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H.R. 776

TO ESTABLISH A NATIONAL WILDERNESS PRESERVATION SYSTEM FOR THE PERMANENT GOOD OF THE WHOLE PEOPLE, AND FOR OTHER PURPOSES

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Friday, July 27, 1962

House of Representatives,

Subcommittee on Public Lands
of the
Committee on Interior and
Insular Affairs.

Washington, D.C.

The Subcommittee met, pursuant to notice, at 9:45 a.m. in room 1324, House Office Building, Hon. Gracie Pfost (Subcommittee Chairman) presiding.

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Mrs. Pfost. The next measure on the agenda this morning is to continue the mark-up on H.R. 776, by Congressman Saylor, to establish a National Wilderness Preservation System for the permanent good of the whole people, and for other purposes.

When the time ran out the last time our committee was in session on this legislation, Mr. Aspinall, Chairman of the full Committee, had offered a substitute and had taken his five minutes in support of his substitute.

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The Chair now will recognize anyone who wishes to either oppose or talk in favor of the substitute or discuss the substitute in any way.

Mr. Westland. Madam Chairman, has the substitute been read?

Mr. Pfost. No. A unanimous consent request was made by the gentleman from Colorado that the reading of it be dispensed with.

Mr. Aspinall. If the gentleman will yield to me, I think if the gentleman from Washington wishes to have it read, I do not doubt the committee will let him have that privilege.

Mr. Westland. I have read it, but I wondered if all members of the committee had read it.

Mr. Aspinall. Madam Chairman, I have an amendment to offer.

Mrs. Pfost. The gentleman is recognized.

Mr. Aspinall. On page 14 of the mimeographed copy of the substitute bill, line 10, which will be the first line of subsection (2), after the comma following the word "Act" strike:

"all laws of the United States relating to mining shall, until midnight December 31, 1972, extend

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to those lands designated by this Act as 'Wilderness Areas'"

and substitute therefor:

"until midnight December 31, 1972 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'".

Mr. Pfost. The gentleman is recognized for five minutes in support of his amendment.

Mr. Aspinall. The amendment is offered for clarification purposes primarily.

First, public lands in Minnesota have been removed from operation of the mining law of 1872; and minerals have been placed under a mineral leasing procedure. This affects the Boundary Waters Canoe Area only.

Second, two of the wild areas -- one in New Hampshire and the other in North Carolina -- are comprised entirely of acquired lands and as such are not subject to the 1872 mining law but are subject to the mineral leasing for acquired lands act.

It was the original purpose of subsection 206(c)(2),

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the language just referred to to be stricken, to maintain only those rights that are now applicable relative to mining in the Wilderness, Wild, and Canoe areas. Accordingly, it appears advisable to clarify the language in order to permit distinction to be made between those lands that are suject only to mineral leasing and those that are subject to location and mineral development under the 1872 mining law.

In other words, it is not the intention of the author of the substitute to take away or add to any of the procedures now prohibited or now permitted.

The phrase "all laws of the United States relating to mining" would be subject to interpretation as to its precise meaning. It is submitted that the amendment to the amendment will remove any doubt as to the intended scope of the subsection.

That is all I have to offer at this time.

Mrs. Pfost. Is there further discussion of the amendment?

Mr. Durno. Madam Chairman, may I ask the Chairman of the full Committee a question?

Mrs. Pfost. The gentleman is recognized for five minutes.

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Mr. Durno. I think you may be aware of a mining problem in Southwest Oregon in the Kalmiposis area of the Chetco River where the conservation people are very much disturbed about the desecration of the surface due to mining operations. I wondered if there is anything in this bill that would correct that?

Mr. Aspinall. Dr. Durno, it is my understanding that the substitute is offered to permit the uses now in the areas for a period of ten years. Immediate correction, in my opinion, would not be made. On the other hand, a study most certainly would commence and this would lead to at least an ultimate decision that ought to take care of these situations.

That is one of the problems that we have. I just do not like to amend the Forest Service laws or the mining laws by indirection until we have sufficient studies made as to the values that are present. Then if we find that these values -- we will say grazing values -- outweigh so-called single use for wilderness, we will have to act accordingly. If we find the values for wilderness outweigh mining at this particular time, always bearing in mind subsequent Congresses can do whatever they wish,

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then we will have to take care of the determination as to the values as of that time.

I see only one advantage -- I will be perfectly honest -- to wilderness legislation as proposed by the substitute: That is to take those areas which are included within the substitute language and by statute establish the status of wilderness. That is all I am interested in.

Mrs. Pfost. Will the gentleman yield?

