for multiple use and sustained yield, gave statutory recognition to wilderness areas. In this act, the Congress declared the establishment and maintenance of wilderness areas to be consistent with the principles of multiple use and sustained yield. In inserting this provision as a committee amendment to the bill which became this act, the Senate Committee on Agriculture and Forestry made it clear that the enactment of that provision was not

SRP04838

intended as a substitute for the enactment of legislation to establish a national wilderness preservation policy and program.

We have consistently recommended the enactment of wilderness legislation insofar as it would affect the national forests ever since our first report on such legislative proposals in the 85th Congress. We have worked closely with the Congress in suggesting amendments to the various proposals which we believe will achieve the stated objectives of a wilderness system. We believe that S. 174 which has been introduced in this Congress would be desirable resource legislation and in the national interest. We urge that the bills enumerated in this report be amended to conform to S. 174.

The Bureau of the Budget advises that, if amended to conform as suggested above, the enactment of this proposed legislation would be in accord with the President's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

DEPARTMENT OF THE ARMY,
Washington, D.C., January 15, 1962.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H.R. 293, 299, 496, 776, 1762, 1925, and 2008, 87th Congress, bills to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes. The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on these bills.

These bills would establish a National Wilderness Preservation System to be composed of certain areas within the national forests, the national park system, the national wildlife refuges and game ranges, and such additional public lands as may be included under procedures set forth in the bills, in order to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. The wilderness system would be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use and, in order to attain these objectives, the bills would impose certain restrictions on use and developments within the system.

With respect to this question of preservation of wilderness areas, the attention of the committee is invited to the message from the President on February 23, 1961, relating to the Nation's natural resources, wherein he urged the Congress to enact a wilderness protection bill along the general lines of S. 174. The Department of the Army, on behalf of the Department of Defense, is in favor of the National Wilderness Preservation System designed, as it is, for the permanent good of the whole people. Insofar as defense interests are concerned, the President's authority under section 3(c)(2) of the bills to establish and maintain facilities needed in the public interest is sufficient to insure that any specific areas within the wilderness sys-

SRP04839

tem which might become necessary for the national defense would be readily available. Since the bills are in accord with the President's views, enactment of the legislation is supported.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

ELVIS J. STAHR, Jr.,
Secretary of the Army.

FEDERAL POWER COMMISSION,
Washington, D.C., May 4, 1962.

Re Wilderness Preservation System, H.R. 293, 299, 496, 776, 1925, 87th Congress.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Enclosed are three copies of the revised report of the Federal Power Commission on the subject bills. It is requested that this report be substituted for the Commission's previous report on these bills which was submitted to your committee by our letter dated April 27, 1961.

It is contemplated that this report may be released to the public within 3 working days from the date of this letter unless there is a request that its release be withheld.

Sincerely yours,

JOSEPH C. SWIDLER, *Chairman.*

FEDERAL POWER COMMISSION REPORT ON H.R. 293, H.R. 299, H.R. 496, H.R. 776, AND H.R. 1925, 87TH CONGRESS

BILLS To establish a National Wilderness Preservation System for the permanent good of the whole people and for other purposes.

The enactment of any one of these "Wilderness Act" bills would establish a National Wilderness Preservation System comprised of federally owned lands taken from the following: (1) Areas within national forests classified by the Secretary of Agriculture or the Chief of the Forest Service as wilderness, wild, primitive, canoe, or roadless, the primitive areas being subject to a review by the Secretary of Agriculture within 15 years from the effective date of this act, except that under the provisions of H.R. 1925 wilderness, wild, or canoe areas "shall be reported to the Congress without further review before the beginning of the first session of Congress following the enactment of this act, and at the close of the second session of Congress thereafter each such area shall become a unit of the * * * system if * * * not rejected by a concurrent resolution passed

SRP04840

by the Congress;" (2) national parks and monuments "embracing a continuous area of 5,000 acres or more without roads, and such additional units of the national park system as the Secretary of the Interior shall prescribe," which are subject to certain later designations within a specified period; (3) such wildlife refuges and game ranges, or portions thereof, as the Secretary of Interior shall designate. Within 5 years after the date of this act, the Secretary shall survey the refuges and ranges under his jurisdiction and designate additions to the system which he thinks appropriate; and (4) other units as may be designated within any federally owned areas by officials authorized to do so under the act, including any area or areas acquired by those officials through gift or bequest. H.R. 299 and H.R. 496 also provide that the Secretary of the Interior may designate areas within Indian reservations.

Section 2(e) of H.R. 766 provides that any proposed modification, elimination, or addition to the wilderness system, after notice and opportunity for hearing, shall be reported to the President who shall then recommend to the Congress those changes which he deems appropriate. Such recommendations shall take effect upon the expiration of the first full and continuous session of Congress after the recommendations are received by Congress unless a concurrent resolution is passed in opposition.

Section 2(e) of H.R. 293 and H.R. 1925 contains essentially the same provisions as section 2(e) of H.R. 776 except that any alterations to the system made through this procedure must be carried out during the 15-year period following the effective date of this act. H.R. 293 and H.R. 1925 go on to provide that later additions to the system or areas shall be made only by Congress.

Section 2(f) of H.R. 299 and H.R. 496 provides that the Secretaries of Agriculture or Interior shall recommend to the Congress, modifications, eliminations, or additions to the system, which will become effective after the expiration of the first 120 days of continuous session following the date such recommendations are received, provided however, Congress does not adopt a concurrent resolution in opposition thereto during the 120-day period.

The Commission's interest in these bills arises from the fact that they would set up a wilderness system embracing lands having existing and potential power value subject to the Commission's licensing jurisdiction under part I of the Federal Power Act. A license for project works on reserved lands of the United States may be issued by this Commission under section 4(e) of the Power Act "only after a finding * * * that the license will not interfere or be inconsistent with the purpose for which such reservation was created or required." In addition, such licenses contain conditions deemed necessary for the adequate protection and utilization of any reservation involved.

Under the provisions of section 24 of the Federal Power Act any lands of the United States included in a proposed project "shall from the date of filing of the application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress." In addition to reservations effected under this provision of the Power Act, other lands of the United States have been reserved or withdrawn from time

SRP04841

to time for power purposes under other statutes, and in the future lands may be reserved pursuant to section 24 or under other statutes.

We interpret section 4(e) of the Power Act as authorizing this Commission to issue license for construction of power facilities in presently designated primitive, wilderness, wild, canoe, or roadless area, except in the Boundary Waters Canoe Area of Minnesota, and in national parks and monuments.

We believe that these bills would not preclude the continued exercise of that jurisdiction within the proposed wilderness system. However, in view of the possibility that these bills could be interpreted as precluding any licensing authority under the Federal Power Act, we could, therefore, foresee serious administrative difficulties in attempting to license hydroelectric facilities in those areas if they are enacted in their present form.

Furthermore, it will be noted that the provisions of section 2(a) of each bill would provide for the inclusion into the proposed wilderness system additional areas within national forests as may be designated by the Secretary of Agriculture after notice and opportunity for hearing. Because this section covers such a vast land area, it is difficult to adequately determine future power potential within these forests. Therefore, we believe that the Federal Power Commission should retain jurisdiction over all portions of national forests incorporated into the wilderness system subsequent to enactment of any one of these bills.

This Commission has under license 10 powerplants now in operation (813,500 kilowatts) and 4 under construction pursuant to a license (222,000 kilowatts), all of which are affected by licensed reservoirs located in primitive areas only. A potential project (150,000 kilowatts) covered by a license application now pending would affect the Flat Top Primitive Area in Colorado.

The Senate-passed version of the Wilderness Act (S. 174, 87th Cong.) which was referred to the House Interior and Insular Affairs Committee on September 7, 1961, carries an amendment (bill, sec. 11) adopted on the floor of the Senate on September 6, 1961 (Congressional Record, pp. 17229–17231) providing that nothing in the proposed Wilderness Act "shall be construed as superseding, modifying, repealing, or otherwise affecting" the Federal Power Act. This amendment was recommended in the Commission's original report on S. 174, but the Commission in a later report on March 3, 1961, indicated that a more limited amendment saving the Commission's licensing jurisdiction with respect to primitive areas only would be adequate (see Congressional Record, Sept. 6, 1961, p. 17229).

Although we do not oppose the broader amendment carried in S. 174 as passed by the Senate, we still believe that in view of the very limited hydroelectric potential in existing wild, wilderness, or canoe areas (in contrast to the substantial potential in primitive areas and national forests lands which may be added to the system), the public interest in the development of waterpower resources through licenses issued under the Federal Power Act will be adequately protected, and at the same time be consistent with the objectives of these bills, if the jurisdiction of the Commission is preserved expressly with respect to primitive areas and national forest lands later added to the wilderness system. This would be accomplished by adding a new subsection

SRP04842

3(c)(7) to H.R. 293 and H.R. 776 and a new subsection 3(c)(6) to H.R. 299, H.R. 496, and H.R. 1925, each such new subsection to read as follows:

To the contrary notwithstanding, no provisions of this act shall be construed as superseding, modifying, repealing, or otherwise affecting the provisions of the Federal Power Act (16 U.S.C. 792–825r) with respect to primitive areas as referred to in section 2(a) of this act or with respect to additional areas of national forest land which may later be added to the wilderness system pursuant to that subsection.

FEDERAL POWER COMMISSION,
By JOSEPH C. SWIDLER, *Chairman.*

FEDERAL POWER COMMISSION,
Washington, D.C., April 27, 1961.

Re National Wilderness Preservation System, H.R. 293, 299, 496, 776, 1925, 87th Congress.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request of March 1, 1961, there are enclosed three copies of the report of the Federal Power Commission on the subject bill.

It is contemplated that this report may be released to the public within 3 working days from the date of this letter unless there is a request that its release be withheld.

Sincerely yours,

JEROME K. KUYKENDALL, *Chairman.*

FEDERAL POWER COMMISSION REPORT ON H.R. 293, H.R. 299, H.R. 496, H.R. 776, AND H.R. 1925, 87TH CONGRESS

BILLS To establish a National Wilderness Preservation System for the permanent good of the whole people and for other purposes.

The enactment of any one of these "Wilderness Act" bills would establish a National Wilderness Preservation System comprised of federally owned lands taken from the following: (1) Areas within national forests classified by the Secretary of Agriculture or the Chief of the Forest Service as wilderness, wild, primitive, canoe, or roadless, the primitive areas being subject to a review by the Secretary of Agriculture within 15 years from the effective date of this act, except that under the provisions of H.R. 1925 wilderness, wild, or canoe areas "shall be reported to the Congress without further review before the beginning of the first session of Congress following the enactment of this act, and at the close of the second session of Congress thereafter each such area shall become a unit of the * * * system if * * * not rejected by a concurrent resolution passed by the Congress"; (2) national parks and monuments "embracing a continuous area of 5,000 acres or more without roads, and such additional units of the national

SRP04843

park system as the Secretary of the Interior shall prescribe", which are subject to certain later designations within a specified period; (3) such wildlife refuges and game ranges, or portions thereof, as the Secretary of Interior shall designate. Within 5 years after the date of this act, the Secretary shall survey the refuges and ranges under his jurisdiction and designate additions to the system which he thinks appropriate; and (4) other units as may be designated within any federally owned areas by officials authorized to do so under the act, including any area or areas acquired by those officials through gift or bequest. H.R. 299 and H.R. 496 also provide that the Secretary of the Interior may designate areas within Indian reservations.

Section 2(e) of H.R. 766 provides that any proposed modification, elimination, or addition to the wilderness system, after notice and opportunity for hearing, shall be reported to the President who shall then recommend to the Congress those changes which he deems appropriate. Such recommendations shall take effect upon the expiration of the first full and continuous session of Congress after the recommendations are received by Congress unless a concurrent resolution is passed in opposition.

Section 2(e) of H.R. 293 and H.R. 1925 contains essentially the same provisions as section 2(e) of H.R. 776 except that any alterations to the system made through this procedure must be carried out during the 15-year period following the effective date of this act. H.R. 293 and H.R. 1925 go on to provide that later additions to the system or areas shall be made only by Congress.

Section 2(f) of H.R. 299 and H.R. 496 provides that the Secretaries of Agriculture or Interior shall recommend to the Congress, modifications, eliminations, or additions to the system, which will become effective after the expiration of the first 120 days of continuous session following the date such recommendations are received, provided however, Congress does not adopt a concurrent resolution in opposition thereto during the 120-day period.

The Commission's interest in these bills arises from the fact that they would set up a wilderness system embracing lands having existing and potential power value subject to the Commission's licensing jurisdiction under part I of the Federal Power Act. A license for project works on reserved lands of the United States may be issued by this Commission under section 4(e) of the Power Act "only after a finding * * * that the license will not interfere or be inconsistent with the purpose for which such reservation was created or required." In addition, such licenses contain conditions deemed necessary for the adequate protection and utilization of any reservation involved.

Under the provisions of section 24 of the Federal Power Act any lands of the United States included in a proposed project "shall from the date of filing of the application therefor be reserved from entry, location, or other disposal under the laws of the United States until otherwise directed by the Commission or by Congress." In addition to reservations effected under this provision of the Power Act, other lands of the United States have been reserved or withdrawn from time to time for power purposes under other statutes, and in the future lands may be reserved pursuant to section 24 or under other statutes.