I would like to ask the author of the substitute if I understood him correctly a moment ago that the mining status would continue to ten years under the substitute, the present status, and then does it provide that the mining status would be changed after those ten years?

Mr. Aspinall. To get this exact we will have to get it from Mr. Pearl, who drafted this language. I will ask him to answer your question.

Mr. Pearl. Madam Chairman, under the substitute bill there is a periodic review required of every area in a cycle of at least once every 25 years, and if these areas are kept in status quo for ten years, then there will be a maximum of 15 years after that during which the mining would be prohibited. In other words, during the ten-year

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period the same status would continue as exists today and then it would require further action to restore it, but in the meantime the review would have been going on in all these areas and a report thereon would have to be made and it would be possible then for Congress to act on the basis of the review either way.

Mr. Aspinall. What you have said is that mining would be permitted during the next ten years if mining is present within that area?

Mr. Pearl. That is correct.

Mr. Aspinall. And during that period studies would be taking place and if at the end of that time or during that time Congress wished to permit mining in those areas, Congress could do so.

In other words, if Congress did not do anything in that ten-year period, during that ten-year period and for the next 15 years there would not be any mining in that area, but at the end of the 25 years there must have been a recommendation to Congress as to the final disposition in regard to the natural resource value in that area. If Congress made no decision there would be no mining, there would be no grazing, and there would be no wilderness.

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Mrs. Pfost. The time of the gentleman has expired.

Mr. Langen. I yield to the gentleman from Oregon.

Mrs. Pfost. The gentleman from Oregon is recognized.

Mr. Durno. I would like to clarify in my mind this 10 years in this same area, let us say, because there is a lot of surface mining utilizing water and they are desecrating the top of the ground in the wilderness area. Can there be repeated mining operations from now on if the bill is passed or only the operations presently being engaged in?

Mr. Pearl. There could be new locations made.

Mr. Durno. That, I think, will pose a serious problem in Southwestern Oregon because the people are very much disturbed about it and the conservation groups throughout the country are disturbed about it because it is not only seriously disturbing the surface but the streams and fishing and everything, and I can see no reason why in the next 10 years there will not be successive mining operations going on in that area destroying the wilderness area there.

Mr. Aspinall. Do we know anything about the comparative value of these assets of Uncle Sam at the present time? You bring to our attention the situation in your area. I do not have it in my area. I do not have despoliation

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procedures of wilderness values. What is wrong, in my opinion, with the approach of those who oppose the wilderness legislation, in the original form or the substitute, is that there has been no study of these values. It is purely an emotional appeal. I do not object to anybody having an emotional appeal because I think anybody can go out in the areas you speak of and see the danger and the loss of certain values, but as to whether or not the loss of these values is sufficient to overcome whatever values are gained, I do not think we can answer at this time.

Mr. Durno. I will say I understand what the Chairman is saying very well but I bring it to the attention of the committee because I am afraid of what will happen in that area in the next 10 years.

Mrs. Pfost. Will the gentleman from Minnesota yield?

I would like to ask the gentleman from Oregon if the areas he is speaking of are in wilderness today? What is the name of the area?

Mr. Durno. It is a large area in Southwest Oregon known as the Kalmiposis area at the headwaters of the Chetco River. There is a lot of gold and they are engaged

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in mining.

Mrs. Pfost. This is on a stream bed?

Mr. Durno. Yes, the high reaches of the Chetco River.

Mrs. Pfost. They are washing it down?

Mr. Durno. Yes.

Mrs. Pfost. That is placer mining?

Mr. Durno. Yes.

Mrs. Pfost. The time of the gentleman from Minnesota has expired.

Mr. Pearl. Madam Chairman, I wanted to expand the answer I gave to Dr. Durno before in view of his particular interest in the problem. While it is true the areas would be open under the mining laws if they are open today, the provision on page 14 says that such locations would be subject "to such reasonable regulations as may be prescribed by the Secretary of Agriculture consistent with the use of the land for mineral development governing right of ingress and egress, rights-of-way for transmission lines, water lines, telephone lines, or rights-of-way for facilities necessary in mining and processing operations, and restoration as near as practicable for the surface of the land disturbed in performing prospecting, location and discovery

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work as soon as they have served their purpose."

Then it goes on and says:

"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;"

So that there is some safeguard in there against the scarring of the surface. Although it will be open for locations, it will be restricted by regulations in the Forest Service.

Mrs. Pfost. The Chair recognizes the gentleman from California.

Mr. Johnson. I would like to ask a question of Mr. Pearl.

In the substitute what is the status of the National Park holdings as to the 5,000 acres?

Mr. Pearl. As to any National Park system area the Secretary of the Interior would be required to report to Congress but it would require thereafter an affirmative action by Congress to put any such areas in a wilderness status.

Mr. Johnson. As this relates to the present primitive

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areas, the primitive areas would come under the same consideration?

Mr. Pearl. Primitive areas, National Park System areas, and areas in the National Wildlife Refuge System would come under the same provision.

Mr. Johnson. In the hearings we brought out another crossing of the Sierra. At the time the primitive area was designated there was a corridor left for that purpose and I am wondering if we should spell that out in this legislation to protect that corridor? There will be another crossing in the Sierra before too long, I am sure, and I am told in talking to the conservation group they even oppose a tunnel. They want to make it an area where for 150 miles there would be no road whatsoever. When they agreed to the setting up of a primitive area they left a corridor there and since they did the Forest Service has included it in their system and many people in California are in support of the crossing. While this is not in the primitive area it is a corridor spelled out at the time the primitive area was created between two areas.

Mrs. Pfost. Will the gentleman yield? Did the

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gentleman say between two areas?

Mr. Johnson. Yes.

Mrs. Pfost. And the two boundaries do not come together?

Mr. Johnson. The two boundaries do not come together.

Mrs. Pfost. And your question is whether or not the substitute would affect this corridor?

Mr. Johnson. I am asking counsel how to protect myself in this legislation because our people in California realize we will have to have a crossing and if this legislation is going to move I would like to spell something out in the legislation to protect the corridor.

Mr. Pearl. To permit the crossing to go through?

Mr. Johnson. Yes.

Mr. Pearl. There is nothing here that would prohibit it from going through.

Mr. Johnson. I realize at this particular time, but when the legislation is moving I think it should be spelled out in the legislation or be put in the report so that there will be a little legislative history on the record. That was agreed to at the time but now there is objection.

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Mr. Pearl. The only difficulty I see is that in each individual forest and park -- or almost every one -- there are some problems and one of the purposes, if I understand the Chairman correctly, is to permit these case by case problems to be presented to the committee so that the individual problems that are present in these various areas can be taken up as the reports are submitted to Congress.

Under section 203(b) on page 9 there is a statement that:

> "Such of the following federally-owned areas as meet the requirements of wilderness as defined in this Act, shall be designated as wilderness areas upon approval thereof by Congress:"

Then in section 203(c) it says:

> "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 25 years" and so on.

And in section 204(a) is a requirement for the Secretary to report within 10 years after the effective date of the Act, and the report would be on individual areas.

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I am just stating facts. Of course something could be put in to safeguard any number of things in individual areas.

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Mr. Johnson. In this particular area, I know that if the language of S. 174 were to be the language of the bill finally passed, they would immediately start to work to close that gap because they would go into the study of the boundaries. I am almost certain that possibly the Secretary might go along with them and close the gap. The gap is not too wide. The corridor was set aside along time ago.

Mrs. Pfost. The time of the gentleman has expired.

The gentleman from Washington is recognized.

Does he move to strike the requisite number of words?

Mr. Westland. Yes.

Mrs. Pfost. The gentleman is recognized for five minutes.

Mr. Westland. I quite agree with what the gentleman from California is saying. I have a similar situation in my District where we are building a cross-State highway, north cross-State highway. This particular road has been in the bill for 40 years?

Mrs. Hansen. At least 40 years.

Mr. Westland. It is in an area surrounded by a present wilderness area to the south of it and a primitive area to the north of it. As the gentleman from California describes his situation, I could describe this because it

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is squeezed, extremely tight, with a very narrow corridor. I quite agree that unless these things are spelled out very clearly in this Act -- and in some instances I am afraid they are spelled out maybe a little too clearly by an overall designation of some areas as wilderness or primitive -- this gap can be closed and the work of the past forty years could be nullified.

I think we have got to look at the phraseology of this very carefully.

I would like to ask a question of the gentleman from Colorado.

The only change that I can see in this substitute amendment are the words " . . to the same extent applicable prior to the effective date of this Act."

This would put the mining laws, would it not, in the same situation as they pertain to wilderness areas in the same status they are today?

Mr. Aspinall. That is right. This just draws a distinction between the laws that pertain to some areas alone.

As I said in my explanation, primarily to the wild areas; one in New Hampshire and one in North Carolina. You have certain operations relative to mining or leasing and there is also a boundary, water canoe area, in Minnesota involved.

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All I have tried to do in this particular language was to see to it that they were kept in the same status.

Mr. Westland. Would this substitute amendment grant any rights that are not given now?

Mr. Aspinall. No.