We interpret section 4(e) of the Power Act as authorizing this Commission to issue license for construction of power facilities in presently

SRP04844

designated primitive, wilderness, wild, canoe, or roadless areas, except in the Boundary Waters Canoe Area of Minnesota, and in national parks and monuments.

We believe that these bills would not preclude the continued exercise of that jurisdiction within the proposed wilderness system. However, in view of the possibility that these bills could be interpreted as precluding any licensing authority under the Federal Power Act, we could, therefore, foresee serious administrative difficulties in attempting to license hydroelectric facilities in those areas if they are enacted in their present form.

This Commission presently has under license three power facilities now in operation (748,000 kilowatts) and one under construction pursuant to a license (257,000 kilowatts), all of which are affected by licensed reservoirs located only in areas described as primitive. A potential facility with a license application now pending would affect only the Flat Top Primitive Area in Colorado.

In view of the very limited hydroelectric potential in existing wild, wilderness, canoe or roadless areas, we believe that the public interest in the development of water power resources through licenses issued under the Federal Power Act will be more adequately protected, and at the same time be more consistent with the objectives of these bills, if the jurisdiction of the Commission is preserved expressly with respect to primitive areas as classified by the Secretary of Agriculture or the Chief of the Forest Service on the effective date of the proposed legislation.

Furthermore, it will be noted that the provisions of section 2(a) of each bill would provide for the inclusion into the proposed wilderness system additional areas within national forests as may be designated by the Secretary of Agriculture after notice and opportunity for hearing. Because this section covers such a vast land area, it is difficult to adequately determine future power potential within these forests. Therefore, we believe that the Federal Power Commission should retain jurisdiction over all portions of national forests incorporated into the wilderness system subsequent to enactment of any one of these bills.

Consequently, the Commission recommends that H.R. 776 and H.R. 293 respectively, be amended by adding a new subsection 3(c)(7), and that H.R. 299, H.R. 496, and H.R. 1925 respectively, be amended by adding a new subsection 3(c)(6), each such new subsection to read as follows:

To the contrary notwithstanding, no provisions of this Act shall be construed as superseding, modifying, repealing, or otherwise affecting the provisions of the Federal Power Act (16 U.S.C. 792–825r) with respect to primitive areas and national forests as referred to in section 2(a) of this Act.

FEDERAL POWER COMMISSION,
By JEROME K. KUYKENDALL, *Chairman.*

SRP04845

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., September 14, 1962.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your letter of September 4, 1962, in which you enclosed a copy of Committee Print No. 25, H.R. 776, a bill to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.

The Departments of Agriculture and the Interior, in commenting on the committee print, have raised a number of important objections to this print. The Bureau of the Budget shares the concerns expressed in the reports of these agencies, and accordingly, recommends against the enactment of Committee Print No. 25, H.R. 776.

In lieu thereof, we strongly urge enactment of S. 174 as recommended by the President on March 1, 1962, in his message on conservation to the Congress.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., September 13, 1962.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your request of September 4, 1962, for a report on H.R. 776, a bill to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes, amended as set forth in Committee Print No. 25.

This Department does not recommend the enactment of Committee Print No. 25.

The committee amendment is a substitute for the original bill. It is in two titles. Title I is a revised version of H.R. 8783, a bill to provide a uniform policy and procedure for the withdrawal, reservation, or restriction of public lands, including lands of the Outer Continental Shelf, and for other purposes. Title II would be known as the Wilderness Act.

Title I differs substantially from H.R. 8783. Except for provisions relating to land-use permits of national forests and other public lands, H.R. 8783 would deal primarily with formal-type withdrawal or reservation actions. This Department, in its report of June 1, 1962, to your committee on H.R. 8783 recommended that it not be enacted in that form. For reasons stated in that report, we recommended that the restrictions concerning land-use permits be deleted. We also recommended particularly that the provisions regarding withdrawals or reservations not be applicable to secondary withdrawals or reserva-

SRP04846

tions for an agency having primary jurisdiction of the land for purposes related to its administration thereof.

Title I would go much further than H.R. 8783, in that it would apply to restrictions, designations, or classifications as well as withdrawals and reservations, of public lands and national forest lands. This feature causes this Department much concern and constitutes a major reason for opposition to the enactment of H.R. 776 in its present form.

In our report on H.R. 8783, we pointed out the serious problem that would arise if the bill's language were construed to require consideration of the cumulative 5-year total acreage in the various withdrawal requests of individual administrative units. Under the language of title I, with relatively minor exceptions cumulative withdrawal, reservation, restriction, designation, and classification actions totaling 5,000 acres for the same national forest within the preceding 5 years would preclude further actions for that forest until after Congress has been notified of each additional proposal in considerable detail and allowed up to 180 days for its consideration. Within most if not all of the 154 national forests the individual areas involved over any 5-year period in formal-type withdrawals to protect the public interest are usually small. However, they are quite numerous and, when combined with the other types of action, will generally exceed the 5-year acreage limitation. Consequently, under title I, after actions result in a cumulative total of 5,000 acres in any 5-year period, the further withdrawal of a site of even 5 acres or less for national forest needs, for example, would require the time-consuming preparation and processing of a detailed report and notice by administrators and consideration by the Congress.

Notice to Congress would be required not only in connection with secondary withdrawals and reservations of a formal type, but also in connection with a great many actions necessary to bring about a restriction or a change in designation or classification.

As defined in title I, a "restriction" would include any action limiting opportunities by the public for acquisition, occupancy, use, development, or exploration of national forest lands. The provisions of the bill regarding restrictions could apply to actions concerning the development or use of a national forest grazing allotment. The construction and maintenance of the national forest road and trail system, the forest highway system, and the State and Federal-aid highway systems, involve the issuance of many easements and permits which would constitute restrictions, under the definition. Numerous other examples could be cited in almost every administrative activity which involves the acquiring, occupying, using, developing, or exploring of national forest lands.

A "designation or classification" by title I definition would include any formal administrative action establishing use priority or limiting occupancy of national forest land or the rights of the public in the development and exploitation of the land or its resources. An example would be the designation of an area as a municipal watershed, in connection with existing or anticipated public needs, thereby limiting or eliminating certain other public occupancy or uses therein. There would be many other actions involving public occupancy or uses of national forest lands or resources which could be construed to be such designations or classifications involving national forest lands

SRP04847

or their resources. The provisions of title I would appear to apply to such actions.

In the aggregate, a very large number of national forest actions, which cumulatively would exceed the 5-year acreage limitation, could be construed to be withdrawals, reservations, restrictions, designations, or classifications as defined in title I. Consequently each further action, large or small, would necessitate the use of the prescribed reporting and notification process. Maintenance of the necessary current cumulative records for each forest would in itself be a difficult and time-consuming job. If the provisions of title I were applied in such situations, a real burden would therefore be placed upon this Department in fulfilling its duties and responsibilities for the administration of the lands under its jurisdiction. In addition the Interior and Insular Affairs Committees of the Congress would thereby concern themselves with activities normally carried on by the executive branch.

By specific exemption, the term "designation or classification" in title I would not include actions necessary for the conduct of timber sales. The fact that the exemption was made indicates that the particular type of action exempted is considered by your committee as being in the category of formal administrative action which otherwise would be covered. While we realize that timber sale activities on the national forest are of major importance, many other activities are similarly important. Our considered judgment at this time is that the exempting of timber sale actions and not other actions would materially affect our opportunity for effectively carrying out the directions of Congress in the Multiple-Use Sustained-Yield Act of June 12, 1960 (16 U.S.C. 528).

Title II constitutes a substitute wilderness bill containing numerous new or revised provisions which modify substantially the original H.R. 776 and S. 174 as passed by the Senate. We reported to both the House and Senate committees our strong support of S. 174. Our report of April 5, 1962, to your committee, strongly recommended the enactment, with a few amendments, of S. 174 as it was passed by the Senate. We testified strongly in favor of its enactment with those amendments. We still urge the enactment of that bill, as before.

Title II would designate as wilderness the 45 national forest areas now designated as "wilderness," "wild," and "canoe," comprising 6.8 million acres, or about 46 percent, of the 14.7 million acres presently administered by this Department under wilderness principles. However, title II fails to give any protection, other than that which they now have, to the 38 national forest "primitive" areas, which consist of some 7.9 million acres, or about 54 percent, of that wilderness-type acreage.

Under the provisions of title II, a primitive area could be designated as wilderness only by an affirmative act of Congress. We believe that the primitive areas should, like other national forest wilderness-type areas, on the basis of their widely recognized values as wilderness and their long-time and continuing special management by this Department to protect these values, have the maximum protection necessary and possible for such wilderness features.

This Department is in the process of examining these primitive areas, principally to determine and describe more precisely their proper boundaries. However, it is commonly recognized and well established that substantially all of these areas should remain in the wilderness system.

SRP04848

Under the provisions of title II, mining and mineral leasing laws would continue for 25 years to be applicable to areas designated as wilderness. Active mining operations, the use of heavy equipment in prospecting and mining, and the construction and maintenance of roads and other facilities incident thereto, would interfere materially with the purpose for which the wilderness area would be managed. Therefore, while we recognize that provisions should be made for mining and mineral leasing in such areas upon appropriate determination that in a specific area this would better serve the public interest than would its denial, we strongly believe that wilderness areas should be closed to general applicability of the mining and mineral leasing laws.

Within the wilderness areas designated under title II, certain uses could be permitted upon determination by the Secretary of Agriculture that they would better serve the public interests than would their denial. Within a specific area, he could authorize and regulate prospecting for water resources, and the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in the public interest, together with the necessary roads. Water development activities, although they might be highly desirable from some aspects in wilderness areas, would destroy wilderness values. Therefore, they should be permitted in a specific area only upon the determination that the public interest is better served by permission than by denial. Furthermore, since the functions of more than one Federal department would be affected by these determinations, we believe that the President rather than the Secretary should make such determinations.

Title II would authorize the Secretary of Agriculture under certain circumstances to permit the construction of temporary roads within wilderness areas when no alternate transportation route than across the areas is practicable. These roads could be built and used only for transportation of timber cut outside such areas. No provision would be made for similar transportation of mineral ores, livestock or other commodities. We see no reason for making provision for timber access roads either into or through such areas.

Title II would authorize the Secretary of Agriculture to designate about 3,500 acres in the San Gorgonio Area, California, for the purposes of skiing and developing facilities necessary therefor. Authorization to designate such an area within a wilderness area would constitute an action inconsistent and incompatible with wilderness management and preservation. A developed skiing area would effectively destroy the wilderness values of whatever portion of the wilderness area it affected. We strongly believe that such an authorization should not be included as a part of wilderness legislation. If it should be determined beyond doubt that such development would better serve the public interest than would its denial, the portion of the area essential for that purpose should be eliminated from the wilderness system.

For the foregoing reasons, this Department reiterates its position in favor of the enactment of S. 174 as it was passed by the Senate, with certain amendments.

The Bureau of the Budget advises that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

ORVILLE L. FREEMAN, *Secretary.*

SRP04849

GENERAL COUNSEL OF THE DEPARTMENT OF DEFENSE,
Washington, D.C., September 13, 1962.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives.

DEAR MR. CHAIRMAN: Your letter of September 4, 1962, requested the views of the Department of Defense on Committee Print No. 25 of H.R. 776, 87th Congress.

The Department of Defense is principally concerned with title I of H.R. 776, which would effect substantial amendments to the existing law relating to the withdrawal, reservation, and restriction of public lands for military purposes. However, the Department recognizes that, in terms of the changes made by both title I and title II, the bill would have substantially more impact upon the operations of other Government agencies. The procedures set forth in title I are not more restrictive, so far as this Department is concerned, than those prescribed by the act of February 28, 1958 (Public Law 85–337), and in some few cases are in fact less restrictive; but that act applies only to lands used for military purposes, so that title I of the present bill will be of greater concern to other agencies.

The Department of Defense interposes no objection to the enactment of H.R. 776, with one important exception. Section 102 of the bill requires that withdrawals, reservations, restrictions, designations, and classifications of public lands, national forest lands, and shelf lands in excess of 5,000 acres be approved by act of Congress, with certain enumerated exceptions. In Committee Print No. 23, dated August 10, 1962, an exception was made, in section 102(4)(D), where "the restriction is for the purpose of removing a shelf area or areas from disposition or leasing under the Outer Continental Shelf Lands Act because of a military requirement therefor." Under the procedure provided in Committee Print No. 23, restrictions of shelf areas for military purposes would not require an act of Congress but would become effective where the Congress had been notified of the proposed restrictions, and either a 180-day period had elapsed since the notification, or the Committees on Interior and Insular Affairs had advised that there were no further questions to be asked regarding the proposed restrictions.

Prior to the issuance of Committee Print No. 23, the Department of Defense had given the Subcommittee on Public Lands of the House Committee on Interior and Insular Affairs a detailed and highly classified briefing regarding the Department's needs for certain shelf lands. The program described in this briefing plays a most crucial role in the defense of the United States, and, in order to achieve the flexibility necessary to carry out this program effectively, it is essential that the restriction of shelf areas be accomplished by executive action. Accordingly a statutory provision requiring restrictions of shelf lands to be authorized by act of Congress would be extremely detrimental to the national security. As you know, the act of February 28, 1958 (Public Law 85–337) already contains such a requirement; however, if this requirement is not relaxed, with respect to shelf lands, during the present session of Congress, the Department of Defense will be compelled to submit legislation for this purpose, and in the meantime the extremely important program described above will be seriously impeded.