Mr. Westland. This phraseology about rights-of-way for transportation lines, water lines, telephone lines, or rights-of-way for necessary mining, is that present law?

Mr. Aspinall. It is my understanding that that is the way the present law is. It is entirely up to the Secretary of the Interior to determine the reasonableness of the request. I know that in my State, as far as that is concerned, we get into these difficulties over just purely National Forest lands where they are designated primitive, wild, wilderness, or what not. We have these controversies between those people who wish to see the mountainside remain green and not have a gash in it. Of course, the gash becomes green, too, because after they get the improvement, they keep it so cut down that only the green necessary close to the ground shows. You can always see the right-of-way from the ground or from the air.

Mr. Westland. I have no further questions.

Mrs. Pfost. The gentleman from Alaska was seeking

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recognition?

Mr. Rivers. Madam Chairman, I move to strike the requisite number of words.

Mrs. Pfost. The gentleman is recognized for five minutes.

Mr. Rivers. My purpose is to ask a question of Mr. Pearl.

S. 174 flagged specific areas that were to be under consideration for a wilderness bill, including forests, parks, monuments, and ranges and refuges, as well as canoe areas. In doing so, it did not set up a category for public domain. Inadvertently, in S. 174 the words, "public domain" slipped in a couple of times which was probably based upon the previous draft or something like that.

According to Senator Anderson's explanation of the bill, it would have pertained only to these already-withdrawn areas.

What does the substitute do with regard to public domain?

Mr. Pearl. The substitute does not include, or leave for inclusion, as wilderness areas any areas that would not be eligible for designation as wilderness under S. 174.

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There are no public domain lands unless they are presently withdrawn for some reserve use such as National Forests, National Parks, Monument or Refuge.

Mr. Rivers. Thank you.

Now, I want to point to Section 104 of the substitute, on page 5 thereof, where we discuss segregative effect.

"The filing of an application with the Department having administrative jurisdiction over lands 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 lands from settlement, location, sale, selection, entry, lease, or other form of disposal under the Public Land Laws, including the Mining and Mineral Leasing Laws."

If the areas we are talking about are already withdrawn for forests, or parks, what application could there be of the Public Land Laws within those already-withdrawn areas?

That makes all of this language necessary under the Wilderness Bill?

Mr. Pearl. Of course, some of this goes a little further than just wilderness, but wilderness is part of it. For example, in virtually all of the areas that are now

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designated as wilderness or wild within the National Forests, they have not been withdrawn from the operation of the Mining Laws.

Mr. Rivers. That is the one thing I can think of.

Mr. Pearl. The Secretary could, if he wanted to, go ahead and withdraw them without any action of Congress except that he has an agreement to advise this Committee in advance of doing it. The Secretary could go ahead and withdraw those lands from the operation of the Mining Laws and put them in a more restrictive category than they are today. That is the first part.

Mr. Rivers. I understand that.

Mr. Pearl. The second thing concerning restriction of use, there have been instances where the Secretary of Agriculture has set up recreation areas where uses are restricted or some other designations where uses are restricted. It was the Chairman's thought, as I understand it, that all these things should meld together so that the same rules would govern whatever kind of withdrawal, reservation, or restriction, or classification, would be involved.

Mr. Aspinall. If the gentlemen would yield to me at this point?

Mr. Rivers. I yield.

Mr. Aspinall. The Chief of the Forest Service at the

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present time has been withdrawing, in my State, lump areas of Forest Service lands either just under 5000 acres or just over 5000 acres, amounting to twenty or thirty thousand acres a year for recreational purposes. In so doing, he withdraws them from any mining development. He has been doing that right along. We object to having a tract of land over 5000 acres withdrawn and asked that he advise us. There is not very much that we can do about it when he puts a lump group of areas -- let us say, forty acres here, eighty acres there, and 120 acres there, with some of them as far as 250 miles apart -- and makes a statement that these are necessary for recreational development.

Mr. Rivers. My next question, Mr. Pearl, is this: I can understand the applicability in regard to mining claims and some of the restricted uses within National Forests under the jurisdiction of the Secretary of Agriculture, but what could this language have in the way of meaning as far as the Secretary of Interior is concerned within the Park System, National Monuments, Ranges, and Refuge System?

Mr. Pearl. Well, to give you a concrete example, Mr. Rivers, in one of the National Monuments, there is a statute which says that the area shall remain, shall not be withdrawn

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from the operation of the normal Mining Laws and the Secretary of Interior has now obtained an opinion from his Solicitor that we can withdraw part of that area from mining, from the operation of the Mining Laws, because all the statute did was leave it under the normal Mining Laws operation and did not say that it shall be kept open for mining.