SRP04850

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely yours,

JOHN T. MCNAUGHTON, *General Counsel.*

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., September 14, 1962.

Hon. WAYNE N. ASPINALL,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D.C.

DEAR MR. ASPINALL: We have your letter of September 4, enclosing Committee Print No. 25 on H.R. 776, as amended and ordered reported by your committee.

You have asked for our views of the amended bill and we are glad to make them known. After the most careful weighing of alternatives, the Department must continue to favor enactment of wilderness legislation following the general approach of S. 174.

Committee Print No. 25 differs extensively with previously considered wilderness proposals. It contains two main features, as set forth in titles I and II. Briefly, title I injects a broad new subject matter relating generally to the administration of public land matters that is not, in our judgment, part of the wilderness question. Enactment of this title, in our judgment, would seriously and harmfully restrict the longstanding public land management procedures of this Department. We find many unwise features to this title as hereafter discussed.

Title II, which relates particularly to the establishment of wilderness areas, envisages a new and curtailed concept of a wilderness preservation system and procedures for its establishment. It would establish a "minimum" wilderness system to include only the national forest "wilderness," "wild," and "canoe" areas. These areas are about half of the national forest lands that have been set aside and which are already administered in accordance with wilderness principles. Furthermore, an act of Congress would be required to include "primitive" national forest areas in the wilderness system. An act of Congress would be required also to include, in the wilderness system, areas of the national park system and national wildlife refuge system. This is of course, a very drastic alteration of the provisions of S. 174. We shall discuss hereafter separately and in more detail titles I and II of this committee print.

TITLE I

This portion of Committee Print No. 25 encompasses public land matters that in our judgment are so unrelated to the wilderness question that they should be the subject of separate study by the Congress. Title I embodies many of the provisions of H.R. 8783. Earlier this Department has noted its objections to this bill. We are convinced that wilderness legislation should be considered separately and apart from broad revisions of the numerous public land laws previously enacted by Congress.

SRP04851

Because of the time limitations, we confine our observations to the major features of this amended bill. Title I is very involved and raises many serious and far-reaching policy questions. For example, section 102, with certain exceptions, would require the approval of the Congress for virtually all withdrawals, reservations, restrictions, designations, or classifications of public lands, national forest lands, and Continental Shelf lands in excess of 5,000 acres.

The scope and complexity of the proposed extinction of executive authority in the case of permanent withdrawals and the withdrawal of legislative delegation in the case of temporary withdrawals, can be demonstrated to some degree by the suggestion of certain kinds of transactions that evidently would fall under one or more of the amendment terms. While it is difficult to determine accurately the full extent of the provisions in question, we believe these transactions probably would include, for example, leases pursuant to section 15, Taylor Grazing Act; the adjustment of grazing district boundaries; closing orders for grazing districts, even when the need to conserve soil, water and ground cover is urgent; rights-of-way for all kinds of public purposes; State lieu selections (when they require a designation of the lands as minerals); stock driveway withdrawals and extensions; small tract classifications; and various other administrative actions.

The inclusion of restrictions within the limitations prescribed by section 102 would create many problems also. An example that might be cited would be the Federal rules and regulations relating to public use and other purposes that we find are necessary to administer Federal lands. Section 109 defines "restriction" to mean "any action limiting opportunities by the public for the acquisition, occupancy, use, development, or exploration of public lands, national forests or shelf lands, including permits for use by Government agencies." With this definition in mind, the scope of section 102 is readily apparent. We are definitely of the opinion that such requirements would seriously hamper Federal administrative operations, and are therefore not in the public interest.

Another example of the adverse effect of title I is the inclusion in section 102 of "classification" among the various administrative actions that would require congressional approval. Such inclusion would substantially repeal the authority conferred upon the Secretary of the Interior by section 7 of the Taylor Grazing Act, particularly when the proposed classification would have the effect of restricting entry for desired uses. Over the past 3 calendar years (1959–61), this Department handled 10,475 classification cases of which 6,740 were adverse to the desired form of entry (homestead, public sale, desert land, and others). If even a very small percentage fell in the category of over 5,000 acres, additional acts of Congress would have been required each year if the proposed amendment had been law. Quite apart from the enormous new burden this would place on the two congressional committees which already carry the heaviest workload in the Congress, such a requirement would tend to stifle a classification program that ought to be expedited rather than curtailed. While some Members of Congress are undoubtedly expert in such technical matters, it is doubtful whether substantive decisions on hydrology, soil chemistry, agronomy, climatology, minerology, or highway planning are appropriate for legislative determinations.

SRP04852

In practice, the executive powers to which title I is directed, are used only after the most careful consideration has been given to all of the values involved. Wisely used, such powers can still be one of the principal conservation tools used to provide appropriately in the public interest for present and future public use as well as to preserve our rich heritage of public lands for future generations. In fact, we believe the Nation's record in this regard is very good. We think history demonstrates conclusively that, beginning with Theodore Roosevelt's Presidency, the withdrawal power vested in the Executive by prior Congresses has been the chief tool of conservation. Most of our national forests and many of our finest national parks and wildlife refuges were originally preserved and protected by the wise use of this executive authority. Grand Canyon, Olympic, Teton, Zion, Bryce, and Carlsbad National Parks were originally preserved through Presidential action—and this made it possible for Congress to later exercise its power to create national parks out of these lands.

Also, many of our outstanding wildlife refuges, such as Wichita Mountains, Tule Lake, Fish Springs, and Red Rock Lakes, have similarly been reserved in this manner. In the field of reclamation, executive withdrawals again demonstrate the need to preserve this authority in the executive branch. Carefully considered withdrawals at the planning stage, long prior to congressional authorization for projects, will continue to mean substantial financial savings to the Nation. We are convinced that the "batting average" in executive withdrawals and related actions of nonmilitary type has been exceedingly high and that the national estate could not have been used, protected, and preserved as effectively without the existence of this vital power.

TITLE II

This title, as previously noted, would establish a minimum wilderness system and would severely restrict the establishment of new wilderness areas, even though some of the lands that would form such new wilderness areas are now within Federal reservations and are being administered generally in accordance with wilderness principles. Because of the fact that it would not permit the inclusion of "primitive" national forest areas, national park system areas, or national wildlife refuge system areas in the wilderness system, except pursuant to a specific act of Congress, we consider title II to be more unworkable than the comparable provisions of S. 174. Inevitably, such provisions would mean that the vital decisions would be made as the result of narrow local interests, and not through a more dispassionate weighing of the national interest and national objectives.

Moreover, section 204 of title II outlines an involved and expensive procedure for the establishment of new wilderness areas, a procedure that in the severity of its requirements will probably exceed the requirements governing the establishment of any other type of Federal reservation. Further, if a specific act of Congress is to be required in each case for the establishment of new wilderness areas, we see little need for the elaborate procedures set forth in section 204. The provisions of this title, as revised, would put a great burden upon the Secretaries of Interior and Agriculture in the selection of areas for wilderness status, to screen such areas, to hold public hearings, to notify the

SRP04853

Governors and the counties involved as well as various named Federal agencies that may have any interest in the matter. The administrative procedures would be time consuming, complicated, involved, and expensive.

Section 205 of title II would require a review every 25 years of wilderness areas. Executive departments are constantly evaluating the areas they administer and frequently recommend boundary changes and adjustments as called for by circumstances. While the principle involved in section 205 may be good, we perceive no logical reason why wilderness areas should be singled out for this type of review, particularly because of the intense screening and study to which they would be subjected under the other provisions of the bill.

On page 36 of Committee Print No. 25, reference is made to "accommodations and installations in wilderness areas." This may be intended to refer to the "public accommodations" such as now exist in the national park system. The true wilderness concept, in our opinion, does not provide for public accommodations as such within those areas that are to be included in the wilderness system.

A major objection to title II, from the standpoint of wilderness conservation, is contained in subsection (c) of section 206. This provision would permit operation of the mineral leasing and mining laws within the national forest wilderness areas for a period of 25 years. The effect of this provision would be highly destructive of wilderness values. The provision goes considerably beyond the authority contained in S. 174 and is not consistent with a sound wilderness system concept. We believe that any mining that is to be permitted in wilderness areas should be permitted only after a scientific and factual determination that vital minerals exist, and a policy decision that it is more important that mining in a particular area be authorized than that it be prohibited. Otherwise, the establishment of wilderness areas will have little, if any, significance.

Another provision, subsection (d) of section 206, would authorize the Secretary of Agriculture to "authorize prospecting for water resources, the establishment and maintenance of reservoirs, water conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development in use thereof." Again, as in the case of mining activities, we believe that any authority of this kind should be vested in the President.

It is our fear that title II, considered as a whole, would restrict, rather than advance the opportunity to enlarge and give better protection to our existing wilderness heritage. On the contrary, we believe that it would compromise wilderness objectives to such an extent that many of these objectives would be lost.

The Bureau of the Budget advises that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

JOHN A. CARVER, Jr.,
Acting Secretary of the Interior.

COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs recommends enactment of H.R. 776, as amended.

SRP04854

APPENDIXES

A. Background, analysis, and comparison of major provisions (S. 174 and H.R. 776, as amended).

B. Tabulation of "wilderness," "wild," and "canoe" areas that under H.R. 776, as amended, would be designated immediately for permanent wilderness preservation.

APPENDIX A

Background, analysis, and comparison of major provisions: Wilderness preservation

Topic	Existing situation	S. 174 as passed by the Senate	H.R. 776 as amended by House Committee on Interior and Insular Affairs
FEDERALLY OWNED AREAS WITH WILDERNESS CHARACTERISTICS *Acres* 1. Areas in national forests..... 14,675,358 (a) Wilderness, wild, and canoe areas [1]..... 6,822,400 (b) Primitive areas..... 7,852,958 2. Areas in units of the national park system [2]..... 22,158,097 3. Areas in units of the national wildlife refuge system [2]..... 24,441,556 Total..... 61,275,011	In the national forests there are 6,822,400 acres in wilderness, wild, and canoe areas; 7,852,958 acres in primitive areas; 14,675,358 acres in wilderness-type areas protected by administrative regulation. Units of the national park system and the national wildlife refuge system have varying degrees of protection, some by statute and some by administrative action, e.g., withdrawal from appropriation from the public land laws, including the mining and mineral leasing laws.	The 14,675,358 acres of wilderness-type areas in national forests would be incorporated into a wilderness system immediately, with portions of the 7,852,958 acres of primitive areas subject to possible deletion after review of the suitability of each primitive area for preservation as wilderness. Ultimately could have approximately 61,275,011 acres in wilderness system.[3]	The 6,822,400 acres of wilderness, wild, and canoe areas would be given immediate statutory designation as wilderness. All existing administrative actions, including, for example, designations of primitive areas and withdrawals in monuments or game ranges, would be given statutory protection for continuation until revised by affirmative action of Congress. Following detailed reviews, total of 61,275,011 acres might be designated as wilderness.[3]
1. Wilderness-type areas in the national forests.	Since 1930, 83 wilderness-type areas in the national forests have been established by administrative action of either Secretary of Agriculture or Chief, Forest Service. (In 1924 the first area for wilderness preservation had been designated in the Gila National Forest, N. Mex.)	All 83 wilderness-type areas would be incorporated into a National Wilderness Preservation System, with those designated as "primitive" subject to a 10-year review and modification or elimination.	The 45 "wilderness," "wild," and "canoe" areas would be designated as wilderness areas. The 38 "primitive" areas would be reviewed during a 10-year period; designation as wilderness area would require affirmative action by Congress.
a. "Wilderness," "wild," and "canoe" areas (6,822,400 acres in 45 areas in 12 States; see appendix B).	Wilderness and wild areas can be established under Agriculture Regulations U-1 and U-2, respectively (36 CFR 251.20 and 251.21, published at pp. 1424 and 1425 of hearings); differences relate to size (wilderness areas must be over 100,000 acres; wild areas over 5,000 acres) and official who can act (only Secretary may designate wilderness areas; Chief, Forest Service may designate wild areas). The only canoe area is the Boundary Waters Canoe Area, Superior National Forest, Minn., which is a complex of several areas given protection starting in 1926 and at one time designated as "roadless areas."	Included in wilderness preservation system. Minimum size of any wilderness area would be 5,000 acres.	Designated as wilderness areas. Minimum size of a wilderness area set at 5,000 acres.

(1) Roads	Generally not permitted except for ingress to and egress from privately owned property and to meet minimum requirements for administration. An 1897 act grants ingress and egress to "actual settlers."	Generally not permitted except minimum required for administration and those essential for development and use authorized by the President in specific areas.	Generally not permitted except in conjunction with uses authorized by the Secretary of Agriculture within specific areas. In addition, authorizes temporary roads to extent of minimum required for administration and where no alternate is available for hauling timber from timber sales on lands outside of wilderness areas; also the Secretary of Agriculture is required, in a manner consistent with wilderness preservation, to permit ingress and egress to surrounded privately held areas.
(2) Commercial timber harvesting.	Not permitted, by regulation	Not permitted	Not permitted.
(3) Grazing	May be permitted subject to restrictions deemed desirable by Chief, Forest Service.	Would be permitted to continue where well established, subject to restrictions and regulations deemed necessary by the Secretary.	Would be permitted to continue where established, subject to reasonable regulations deemed necessary by the Secretary consistent with such continued use.
(4) Mining and mineral leasing	Generally open to prospecting, location, and patenting of full fee title under the mining laws and for mineral leasing. (Note: all public lands in Minnesota have been removed from operation of the 1872 mining law and placed under a mineral leasing disposal system; 2 wild areas, 1 in New Hampshire and 1 in North Carolina, are comprised of acquired lands subject to mineral leasing.) There are no active mining operations in these areas at this time; there are oil and gas leases covering land in 2 wilderness areas in Wyoming where the drilling originates outside of the protected areas. (See hearings, p. 1219 and p. 1176.)	Prospecting permitted if not incompatible with wilderness preservation. (N.B.: There is no mention of the mining laws and a prospector or locator who staked a claim and obtained a patent would receive full fee title to the land within the claim.) In addition, the President could, in a specific area, authorize prospecting and mining, including necessary roads, upon his determination that it would better serve the interest of the United States and the people thereof than will its denial.	Cuts off, after December 31, 1987, applicability of mining and mineral leasing laws; until that date laws apply to the same extent as presently in force, subject to regulations by the Secretary to protect wilderness, except that patent would give title to the mineral deposits only with right to cut necessary timber. Effective January 1, 1988, minerals would be withdrawn from all forms of appropriation. Geological Survey and Bureau of Mines would continue surveying to determine mineral values.
(5) Motor transportation, mechanized equipment, airplanes, and motorboats.	Generally not permitted except for administrative needs and emergencies. Landing of airplanes and use of motorboats permitted only where well established prior to administrative designation of the area as wilderness or wild. Use of motor vehicles also permitted when in accordance with a statutory right of ingress and egress.	Generally not permitted in excess of minimum required for administration and emergencies involving health and safety of persons within wilderness areas. Where well established, use of aircraft and motorboats may be permitted to continue subject to restrictions deemed desirable by the Secretary.	Generally not permitted except for minimum required for administration and emergencies involving health and safety of persons within wilderness areas. Where established, continued use of aircraft or motorboats may be permitted subject to restrictions deemed desirable by the Secretary. In addition, use of mechanized ground or air equipment would be permitted where essential in connection with authorized mineral leasing or mining.

See footnotes at end of table, p. 111.

Background, analysis, and comparison of major provisions: Wilderness preservation—Continued

Topic	Existing situation	S. 174 as passed by the Senate	H.R. 776 as amended by House Committee on Interior and Insular Affairs
FEDERALLY OWNED AREAS WITH WILDERNESS CHARACTERISTICS—continued			
(6) Water projects	Water storage projects not involving road construction may be permitted subject to restrictions deemed desirable by the Chief, Forest Service.	Prospecting to gather information about water resources permitted if not incompatible with wilderness preservation; President, in specific areas, may authorize establishment and maintenance of reservoirs and water conservation works with necessary roads upon determination that the use in the specific area will better serve the interests of the United States and the people thereof than will its denial.	The Secretary of Agriculture, in accordance with regulations he deems desirable, may authorize prospecting for water resources and establishment and maintenance of reservoirs and water conservation works upon his determination that the use in the specific area will better serve the interests of the United States and the people thereof than will its denial.
(7) Power projects	Under Federal Power Act, Federal Power Commission has licensing authority in these areas. Federal Power Act requires Commission to find that use will not be inconsistent with purpose of reservation. However, Commission representatives testified that hydroelectric potential in these areas is "minor, unimportant."	Preserves authority of Federal Power Act. Also, President may authorize transmission lines and "other facilities needed in the public interest," with necessary roads, upon his determination that the use in a specific area will better serve the interests of the United States and the people thereof than will its denial.	Secretary of Agriculture, in accordance with regulations he deems desirable, may authorize power projects and transmission lines upon his determination that the use in a specific area will better serve the interests of the United States and the people thereof than will its denial.
(8) Commercial services	Regulations prohibit occupancy for hotels, stores, or resorts and similar activities. Secretary of Agriculture reported that commercial services, to extent necessary for recreational or other uses of wilderness, may be performed (hearings, p. 1072).	Prohibited except that commercial services could be performed to extent necessary for activities which are proper for realizing recreational or other purposes of wilderness system.	Prohibited except that commercial services could be performed to extent necessary for activities which are proper for realizing recreational or other purposes of wilderness.
(9) Non-Federal land surrounded by wilderness	Ingress and egress must be provided for actual settlers; departmental regulations currently being revised following an Attorney General's opinion of Feb. 1, 1962 interpreting the 1897 act.	For lands that are State owned, the State would be given either right of access or opportunity of exchange for other land. Subject to appropriations, privately owned land could be acquired. The Secretary could accept donations.	If surrounded land is owned by State, State would be given either right of access or opportunity of exchange except that State could not acquire mineral interest unless it relinquishes its mineral interest. Ingress and egress would be provided for all valid occupancies. The Secretary would be authorized to acquire privately owned land only if (1) the owner concurs or (2) Congress specifically authorizes a particular acquisition. The Secretary could accept donations.

(10) Hunting and fishing	Permitted as a recreation use associated with wilderness but not specifically referred to in regulations.	Not referred to as a use but specifically preserves jurisdiction and responsibilities of the States with respect to wildlife and fish in national forests.	Specifically permitted to the extent not incompatible with wilderness preservation. Preserves State jurisdiction with respect to fish and wildlife in wilderness areas.
b. Primitive areas (7,852,958 acres in 38 areas in 10 States). (See hearings, pp. 1077–1079.)	Established by departmental regulations; use restricted in same manner as "wilderness" and "wild" areas.	Included in wilderness preservation system subject to deletion after review.	Existing status given statutory recognition and continuation until changed by Congress.
(1) Manner of establishment	Regulation L-20 issued in 1929, revoked in 1939, gave authority to the Chief, Forest Service, to establish primitive areas. No new primitive areas have been established since 1939 but 30 primitive areas have been reclassified as either wilderness or wild areas in accordance with the more restrictive regulations U-1 and U-2 which replaced regulation L-20. (See hearings, pp. 1424 and 1425.)	The 38 primitive areas would be reviewed by the Secretary of Agriculture over a 10-year period. The views of the Governor would be obtained and hearings held if there is a demand therefor. The President would submit to Congress recommendations for inclusion or exclusion of areas. Each recommendation would become effective after adjournment of the 1st complete session of Congress following submission of the recommendation unless prior thereto a resolution of opposition had been adopted by either the Senate or the House of Representatives.	The 38 primitive areas would be reviewed by the Secretary of Agriculture over a 10-year period with a report to Congress after local hearings and receipt of comments from the Governor, county officials, and Federal agencies having jurisdiction over matters that might be involved. Affirmative action of Congress required to designate as wilderness or otherwise change existing status.
(2) Use restrictions	Managed by the Forest Service in the same manner as wilderness and wild areas. (See above.) (N.B.: There are 6 mines in active operation [see pp. 1072 and 1220 of hearings]; there are some roads [see p. 1226 of hearings]; there are several potential hydroprojects in primitive areas [see p. 1242 of hearings]; and areas are "open" under mining laws.)	Would be same as for other units of wilderness system (see above) except that if (1) the Congress rejects a recommendation of the President and no revised recommendation is made within 2 years or (2) a recommendation has not become effective within 14 years following enactment, the land in the affected primitive area would cease to be a part of the wilderness system and would be administered as "other" national forest land, i.e., presumably, with no restriction on use.	Existing designations, regulations, and restrictions will remain in effect until modified by affirmative action of Congress.
2. Roadless areas in units of national park system. (Exact acreage cannot be determined. Secretary of the Interior has estimated the maximum gross acreage that might be subject to classification as wilderness aggregates 22,158,097 acres in 24 national parks and 23 national monuments in 18 States; see hearings, pp. 1145–1148).	No areas within the national parks or national monuments have received formal designation as wilderness. Development of parks and monuments is largely a matter for determination by the Secretary of the Interior and the Director, National Park Service. Degree of present restriction varies, e.g., 4 national park system units are open by statute to acquisition of rights under the mining laws. (See hearings, pp. 1149–1151.)	Provides for incorporation of areas into the wilderness system. Secretary of the Interior to review units over a 10-year period. Views of Governor would be obtained. Hearings would be held only if demand exists in connection with determination of parts of units to be reserved for roads, motor trails, buildings, accommodations for visitors, and administrative installations. Presidential recommendation would become effective following adjournment of Congress after submission of recommendation unless resolution of opposition has been adopted by either the Senate or House of Representatives.	Secretary of the Interior would be required to review over a 10-year period, hold local hearings, and obtain views of Governor, county officials, and Federal agencies having jurisdiction over matters that might be affected. Areas could be designated as wilderness by act of Congress.

Background, analysis, and comparison of major provisions: Wilderness preservation—Continued

Topic	Existing situation	S. 174 as passed by the Senate	H.R. 776 as amended by House Committee on Interior and Insular Affairs
FEDERALLY OWNED AREAS WITH WILDERNESS CHARACTERISTICS—continued			
3. Portions of wildlife refuges and game ranges. (Exact acreage cannot be determined. However, the Secretary of the Interior has estimated that the gross acreage that might be subject to classification as wilderness aggregates 24,441,556 acres in 13 areas of the national wildlife refuge system in 5 States; see hearings, pp. 1145–1148.)	There are no portions of wildlife refuges or game ranges presently set aside for wilderness classification or restricted use other than the restriction, if any, that applies to the refuge or range generally. Degree of present restrictions varies.	Provides for incorporation into the wilderness system of portions of refuges or game ranges established prior to the effective date of the act. Secretary of the Interior to make review over a 10-year period and submit recommendations to the Congress. Presidential recommendation would take effect following adjournment of the first complete session of Congress after submission of recommendation unless the Senate or the House of Representatives has adopted a resolution opposing the recommendation.	Secretary of the Interior would be required to review over a 10-year period, hold local hearings, and obtain views of Governor, county officials, and Federal agencies having jurisdiction over matters that might be affected. Areas could be designated as wilderness by act of Congress.
4. Designation or classification of public lands (including national forests reserved from the public domain).	Except for withdrawals, reservations and restrictions for defense purposes, Secretary of the Interior may withdraw lands from appropriation under the public land laws; and either the Secretary of the Interior or the Secretary of Agriculture may classify and designate uses of lands under their respective jurisdictions in accordance with regulations promulgated by them. However, the Secretaries have each agreed to notify the Chairman of the House Interior and Insular Affairs Committee prior to effecting any withdrawal in excess of 5,000 acres.	Would not limit administrative authority except (1) specifies process for modification or elimination of wilderness established under its provisions and (2) limits inclusion of areas within the wilderness preservation system to those specified in the act and additions to take effect only after adoption by Congress of a concurrent resolution approving the addition.	Would establish the general principle that withdrawals, reservations, restrictions and changes in use designations or classifications of areas of public domain lands, national forest lands, and Outer Continental Shelf lands in excess of 5,000 acres could be effected only after notification to Congress and, in most instances, an act of Congress. Administrative authority to designate areas or to establish use priorities could be exercised only if the designation or classification has been defined by statute or in regulations adopted in accordance with the Administrative Procedures Act.
5. Multiple-use principle	The act of June 12, 1960, established the national policy that national forests are to be managed on the multiple use-sustained yield principle. Wilderness preservation is recognized as being compatible with multiple use. Department of the Interior has applied the principle of "balanced use" as basis for management of public lands.	Provides that purposes of Wilderness Act are supplemental to but not in interference with Multiple-Use Sustained-Yield Act of June 12, 1960.	Declares as a matter of policy that all public lands of the United States are to be managed generally in accordance with the principle of multiple use unless otherwise specifically authorized by law. Recognizes need for preservation of wilderness areas and provides that wilderness preservation shall not be deemed to be interference with Multiple-Use Sustained-Yield Act of June 12, 1960.

6. Review of wilderness-type designations	Under directive from the Secretary of Agriculture, all primitive areas have been undergoing review and evaluation to determine their wilderness character and value, with a view towards classifying as wilderness or wild those areas or parts of areas determined to be predominantly valuable for wilderness.	Review of primitive areas, roadless portions of national park system, and units of national wildlife refuge system to be made within 10 years for purpose of determining suitability of areas for continuation or inclusion in wilderness preservation system.	Review of primitive areas, roadless areas of national park system, and units of wildlife refuge system would be made over a 10-year period to determine whether areas should be designated as wilderness, giving analyses of comparative values and consideration to possible alternative uses. In addition, each designated wilderness area would be reviewed at least once every 25 years in order to determine suitability and desirability for continued classification and preservation as wilderness.

[1] See appendix B for tabulation.

[2] This represents maximum acreage that might be classified as wilderness within these established systems, as estimated by the Secretary of the Interior. The Secretary indicated that there might be an additional 947,387 acres in 4 "prospective areas" involved in pending legislation for establishment of 2 national parks and 2 national recreation areas.

[3] See first column for composition of assumed total and basis thereof.

SRP04861

Appendix B

The following areas, presently classified administratively as "wilderness," "wild," and "canoe," are designated as wilderness areas by H.R. 776, as amended, for permanent preservation subject to restrictions and limited uses as discussed in this report.

WILDERNESS AREAS

State, name, and date established as primitive area	Date established	National forest	Net area (acres)
Arizona:			
Mazatzal (1932)	1940	Tonto	205,000
Superstition (1939)	1940	do	124,140
California:			
Marble Mountain (1931)	1953	Klamath	213,283
Yolla Bolly-Middle Eel (1931)	1956	Mendocino	72,916
		Shasta-Trinity	36,399
Total			109,315
Montana: Bob Marshall (1931-33)	1940	Flathead	710,000
		Lewis and Clark	240,000
Total			950,000
New Mexico:			
Gila [1] (1933)	1953	Gila	438,360
Pecos (1933)	1953	Carson	25,000
		Santa Fe	140,000
Total			165,000
Oregon:			
Eagle Cap (1930)	1940	Wallowa	136,010
		Whitman	80,240
Total			216,250
Three Sisters (1937)	1957	Deschutes	59,875
		Willamette	136,833
Total			196,708
Washington: Glacier Peak	1960	Mount Baker	212,850
		Wenatchee	245,255
Total			458,105
Wyoming:			
Bridger (1931)	1960	Bridger	383,300
North Absaroka (1932)	1951	Shoshone	359,700
South Absaroka (1932)	1951	do	505,552
Teton (1934)	1955	Teton	563,400
Total			4,888,173

SRP04862

WILD AREAS

State, name, and date established as primitive area	Date established	National forest	Net area (acres)
Arizona:			
Chiricahua (1933)	1940	Coronado	18,000
Galiuro (1932)	1940	do	55,000
Sierra Ancha (1933)	1951	Tonto	20,850
California:			
Caribou (1931)	1961	Lassen	19,080
Cucamonga (1931)	1956	San Bernardino	9,022
Hoover (1931)	1957	Inyo	9,000
		Toiyabe	33,800
Total			42,800
San Gorgonio (1931)	1956	San Bernardino	33,898
San Jacinto (1931)	1960	do	20,565
Thousand Lakes (1931)	1955	Lassen	15,695
Colorado:		Gunnison	26,300
La Garita (1932)	1961	Rio Grande	22,700
Total			49,000
Maroon Bells-Snowmass (1933)	1956	White River	66,100
Mount Zirkel-Dome Peak (1931)	1949	Routt	53,400
Rawah (1932)	1953	Roosevelt	25,579
West Elk (1932)	1957	Gunnison	62,000
Montana: Gates of the Mountains	1948	Helena	28,562
Nevada: Jarbidge	1958	Humboldt	64,667
New Hampshire: Great Gulf	1959	White Mountain	5,400
New Mexico:			
San Pedro Parks (1931)	1940	Santa Fe	41,132
Wheeler Peak	1960	Carson	6,051
White Mountain (1933)	1957	Lincoln	28,118
North Carolina: Linville Gorge	1951	Pisgah	7,655
Oregon:			
Diamond Peak	1957	Deschutes	19,240
		Willamette	16,200
Total			35,440
Gearhart Mountain	1943	Fremont	18,709
Kalmiopsis	1946	Siskiyou	78,850
Mount Hood (1931)	1940	Mount Hood	14,160
Mount Washington	1957	Deschutes	8,625
		Willamette	38,030
Total			46,655
Mountain Lakes (1930)	1940	Rogue River	23,071
Strawberry Mountain	1942	Malheur	33,004
Washington:			
Goat Rocks (1931)	1940	Gifford Pinchot	59,740
		Snoqualmie	22,940
Total			82,680
Mount Adams	1942	Gifford Pinchot	42,411
Total			1,047,554

CANOE AREAS

Minnesota: Boundary Waters Canoe Area:			
Caribou Division	1948	Superior	36,059
Little Indian Sioux Division	1939	do	64,117
Superior Division	1936	do	786,497
Total			886,673

[1] The Gila Primitive Area was partially reclassified in 1953 as wilderness; but, 129,630 acres remained in primitive status.

Recapitulation	*Acres*
Wilderness areas	4,888,173
Wild areas	1,047,554
Canoe areas	886,673
Total	6,822,400

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SRP04863

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

ACT OF FEBRUARY 28, 1958 (72 STAT. 27)

[Notwithstanding any other provisions of law, except in time of war or national emergency hereafter declared by the President or the Congress, on and after the date of enactment of this Act the provisions hereof shall apply to the withdrawal and reservation for, restriction of, and utilization by, the Department of Defense for defense purposes of the public lands of the United States, including public lands in the Territories of Alaska and Hawaii: *Provided*, That—

(1) for the purposes of this Act, the term "public lands" shall be deemed to include, without limiting the meaning thereof, Federal lands and waters of the Outer Continental Shelf, as defined in section 2 of the Outer Continental Shelf Lands Act (67 Stat. 462), and Federal lands and waters off the coast of the Territories of Alaska and Hawaii;

(2) nothing in this Act shall be deemed to be applicable to the withdrawal or reservation of public lands specifically as naval petroleum, naval oil shale, or naval coal reserves;

(3) nothing in this Act shall be deemed to be applicable to the warning areas over the Federal lands and waters of the Outer Continental Shelf and Federal lands and waters off the coast of the Territory of Alaska reserved for use of the military departments prior to the enactment of the Outer Continental Shelf Lands Act (67 Stat. 462); and

(4) nothing in sections 1, 2, or 3 of this Act shall be deemed to be applicable either to those reservations or withdrawals which expired due to the ending of the unlimited national emergency of May 27, 1941, and which subsequent to such expiration have been and are now used by the military departments with the concurrence of the Department of the Interior, or to the withdrawal of public domain lands of the Marine Corps Training Center, Twentynine Palms, California, and the naval gunnery ranges in the State of Nevada designated as Basic Black Rock and Basic Sahwave Mountain.

[SEC. 2. No public land, water, or land and water area shall, except by Act of Congress, hereafter be (1) withdrawn from settlement, location, sale, or entry for the use of the Department of Defense for defense purposes; (2) reserved for such use; or (3) restricted from operation of the mineral leasing provisions of the Outer Continental Shelf Lands Act (67 Stat. 462), if such withdrawal, reservation, or restriction would result in the withdrawal, reservation, or restriction

SRP04864

of more than five thousand acres in the aggregate for any one defense project or facility of the Department of Defense since the date of enactment of this Act or since the last previous Act of Congress which withdrew, reserved, or restricted public land, water, or land and water area for that project or facility, whichever is later.

[SEC. 3. Any application hereafter filed for a withdrawal, reservation, or restriction, the approval of which will, under section 2 of this Act, require an Act of Congress, shall specify—

(1) the name of the requesting agency and intended using agency;

(2) location of the area involved, to include a detailed description of the exterior boundaries and excepted areas, if any, within such proposed withdrawal, reservation, or restriction;

(3) gross land and water acreage within the exterior boundaries of the requested withdrawal, reservation, or restriction, and net public land, water, or public land and water acreage covered by the application;

(4) the purpose or purposes for which the area is proposed to be withdrawn, reserved, or restricted, or if the purpose or purposes are classified for national security reasons, a statement to that effect;

(5) whether the proposed use will result in contamination of any or all of the requested withdrawal, reservation, or restriction area, and if so, whether such contamination will be permanent or temporary;

(6) the period during which the proposed withdrawal, reservation, or restriction will continue in effect;

(7) whether, and if so to what extent, the proposed use will affect continuing full-operation of the public land laws and Federal regulations relating to conservation, utilization, and development of mineral resources, timber and other material resources, grazing resources, fish and wildlife resources, water resources, and scenic, wilderness, and recreation and other values; and

(8) if effecting the purpose for which the area is proposed to be withdrawn, reserved, or restricted, will involve the use of water in any State, whether, subject to existing rights under law, the intended using agency has acquired, or proposes to acquire, rights to the use thereof in conformity with State laws and procedures relating to the control, appropriation, use, and distribution of water.]

SEC. 4. Chapter 159 of title 10, United States Code, is amended as follows:

(1) By adding the following new section at the end:

"§ 2671. Military reservations and facilities: hunting, fishing, and trapping

"(a) The Secretary of Defense shall, with respect to each military installation or facility under the jurisdiction of any military department in a State or Territory—

"(1) require that all hunting, fishing, and trapping at that installation or facility be in accordance with the fish and game laws of the State or Territory in which it is located;

"(2) require that an appropriate license for hunting, fishing, or trapping on that installation or facility be obtained, except that

SRP04865

with respect to members of the Armed Forces, such a license may be required only if the State or Territory authorizes the issuance of a license to a member on active duty for a period of more than thirty days at an installation or facility within that State or Territory, without regard to residence requirements, and upon terms otherwise not less favorable than the terms upon which such a license is issued to residents of that State or Territory; and

"(3) develop, subject to safety requirements and military security, and in cooperation with the Governor (or his designee) of the State or Territory in which the installation or facility is located, procedures under which designated fish and game or conservation officials of that State or Territory may, at such time and under such conditions as may be agreed upon, have full access to that installation or facility to effect measures for the management, conservation, and harvesting of fish and game resources.

"(b) The Secretary of Defense shall prescribe regulations to carry out this section.

"(c) Whoever is guilty of an act or omission which violates a requirement prescribed under subsection (a) (1) or (2), which act or omission would be punishable if committed or omitted within the jurisdiction of the State or Territory in which the installation or facility is located, by the laws thereof in effect at the time of that act or omission, is guilty of a like offense and is subject to a like punishment.

"(d) This section does not modify any rights granted by treaty or otherwise to any Indian tribe or to the members thereof."

(2) By adding the following new item at the end of the analysis:

"2671. Military reservations and facilities: hunting, fishing, and trapping."

SEC. 5. The Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, is hereby further amended by revising section 3(d) to read as follows:

"(d) The term 'property' means any interest in property except (1) the public domain; lands reserved or dedicated for national forest or national park purposes; minerals in lands or portions of lands withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws; and lands withdrawn or reserved from the public domain except lands or portions of lands so withdrawn or reserved which the Secretary of the Interior, with the concurrence of the Administrator, determines are not suitable for return to the public domain for disposition under the general public-land laws because such lands are substantially changed in character by improvements or otherwise; (2) naval vessels of the following categories: Battleships, cruisers, aircraft carriers, destroyers, and submarines; and (3) records of the Federal Government."

SEC. 6. All withdrawals or reservations of public lands for the use of any agency of the Department of Defense, except lands withdrawn or reserved specifically as naval petroleum, naval oil shale, or naval coal reserves, heretofore or hereafter made by the United States, shall be deemed to be subject to the condition that all minerals, including oil and gas, in the lands so withdrawn or reserved are under the juris-

SRP04866

diction of the Secretary of the Interior and there shall be no disposition of, or exploration for, any minerals in such lands except under the applicable public land mining and mineral leasing laws: *Provided*, That no disposition of, or exploration for, any minerals in such lands shall be made where the Secretary of Defense, after consultation with the Secretary of the Interior, determines that such disposition or exploration is inconsistent with the military use of the lands so withdrawn or reserved.

MINORITY VIEWS

As far as the wilderness part of this bill is concerned, the substitute being reported to the House by the Interior Committee is a perversion of the wilderness preservation legislation that so many conservationists and conservation agencies throughout the Nation have been advocating so long and so earnestly.

"House Given a 'Nonwilderness' Bill," said the Denver Post in the title of an editorial commenting on the substitute as reported by the Public Lands Subcommittee. The Denver Post was right. The subcommittee substitute was a nonwilderness bill. And the full committee has made it worse.

As someone has observed this is indeed a substitute bill. For the preservation of wilderness it substitutes protection for exploiters of our wilderness areas.

It should be entitled "A bill to protect miners, lumbermen, and other enterprising patriots against rampant conservationists trying to preserve 2 percent of the country as God has made it."

It embarrasses the minority leader of this committee that the number which this bill bears is the number of the wilderness bill that he introduced to this Congress. For a half dozen years the minority leader has been urging legislation to establish a national wilderness preservation policy and program.

The willingness to compromise and accommodate proposals to all interests has been evident, yet it is a bitter irony indeed to see these efforts result in the monstrosity now being reported to the House.

We who have so long worked for wilderness preservation legislation can now only look forward to the sound legislation that will surely result when the House has worked its will on this proposal.

Not a Wilderness Bill

The status of the substitute ordered reported by the committee among conservationists who have been advocating wilderness protective legislation is readily apparent in a news statement dated September 12, 1962, and released by the Citizens Committee on Natural Resources.

This news statement with its analysis and comparison with the Senate-passed measure, S. 174, well expresses the minority views within the Interior Committee regarding the substitute measure ordered reported. The comparisons with S. 174 are pertinent to a consideration of the original H.R. 776. There is a common ancestry for the Senate act and the House bill, H.R. 776. The two measures are comparable; and the sponsor of H.R. 776 would readily accept S. 174 as an alternative. Accordingly the views expressed in the citizens committee release of September 12, 1962, are accepted as an expression of the minority views here being set forth.

The statement is as follows:

SRP04868

RESOURCES GROUP SAYS HOUSE COMMITTEE SUBSTITUTE IS "NOT A WILDERNESS BILL"

Correcting earlier reports that were said to have come from House Interior Committee sources, the Citizens Committee on Natural Resources today released an analysis of the Interior Committee's substitute wilderness bill.

The citizens committee called it not a wilderness bill but a measure for the protection of those who want the privilege of exploiting wilderness.

Said Spencer M. Smith, secretary of the committee, which is a conservationists' "task force on legislation," with headquarters at 1346 Connecticut Avenue NW., Washington, D.C.:

"The Denver Post in the title to its September 2, 1962, editorial declared 'House Given a Nonwilderness Bill.' We agree. The House Interior Committee has changed the Senate's good Wilderness Act passed a year ago (78 to 8) into a measure to protect mining, lumbering, and other commercial interests in keeping wilderness open for exploitation."

"It is a substitute bill all right," he said. "It substitutes exploitation for preservation."

Bill described

The substitute bill permits mining to continue for 25 years, Dr. Smith pointed out, and also requires that wilderness areas be reviewed every 25 years by 10 Federal agencies to see if they should continue to be wilderness.

The bill is entitled one to establish a wilderness preservation system yet the substitute drops entirely the helpful preservation concept of a system.

With the exception of "wilderness," "wild," and "canoe" areas in the national forests (comprising less than 7 million acres), the substitute requires that Congress pass another separate act for any area to be established as wilderness.

In addition to citing these examples of the substitute's provisions, Dr. Smith especially critized the Interior Committee for attaching as a rider to a wilderness bill other legislation to regulate withdrawals of land by the Executive.

The substitute, he explained, has two "titles." Title I proposes to set up new congressional policies for all land withdrawals. Title II, says the substitute "may be cited as the Wilderness Act. "The separate legislation thus included as title I "should be considered on its own merits," Dr. Smith maintained.

Conservationists demand amendments

Dr. Smith said that the Nation's conservationists are insisting that the Interior Committee's substitute bill be brought to the House floor for debate and amendment.

The Interior Committee leadership on the contrary, he explained, is trying to have its version brought up under a suspension of rules that would allow no debate and would permit no amendment.

SRP04869

"Don't be forced into snap judgment," urges a citizens committee letter that Dr. Smith says is being sent to each Member of the House.

Dated September 10, 1962, and entitled "the Wilderness bill," the statement as released by the committee's secretary is as follows:

"Conservationists reject the substitute wilderness bill, H.R. 776, ordered reported by the House Interior Committee.

"H.R. 776 would mutilate the widely supported S. 174, approved 78 to 8 by the Senate last year and endorsed by President Kennedy in his 1962 conservation message.

"The committee is trying to bring its substitute to the House floor under a suspension of the rules.

"This would prevent you from getting an explanation of the bill, debating it fully, and correcting it by amendment.

"Conservationists oppose this suspension of the rules.

"The Interior Committee's move would force House Members to make snap judgment.

"House Members should be able to express themselves on this significant legislation.

"A motion to suspend the rules on the substitute, H.R. 776, should be defeated.

"Fairness decrees that H.R. 776 should be brought to the House floor under a rule permitting debate and amendment."

The letter also says that a new issue of the Living Wilderness, published by the Wilderness Society, is on the way which includes the full text of the substitute bill, reports the amendments that conservationists would insist on to make it a sound measure, and encloses a special printing of the act passed by the Senate and urged by the President. (Copies may be obtained from the citizens committee.)

Substitute analyzed; compared with Senate act

The Citizens Committee on Natural Resources after analyzing the House committee's substitute wilderness bill and comparing it with the already Senate-passed Wilderness Act has emphasized seven points as follows:

1. The substitute bill has as "title I" nine sections that declare a "national policy" whereby Congress provides "more precise guidelines for and supervision over the use and disposition of the public lands." With some exceptions "no withdrawal, reservation, restriction, designation, or classification of public lands and national forest lands or shelf lands in excess of 5,000 acres * * * shall hereafter become effective until it first has been approved by act of Congress * * *."

(The Senate did not consider this proposal in connection with its Wilderness Act. A Presidential veto has been predicted by many observers for any legislation including this title I or its equivalent. The Citizens Committee on Natural Resources says it should be considered separately on its own merits and therefore should be removed from the wilderness bill by amendment.)

2. The substitute wilderness bill (title II of the measure ordered reported by the Interior Committee on August 30)

SRP04870

defines wilderness in much the same way as does the Senate act, but the citizens committee is proposing additions that will be clarifying in view of the substitute's failure to make definite declarations as to areas.

3. The substitute bill designates less than 7 million acres as wilderness, only the "wilderness," "wild," and "canoe" areas now designated within national forests. Regarding all other lands—including the present national forest "primitive" areas and the national park system and wildlife refuge areas—the substitute bill requires additional separate acts of Congress for designation as wilderness. There is no "system" of wilderness mentioned in the substitute except in its title.

(The Senate act establishes a system and places in it permanently the "wilderness," "wild," and "canoe" areas and, subject to review, also the "primitive" areas and areas in the national park system and the wildlife refuges. The Senate thus would authorize the Executive to consider for wilderness preservation some 61 million acres and would permit any of these lands on recommendation of the President to become wilderness unless rejected by Congress. The Senate act would require separate action by Congress for any other lands. Executive agencies reported favorably on these Senate provisions. Conservation spokesmen have supported the Senate provisions as giving Congress the "say-so" as to what lands may be preserved as wilderness but without giving wilderness opponents the chance to delay preservation of each of many separate areas just as they have delayed the wilderness bill. The House substitute is opposed.)

4. The substitute bill requires that areas to be considered for wilderness preservation (even those already classified as "primitive" in the national forests or national park or wildlife refuge lands) must be reviewed and reported on by 10 Federal agencies, including the Army Engineers, the Bureau of Reclamation, the Bureau of Mines, the Geological Survey, the Federal Power Commission, the Rural Electrification Administration, and the Federal Communications Commission, as well as the agencies administering the lands. This, it may be emphasized, applies even to the lands now presumed to be preserved as wilderness.

(The Senate act requires reviews and reports by the agencies responsible for administering the lands—for the primitive, national park system, and wildlife refuge areas. Proponents of wilderness legislation have agreed with this and support the Senate act.)

5. The substitute bill requires each wilderness area to be "reviewed at least once each 25 years after its designation in order to determine the suitability and desirability for continued classification and preservation of the area as wilderness." The review must include comments from each of the 10 Federal agencies "enumerated in the preceding section"

SRP04871

and from the "Governor of each State and the county governing board of each county in which the lands are located."

(The Senate act recognizes that any future Congress may make changes as conditions may require but says "The addition of any area to, or the elimination of any area from, the wilderness system * * * shall be made only after specific authorization by law * * *" and does not require periodical reviews. The citizens committee believes that a review every 25 years of wilderness areas can only unreasonably subject to the pressures that make wilderness preservation difficult the few areas established as wilderness for preservation. This proposed review is called as dubious in a Wilderness Act as it would be in a marriage vow.)

6. The substitute bill allows mining, drilling, and so forth, to continue in wilderness areas for 25 years—which runs into the first of the every 25 years review that the substitute calls for also. As reported by the Public Lands Subcommittee this period was 10 years. Mining interests, having been so successful with the subcommittee, made further demands on committee members and the full committee increased the period to 25 years.

(The Senate act prohibits mining, etc., in areas of the wilderness system but provides that the President may authorize such use of a wilderness area upon his determination that it will "better serve the interests of the United States and the people thereof." The Senate act also permits prospecting "in a manner which is not incompatible with the preservation of the wilderness environment." Proponents of the original wilderness legislation thought that the Senate act went too far; they were shocked by the House committee's yielding to the miners and their commercial allies in opposition to even the Senate act's provision for wilderness preservation. These conservation leaders prefer the Senate act. They also have proposed amendments that would make the House committee's substitute into a preservation measure.)

7. The substitute bill in various other ways seems designed to limit rather than encourage wilderness preservation—with reference to grazing, timber roads across wilderness areas, skiing facilities in the San Gorgonio Wild Area in southern California, for instance. The Senate act provides for accommodating wilderness preservation to other needs also but to conservation leaders interested in wilderness preservation the Senate act seems to do this from the viewpoint of preservation of the relatively few areas involved rather than from the exploitation point of view.

(The Senate act also makes a provision for "private contributions and gifts to be used to further the purposes of this act," a provision omitted from the House committee substitute.)

SRP04872

Legislation's history recalled

Recalling the sequence of events regarding the wilderness legislation, which is considered the outstanding conservation measure before Congress, Dr. Smith pointed out that after 5 years of study and hearings the Senate passed the Senate act a year ago, on September 6, 1961, by a vote of 78 to 8.

Under strong pressure from the public, the House Public Lands Subcommittee held hearings last fall and spring on the Senate act and on various House bills and then on August 9, 1962, reported out its substitute, which Chairman Wayne Aspinall of the full committee said the staff had drafted to meet his objectives.

The substitute's number, H.R. 776, is that of a widely supported bill by Representative John P. Saylor of Pennsylvania, pioneer champion of wilderness preservation, but its rewritten text has been denounced by Congressman Saylor as well as by the citizens committee and its cooperators.

The House full Committee on Interior and Insular Affairs on August 30, 1962, not only ordered the substitute reported with further "worsening" amendments but also, Dr. Smith relates, instructed its willing chairman to try to get the bill to the House floor under a suspension of rules that would deny debate and prevent amendments.

This, says Dr. Smith, has aroused indignation throughout the country. Many newspaper editorials as well as individual conservationists and organizations are demanding that the bill come to the House floor for debate and amendment.

GOVERNMENT AGENCIES CRITICIZE THE SUBSTITUTE

The minority views regarding this so-called substitute wilderness bill are also expressed in definite, "no uncertain" terms by executive agencies concerned.

BUREAU OF THE BUDGET

The Bureau of the Budget says that the Department of Agriculture and the Department of the Interior have raised a number of important objections. The Bureau of the Budget shares the concerns of these two departments and in lieu of this substitute bill ordered reported by the Interior Committee says:

> * * * we strongly urge enactment of S. 174 as recommended by the President on March 1, 1962, in his message on conservation to the Congress.

DEPARTMENT OF THE INTERIOR

The Department of the Interior after studying the substitute ordered reported by the committee and after what the Department calls "a most careful weighing of alternatives" also rejects the substitute and declares that "the Department must continue to favor enactment of wilderness legislation following the general approach of S. 174."

SRP04873

The Interior Department criticizes the substitute bill in that it "envisages a new and curtailed concept of a wilderness preservation system and procedures for its establishment." The Department goes on to say that the substitute bill—

> * * * would establish a "minimum" wilderness system to include only the national forest "wilderness," "wild," and "canoe" areas. These areas are about half of the national forest lands that have been set aside and which are already administered in accordance with wilderness principles. Furthermore, an act of Congress would be required to include "primitive" national forest areas in the wilderness system. An act of Congress would be required also to include, in the wilderness system, areas of the national park system and national wildlife refuge system.

"This," says the Interior Department, "is, of course, a very drastic alteration of the provisions of S. 174."

It is, indeed.

Let us incorporate further in these minority views the very apt criticisms formulated by the Interior Department. The Department emphasizes that the substitute—

> * * * would establish a "minimum" wilderness system and would severely restrict the establishment of new wilderness areas, even though some of the lands that would form such new wilderness areas are now within Federal reservations and are being administered generally in accordance with wilderness principles.

The Department of the Interior continues as follows:

> Because of the fact that it would not permit the inclusion of "primitive" national forest areas, national park system areas, or national wildlife refuge system areas in the wilderness system, except pursuant to a specific act of Congress, we consider title II to be more unworkable than the comparable provisions of S. 174. Inevitably, such provisions would mean that the vital decisions would be made as the result of narrow local interests, and not through a more dispassionate weighing of the national interest and national objectives.
>
> Moreover, section 204 of title II outlines an involved and expensive procedure for the establishment of new wilderness areas, a procedure that in the severity of its requirements will probably exceed the requirements governing the establishment of any other type of Federal reservation. Further, if a specific act of Congress is to be required in each case for the establishment of new wilderness areas, we see little need for the elaborate procedures set forth in section 204. The provisions of this title, as revised, would put a great burden upon the Secretaries of Interior and Agriculture in the selection of areas for wilderness status, to screen such areas, to hold public hearings, to notify the Governors and the counties involved, as well as various named Federal agencies that may have any interest in the matter. The administrative procedures would be time consuming, complicated, involved, and expensive.

SRP04874

Referring to the substitute bill's requirement of a review every 25 years of wilderness areas, the Interior Department says:

> Executive departments are constantly evaluating the areas they administer and frequently recommend boundary changes and adjustments as called for by the circumstances. While the principle involved in section 205 may be good, we perceive no logical reason why wilderness areas should be singled out for this type of review, particularly because of the intense screening and study to which they would be subjected under the other provisions of the bill.

A major objection—

says the Interior Department—

> from the standpoint of wilderness conservation, is contained in subsection (c) of section 206. This provision would permit operation of the mineral leasing and mining laws within the national forest wilderness areas for a period of 25 years. The effect of this provision would be highly destructive of wilderness values. The provision goes considerably beyond the authority contained in S. 174 and is not consistent with a sound wilderness system concept. We believe that any mining that is to be permitted in wilderness areas should be permitted only after a scientific and factual determination that vital minerals exist, and a policy decision that it is more important that mining in a particular area be authorized than that it be prohibited. Otherwise, the establishment of wilderness areas will have little, if any, significance.

These are sound criticisms.

Another provision regarding which the Interior Department expresses criticisms that are along the lines of the minority views is in subsection (d) of section 206, which would authorize the Secretary of Agriculture to "authorize prospecting for water resources, the establishment and maintenance of reservoirs, water conservation works, power projects, transmission lines, and other facilities needed in the public interest, including the road construction and maintenance essential to development in use thereof."

"As in the case of mining activities," says the Interior Department, "we believe that any authority of this kind should be vested in the President."

The Interior Department concludes its criticism of the so-called "Wilderness Act" included in this substitute bill by expressing the "fear" that this measure "* * * considered as a whole, would restrict, rather than advance the opportunity to enlarge and give better protection to our existing wilderness heritage." The Interior Department says:

> We believe that it would compromise wilderness objectives to such an extent that many of these objectives would be lost.

These fears and beliefs of the Interior Department are well founded.

DEPARTMENT OF AGRICULTURE

The Secretary of Agriculture, following his agency's review of the substitute bill, also reiterates his advocacy of S. 174. "We still urge the enactment of that bill," says Secretary Freeman.

SRP04875

While noting that the substitute bill would protect only 6.8 million acres of the national forests' present 14.7 million acres administered as wilderness (about 46 percent), Secretary Freeman points out that the substitute bill—

> fails to give any protection, other than that which they now have, to the 38 national forest "primitive" areas, which consist of some 7.9 million acres, or about 54 percent, of that wilderness-type acreage.

Under the provisions of the substitute bill, says Secretary Freeman, "a primitive area could be designated as wilderness only by an affirmative act of Congress."

Secretary Freeman continues as follows:

> We believe that the primitive areas should, like other national forest wilderness-type areas, on the basis of their widely recognized values as wilderness and their longtime and continuing special management by this Department to protect these values, have the maximum protection necessary and possible for such wilderness features.
>
> This Department—

says the Secretary—

> is in the process of examining these primitive areas, principally to determine and describe more precisely their proper boundaries. However, it is commonly recognized and well established that substantially all of these areas should remain in the wilderness system.

Criticizing the fact that under the provisions of the substitute bill, mining and mineral leasing laws would continue for 25 years to be applicable to areas designated as wilderness, Secretary Freeman said:

> Active mining operations, the use of heavy equipment in prospecting and mining, and the construction and maintenance of roads and other facilities incident thereto, would interfere materially with the purpose for which the wilderness areas would be managed. Therefore, while we recognize that provisions should be made for mining and mineral leasing in such areas upon appropriate determination that in a specific area this would better serve the public interest than would its denial, we strongly believe that wilderness areas should be closed to general applicability of the mining and mineral leasing laws.

The Secretary made other detailed criticisms that are among the minority views here being set forth.

Within the wilderness areas that would be designated by the substitute bill, Secretary Freeman noted, "certain uses could be permitted upon determination by the Secretary of Agriculture that they would better serve the public interests than would their denial. Within a specific area," the Secretary further noted, "he could authorize and regulate prospecting for water resources, and the establishment and maintenance of reservoirs, water conservation works, power projects, transmission lines, and other facilities needed in the public interest, together with the necessary roads."

SRP04876

Commenting on these provisions, Secretary Freeman says:

> Water development activities, although they might be highly desirable from some aspects in wilderness areas, would destroy wilderness values. Therefore, they should be permitted in a specific area only upon the determination that the public interest is better served by permission than by denial. Furthermore, since the functions of more than one Federal department would be affected by these determinations, we believe that the President rather than the Secretary should make such determinations.

Noting also that this substitute bill would authorize the Secretary of Agriculture under certain circumstances to permit the construction of temporary roads within wilderness areas when no alternate transportation route than across the areas is practicable, Secretary Freeman commented critically as follows:

> These roads could be built and used only for transportation of timber cut outside such areas. No provision would be made for similar transportation of mineral ores, livestock, or other commodities. We see no reason for making provision for timber access roads either into or through such areas.

The substitute bill, as a result of a wilderness-invading amendment added by the full committee (one of the ways in which the full committee made the subcommittee's product even worse), would authorize the Secretary of Agriculture to designate about 3,500 acres in the San Gorgonio area, California, for the purpose of skiing and developing facilities necessary therefor. Regarding this provision of the substitute bill Secretary Freeman said:

> Authorization to designate such an area within a wilderness area would constitute an action inconsistent and incompatible with wilderness management and preservation. A developed skiing area would effectively destroy the wilderness values of whatever portion of the wilderness area it affected. We strongly believe that such an authorization should not be included as a part of wilderness legislation. If it should be determined beyond doubt that such development would better serve the public interest than would its denial, the portion of the area essential for that purpose should be eliminated from the wilderness system.

Thus in many ways the Department of Agriculture criticizes this substitute bill.

What Should Be Done

The criticisms and recommendations of the Bureau of the Budget, the Department of Agriculture, and the Department of the Interior make plain that the substitute bill ordered reported by the Interior Committee is very unsatisfactory as a wilderness preservation measure and, furthermore, that the substitute of the Senate-passed act, S. 174, would be a corrective.

These views are also among the minority views here being expressed.

The alternative for making the committee's substitute into a sound preservation measure has been outlined in a statement by the Citizens Committee on Natural Resources released on August 16, 1962, not

SRP04877

only setting forth criticisms but also carefully furnishing the text of the amendments that could serve to correct the subcommittee's proposed substitute.

These proposals of the citizens committee were thus publicly released and made available to members of the House Committee on Interior and Insular Affairs well in advance of that committee's consideration of its Public Lands Subcommittee's report. (The Living Wilderness in its news section later reported these citizens committee proposals, along with the text of the substitute bill and the statements made by the Interior Committee chairman and the Public Lands Subcommittee chairman.)

Members of the Interior Committee who favored the substitute bill were not interested in such amendments, and members to whom the substitute bill was unsatisfactory knew that to offer such amendments would be futile and time consuming. Accordingly, no attention was paid to them by the committee.

Nevertheless, the criticisms, recommendations, and specific proposals set forth in this August 16, 1962, statement are in accordance with the minority views here being expressed, and therefore this statement of the Citizens Committee on Natural Resources entitled "Amendments for Substitute Wilderness Bill Advocated" is here incorporated as follows:

CITIZENS COMMITTEE ON NATURAL RESOURCES,
Washington, D.C., August 16, 1962.

AMENDMENTS FOR SUBSTITUTE WILDERNESS BILL ADVOCATED

Some 15 amendments are being advocated by the Citizens Committee on Natural Resources to make a sound preservation measure out of the substitute wilderness bill approved on August 9 by the House of Representatives' Public Lands Subcommittee.

The measure, now before the full Committee on Interior and Insular Affairs and expected soon to be reported to the House, would without amendment, according to Ira N. Gabrielson, chairman of the citizens committee, hamper the wilderness designation even of areas now being handled as wilderness. It would also, he said, make difficult the preservation as wilderness of areas that would be designated.

Pointedly criticized was inclusion, as a special "title I" in the substitute wilderness bill, of a separate measure dealing with land withdrawals in general. This, said Gabrielson, should be considered separately and not be attached to the wilderness bill.

The substitute wilderness bill in its present form Gabrielson described as a massive crippling amendment.

The Public Lands Subcommittee, it was explained, replaced the Wilderness Act which had been passed 78 to 8 by the Senate with a House bill that had been introduced by Representative John P. Saylor of Pennsylvania. The subcommittee then struck out all of the Saylor bill after the enacting clause to make way for the substitute proposal.

Both the Senate act and the Saylor bill are supported by wilderness bill advocates.

SRP04878

"Their purpose," said Gabrielson, "is to provide for the establishment of wilderness for the benefit of the whole people. The purpose of the substitute seems to be to preserve for a minority of commercial interests an opportunity to exploit any area of the public's land that may attract them."

The amendments now being advocated by the citizens committee are intended principally (1) to restore essential features of the Saylor measure that have been omitted, and (2) to eliminate subcommittee additions that would be contrary to wilderness preservation purposes.

Especially criticized were provisions permitting mining to continue in wilderness areas and a proposed requirement that wilderness areas be subjected to reconsideration every 25 years.

Joining Gabrielson in his criticisms and proposals was also Howard Zahniser, committee vice chairman and a prominent advocate of wilderness legislation. He was especially critical of the proposal to make the wilderness areas run a gauntlet of opponents every 25 years.

"The nature of our civilization," said Zahniser, "is such as to make wilderness preservation difficult at the best. That is the reason for wilderness legislation. To make it tentative and to provide for the mobilization of forces working against it every 25 years—four times each century—is to be as dubious in a Wilderness Act as in a marriage vow would be inclusion of a similar periodic review."

Gabrielson is president of the Wildlife Management Institute and Zahniser is executive secretary of the Wilderness Society, but both spoke on the wilderness legislation as officers of the Citizens Committee on Natural Resources, a task force organized by individual conservationists to advance conservation and sound management of natural resources in the public interest, especially concerned with legislation affecting natural resources. Secretary and full-time employee of the committee is Spencer M. Smith with headquarters at 1346 Connecticut Avenue NW., Washington, D.C.

The citizens committee statement including specific amendments proposed is as follows:

HOUSE PUBLIC LANDS SUBCOMMITTEE SUBSTITUTE WILDERNESS BILL: A COMMENT WITH PROPOSED AMENDMENTS, BY IRA N. GABRIELSON AND HOWARD ZAHNISER, CHAIRMAN AND VICE CHAIRMAN, CITIZENS COMMITTEE ON NATURAL RESOURCES

The substitute wilderness bill approved by the House of Representatives Public Lands Subcommittee on August 9, 1962, and incorporated in Committee Print No. 23 of the Committee on Interior and Insular Affairs is immediately recognized as the sort of proposal referred to as "crippling amendment" by advocates of the wilderness legislation as passed by the Senate or sponsored by Representative John Saylor and others in the House. Unless further amended, it would be a massive crippling amendment.

SRP04879

The purpose of the Wilderness Act is to provide for the establishment of wilderness for the benefit of the whole people; the purpose of the substitute seems to be to preserve for a minority of commercial interests an opportunity to exploit any area that may attract them.

The effect of the substitute would be (1) to hamper the wilderness designation of even areas now being handled as wilderness, and (2) to hamper the preservation as wilderness of any areas that would be designated.

The substitute as a whole is not only apparently proposed legislation to prevent true preservation of wilderness and to promote and encourage continued exploitation of remaining areas of wilderness; it also includes provisions that are inimical to wilderness preservation.

DETAILED COMMENTS

At its outset the substitute bill includes as a "title I" a piece of proposed legislation that incorporates the substance of other bills than the wilderness bill, proposals that deal with the broad public land policies of Congress, especially with withdrawals.

This "title" has not been discussed on the Senate side in connection with the wilderness legislation, nor was it a part of the hearings held on the Wilderness Act by the House Public Lands Subcommittee.

The wilderness legislation at this late time in the closing session of the Congress should not be used for such an extensive "rider" as this.

Title I should be removed from the wilderness bill and considered on its own merits.

SUBSTITUTE BILL CONTRARY TO WILDERNESS ACT

Confining comments to title II then, which it is provided "is to be cited as the 'Wilderness Act,' " we can see apparent a purpose contrary to that of the Wilderness Act as passed by the Senate and advocated by Representative John P. Saylor and other sponsors in the House and by its proponents throughout the Nation.

The purpose of the Senate's act and similar House proposals is to preserve wilderness for the benefit of the whole people. A particular purpose is (1) to designate, as wilderness, areas that are within parks, refuges, and the specially classified wilderness portions of the national forests. These areas are thus susceptible to wilderness preservation without interference with other programs. A further particular purpose is (2) to provide for the accommodation of this wilderness policy and program to other interests.

A central statement, for example, in the Senate act is in the first sentence of section 6 which says that nothing is to interfere with the purposes now being served by the park, refuge, and forest lands involved except that they are to be administered for these purposes in such a way as to continue

SRP04880

to preserve their wilderness character. (The same statement is in the first sentence of sec. 3 in Congressman Saylor's H.R. 776, p. 12, lines 5 to 13.)

The proposed substitute states no such purpose of accomplishing wilderness preservation for the common good as something that is compatible with other purposes of land administration and that is readily feasible.

On the contrary, the substitute wilderness bill requires the wilderness areas to run the gauntlet of opponents every 25 years in a review that has been advocated by opponents of wilderness legislation.

It is of the nature of wilderness preservation to provide, if possible, for preserving forever something that has always so far been that way, although of course future Congresses can alter any such preservation.

The nature of our civilization is such as to make wilderness preservation difficult at the best. That is the reason for wilderness legislation. To make it tentative and to provide for the mobilization of forces working against it every 25 years—four times each century—is to be as dubious in a Wilderness Act as in a marriage vow would be the inclusion of periodic review.

THE SUBSTITUTE IS AN ACT TO PROTECT MINERS

To read the Senate act is to see that preserving any areas as wilderness is difficult in our civilization, with its increasing mechanization and growing population, and, therefore, because it seems desirable to so many people, wilderness preservation is something to be provided for by the Congress.

To read this substitute is to feel ironically that there is a grave danger that wilderness preservation will threaten our civilization and its dependence on commercial activities to such an extent that the Congress of the United States must protect the embattled miners, grazers, and others against a rampant wilderness preservation movement about to take over the whole Federal estate.

For commercial interests to succeed in combating a program that would preserve only a few areas unspoiled and succeed to such an extent as to bring about this kind of legislative proposal to restrict and control the preservers would be a gross perversion of a very good purpose.

SUBSTITUTE BILL SERVES WILDERNESS OPPONENTS

The apparent effect of the provisions of the substitute would be to serve the interests of those who have opposed the wilderness program. Instead of ratifying sound wilderness preservation accomplishments of administrative agencies to date and making these more orderly and more secure in accordance with the national purpose, this proposed substitute puts in jeopardy some of the areas and administrative policies now established. It would hamper the secure wilderness classification even of areas now being handled as wilderness.

SRP04881

Even with regard to the very small remnants of our once vast wilderness that are now protected as wilderness, this substitute for the Wilderness Act mobilizes the forces that represent the developments in our civilization which make wilderness preservation difficult.

AREAS TO RUN A GAUNTLET

Even our protected remnants of wilderness (with few exceptions) would be given congressional protection by the substitute only after running a gauntlet and surviving the representations to be made after examination by county boards, State agencies, Bureau of Reclamation, Corps of Engineers, Bureau of Mines, and other Federal agencies (10 in all) who are to bring out every possible alternative to preserving even these comparatively few protected remnants. Many of these primarily represent user interests.

Finally, as to the effects of this substitute, its section on "Use of Wilderness Areas" actually takes care to provide for maximum possible nonconforming use of a wilderness. The Senate act already includes liberal special provisions to avoid unnecessary interferences. This substitute even would allow mining to continue in the wilderness areas of the national forests for another 10 years, and even thereafter the areas would continue to be examined for minerals.

Thus, the proposed substitute goes so far in providing for nonconforming uses as to threaten to frustrate the preservation as wilderness of even the areas that would survive the gauntlet through which the substitute would require all proposed areas to be carried.

AMENDMENTS PROPOSED

Study of the measure, however, shows that a series of amendments to restore provisions of the Saylor bill thrown aside by the subcommittee, and to remove damaging additions, can make of this proposed bill a sound measure to serve the public interest in wilderness preservation.

These amendments are as follows, approximately in the order in which they occur in Committee Print No. 23:

Proposed amendment No. I

Take out title I, drop the heading "Title II," and drop the "200" series in numbering sections.—The separate legislation included as a title I rider for the wilderness legislation should be considered on its own merits. Wherever reference is made to "title I" the bill should be corrected. Thus on page 28 in line 6, the word "title" should be changed to "Act." On page 32 in lines 6 and 7, the words "and notice, if any, required under title I of this Act" should be removed. On page 33 in lines 11 to 13 the words "which shall include, in addition to other pertinent data, the information required by section 103 of this Act" should be removed.

SRP04882

Proposed amendment No. II

Remove 5,000-acre limitation from the definition.—In section 202(a), in item (3) of the second sentence of the definition the words "has at least 5,000 acres of land and * * * therefore" have been added (p. 28, lines 22 to 25). The Senate act requires simply that the area be "of sufficient size as to make practicable its preservation and use in an unimpaired condition."

This act does elsewhere use the 5,000-acre size as a criterion for a minimum national park system roadless area to be considered, and 5,000 acres has been the Forest Service minimum for wilderness classification (such areas being called wild areas); but the addition of this formal requirement in a definition is questionable, for it seems to indicate that 5,000 acres is a large enough area or, on the other hand, that it is always a minimum. Some islands might be smaller but suitable. Some areas of 5,000 acres because of their surroundings might not qualify.

It would be better to omit this addition or at least to delete the word "therefore." Requirement (3) of the definition (lines 22 to 25 on p. 28) should read as follows:

"(3) is of sufficient size as to make practicable its preservation and use in an unimpaired condition;".

Proposed amendment No. III

Clarify the definition by adding the omitted last sentence of the definition in Representative Saylor's H.R. 776.—H.R. 776 has the following last sentence in its definition (sec. 1(d)), which is omitted in the proposed substitute: "For the purposes of this Act wilderness shall include the areas provided for in section 2 of this Act and such other areas as shall be designated for inclusion in the National Wilderness Preservation System in accordance with the provisions of this Act."

Without this sentence in the act's definition, in the absence also of definite declarations as to areas later, the phraseology in the proposed substitute's section 203(b) could be obstructive later.

This is true because certain existing intrusions that literally or by nature do not conform to the first two sentences of the definition can be tolerated for practical purposes, and indeed are so tolerated in establishing the system in accordance with S. 174. Yet under the substitute bill's provisions such existing nonconformities could be used to frustrate inclusion of an area later.

Accordingly, the following should be added (on p. 29, line 2) to section 202(a): "For the purposes of this Act, wilderness shall include the areas provided for in section 203 of this Act and such other areas as shall be designated for inclusion in the National Wilderness Preservation System in accordance with the provisions of this Act."

Proposed amendment No. IV

Provide for establishment of the wilderness system.—In section 202(b) there is no establishment of the national wilderness preservation system, although the title does state

SRP04883

the purpose of establishing such a system. Accordingly, on page 29, in line 6, following the comma and quotation marks after the word "areas," there should be inserted the words: "small comprise the National Wilderness Preservation System and."

Proposed amendment No. V

Limit provisions to Federal lands.—In the last clause of section 202(b) the word "lands" should be qualified to refer only to Federal lands (p. 29, line 12).

Proposed amendment No. VI

Provide for immediate designation of areas as wilderness to be followed by review.—Section 203(b) should be revised to provide for the immediate designation of the areas it refers to, with a provision for review over a 10-year period. As it is, this proposed substitute makes the same provision that was decisively defeated in the Senate for requiring separate action on each of all these areas that are now in fact protected as wilderness. They should be given legal status at once so as to continue to be protected until Congress determines otherwise.

Section 203(b) should be changed to read as follows:

"(b) The following federally owned areas are hereby designated as wilderness areas subject to review as provided in section 204 of this Act:".

In accordance with this amendment, the words "section 203(a)" should be removed in lines 21–22 on page 36 and 8–9 on page 37 and in place thereof in each place there should be inserted the words "or under the provisions." The words "or under the provisions of" should also be inserted after the word "by" in line 10 on page 41.

Subsections (2) and (3) of section 203(b) should also be changed to provide for the 5,000-acre criterion of roadless areas in refuge and park system units, by making the subsections read as follows, the added words being italicized:

"(2) Roadless portions *comprising 5,000 acres or more* of parks, monuments, and other units of the national park system; and

"(3) *Roadless* portions *comprising 5,000 acres or more, or islands,* within wildlife refuges and game ranges under the jurisdiction of the Secretary of the Interior on the effective date of this Act."

Proposed amendment No. VII

Provide for protection of areas under review until Congress determines otherwise.—The areas involved in this legislation, those provided for in section 203 (a) and (b) of the substitute bill, are relatively few and all are within what is at present viewed as the Nation's wilderness preservation resource. These areas all should be protected as wilderness till Congress says otherwise.

Section 204(a) should be revised to provide for continuing protection of each area until such time as Congress has determined otherwise. It might then read as follows (the added words being italicized):

SRP04884

"SEC. 204(a) To assist Congress in determining which of the areas described in section 203(b) shall *continue to* be designated as wilderness areas, the Secretary of the Department having jurisdiction of the lands involved shall, within 10 years after the effective date of this Act, review the suitability of said areas for continued protection as wilderness and report annually his recommendations to the President and Congress, together with a map of each area and a definition of its boundaries. *The areas shall continue to be preserved as wilderness in accordance with the provisions of this Act until Congress, following the review hereby required, shall have determined otherwise.*"

The word "continued" should be inserted as the second word in line 25 on page 32. The words "continue to" should be inserted after the word "should" in line 7 on page 33. The words "to continue" should be inserted at the beginning of line 1 on page 34.

Proposed amendment No. VIII

Remove the requirement for reconsidering wilderness designations every 25 years.—Section 205 on pages 34 and 35 should be removed in its entirety. A review every 25 years of wilderness areas can only unreasonably subject to the pressures that make wilderness preservation difficult in our culture the few areas established as wilderness for preservation. The Congress, of course, at any time in the future may change the designation of any area and can be expected to do so if this is desirable in the public interest.

Proposed amendment No. IX

Make plain that the wilderness character of areas is to be preserved and that this is in accord with the purposes of the areas.—Section 206 on "Use of Wilderness Areas" should make plain that the areas involved must be so administered as to preserve their wilderness character. It should also make plain that such preservation is consistent with other purposes of the lands involved. This could be accomplished by including the first sentence in section 6 of Representative Saylor's H.R. 776—the sentence already referred to in this statement.

This would be accomplished by inserting at the end of line 7 on page 35, at the end of the first sentence in section 206(a), the following:

"Nothing in this Act shall be interpreted as interfering with the purposes stated in the establishment of or pertaining to any national park or monument, national forest, national wildlife refuge, or other area involved, except that any agency administering any area within the Wilderness System shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purpose as also to preserve its wilderness character."

SRP04885

Proposed amendment No. X

Correct a mistake in providing for accommodations and installations in wilderness.—In the second sentence of section 206(a)(3) a change in phraseology from what is substantially otherwise the same sentence in the Senate act makes a drastic and undesirable change. The accommodations and installations referred to would not be permissible "in wilderness areas" as stated in this sentence in the proposed substitute. Instead of the phrase, "in wilderness areas," the sentence should have the words, "in such designated areas," referring to the designation of an area (as referred to in the preceding sentence) for roads, etc., as provided in H.R. 776. Accordingly, in line 3 on page 36 the word "wilderness" should be removed and in its place inserted the words "such designated."

Proposed amendment No. XI

Remove permission for mining but provide for mining and prospecting when in the national interest.—Section 206(c)(2) with its proposed damaging permission of mining should be eliminated except that—

1. Mining could be included in the possible authorizations set forth in section 206(d); and

2. The provision in the last sentence of section 206(c)(2) providing for studies by the Geological Survey and Bureau of Mines would seem consistent with wilderness preservation and thus might be retained.

This would be accomplished by the following amendment: Strike out in section 206(c)(2) all beginning on page 37, line 16, and ending on page 39, line 13, to the word "designated" and all beginning in line 19 on page 39 with the word "with" and continuing to the end. This would make the subsection read as follows:

"(2) Designated and proposed wilderness areas shall be surveyed on a planned, recurring basis consistent with the concept of wilderness preservation by the Geological Survey and the Bureau of Mines to determine the mineral values, if any, that may be present; and the results of such surveys shall be made available to the public and submitted to the President and Congress."

Proposed amendment No. XII

Correct provisions for exceptions to be made in the national interest.—Section 206(d) should be amended so as (1) to limit the wilderness areas involved to national forest areas, (2) to entrust to the President rather than the Secretary the authorizations, as the Senate determined after the change to a Secretary had been proposed in an amendment on the floor, and (3) to include provision for authorizing mining when in the public interest. The first four lines would then read as follows, the added words italicized:

"(d) Within *national forest* wilderness areas designated by this Act, (1) the *President* may, within a specific area and in accordance with such regulations as he may deem desirable,

SRP04886

authorize *mining, prospecting,* prospecting for water resources, * * *" etc.

Proposed amendment No. XIII

Bring grazing provision in line with Forest Service and Department of Agriculture established policy.—In accordance with Forest Service and Department of Agriculture policy, the grazing proviso at the end of section 206(d), in lines 11 and 12 of page 40, should be removed; the word "well" should be inserted before "established" in line 8; and the words "restrictions and" should be inserted after the word "reasonable" in line 10. This would make the provision read as follows, the added words italicized:

"(2) the grazing of livestock, where *well* established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable *restrictions and* regulations as are deemed necessary by the Secretary of Agriculture."

Proposed amendment No. XIV

Limit hunting provision to national forest areas.—The special provision regarding hunting in section 206(h) should be limited to national forest areas, by inserting the words "national forest" before the word "wilderness" in line 10.

Proposed amendment No. XV

Include provision for gifts.—In the final subsection (sec. 207(d)) relating to acceptance of gifts, the Secretary of the Interior should be included as the Secretary of Agriculture, and the Senate provision for accepting contributions and gifts should also be included. This can be accomplished by inserting in line 15 on page 42 after "Agriculture" the phrase "and the Secretary of the Interior" and at the end of line 23 adding the following:

"The Secretary of the Interior and the Secretary of Agriculture are each authorized to accept private contributions and gifts to be used to further the purposes of this Act. Any such contributions or gifts shall, for purposes of Federal income, estate, and gift taxes, be considered a contribution or gift to or for the use of the United States for an exclusively public purpose, and may be deducted as such under the provisions of the Internal Revenue Code of 1954, subject to all applicable limitations and restrictions contained therein."

TITLE I

Regarding title I which has been attached to the substitute wilderness bill it is enough to say in this context that it should not be a part of H.R. 776, which was introduced as a measure to establish a national wilderness preservation system, but rather should have the separate status that it deserves.

SRP04887

CONCLUSION

The substitute wilderness bill is a travesty on the measure, H.R. 776. Either the amendments proposed by the Citizens Committee on Natural Resources and incorporated in these minority views should be adopted or the Senate act, S. 174, as recommended by the executive agencies in views also incorporated among these views, should be substituted for it. Either alternative would result in a sound measure, but the substitution of the already passed Senate act is the more readily feasible at this late hour.

JOHN P. SAYLOR.