Mr. Rivers. That is the only instance within the National Park System where --

Mrs. Pfost. The time of the gentleman has expired.

Mr. Rivers. Madam Chairman, I ask unanimous consent to proceed for another five minutes.

Mrs. Pfost. Is there objection?

(No response.)

The gentleman is recognized for an additional five minutes.

Mr. Rivers. Are there any other instances in which the public Mining Laws or the Public Land laws apply within the National Park System?

Mr. Pearl. Well, there are several. I do not know how many but I think there were four Parks and many Monuments where the Mining Laws are applicable.

Mr. Rivers. I did not know that. I thought that would ban all of this.

I yield to the gentleman from California.

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Mr. Johnson. Does this apply to Death Valley Monument?

Mr. Pearl. Death Valley is the one I had reference to, yes.

Mr. Johnson. It has been considered that all of it is open to mineral entry? That is the way it was interpreted but Mr. Barry, the Solicitor down there, has brought this new thinking into the picture at the present time. I know there is a move there to close mineral entry to Death Valley.

Mr. Pearl. The opinion of the Solicitor is at page 1149 of the hearings.

Mr. Rivers. I might state now to my colleagues here, Madam Chairman, that this language speaks of a withdrawal. Here is probably what confused me. He is talking about a withdrawal from areas which already are withdrawn. This is already reserved and not open for entry except in limited respects. It is a withdrawal from withdrawal apparently that we are talking about when we are talking about segregating effect. It does not seem to me that that is very clear. We are talking about withdrawals in an area which is already withdrawn and you are simply going to eliminate certain uses that are already permitted, or let us say, retract permissive uses that are already allowed.

That is not a withdrawal, I do not think. That is not a good way of putting it.

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Mr. Pearl. In the first place, Mr. Rivers, as I indicated before, it was the Chairman's desire to equalize all of these various actions so that it is not necessarily pointed only at wilderness areas.

Secondly, on page 6, under definitions, this point is specifically taken care of where the definition of the term, "withdrawal" means, among other things, 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 it sometime during which the lands are removed from operation of Public Land Laws. By definition, it could encompass either original or additional withdrawal.

Mr. Rivers. Then, again, I am confused about the word "withdrawal". That does not seem to me like withdrawal. It seems to me like a retraction of some use that is already permitted. It is an additional restriction or it is something like that. Unless we understand what you mean by "withdrawal", you are withdrawing a right to stake a mining claim, in the forest, but are doing that on land which is already withdrawn for forests.

Mr. Pearl. We had a good example of that before the Committee, if you recall, in connection with the Nellis Air Force Base. Lands of the Desert Game Range had been withdrawn for establishment of the Game Range but then

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when the Air Force established its gunnery range on lands including the Desert Game Range, they wanted also to withdraw the lands from operation of the Mining Laws. The first withdrawal that had gone in for the Game Range never shut off mining so that it was a withdrawal for only limited purposes.

Now the Air Force came in and wanted a wider withdrawal. This Committee passed out a bill which passed the House in order to effect that further withdrawal.

Mr. Rivers. I just wanted to make clear we are not talking about making withdrawals from the Federal public domain. You have said we are not talking about withdrawals from the public domain; is that right, open public domain?

Mr. Pearl. In so far as wilderness is concerned, but this would be any withdrawal for any purpose.

Mr. Rivers. We are talking on a broader scale then.

Thank you.

Mr. Aspinall. If the gentleman would yield?

Mrs. Pfost. The time of the gentleman has expired.

Mr. Rivers. I was going to yield my time to the gentleman from Colorado.

Mrs. Pfost. The time of the gentleman has again expired.

Mrs. Hansen. I move to strike the requisite number of words.

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Mrs. Pfost. The gentlewoman from Washington is recognized for five minutes.

Mrs. Hansen. I yield to the Chairman.

Mr. Aspinall. The contents of Title I, although related to the contents of Title II, there is a new statement relative to the procedures and policies having to do with the use of public lands and the way this can be withdrawn.

To me, that is one of the advantages of this bill because we take care of a general proposition as we go in to establish a new status of wilderness area. I like to have all of these questions brought up because it is something the other Body has not considered in its legislation and it is something we have been considering in other bills but have never been able to get into focus, in my opinion.

Thank you very much.

Mr. Pearl. I would like to add one other point, if I may.

In S. 174 as passed by the Senate, on page 10, starting at line 18, is a provision that relates only to wilderness in this respect: It says, "Public notice, when given by either the Secretary of the Interior or the Secretary of Agriculture that any area is to be proposed under the provisions of this Act for incorporation as part of the

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wilderness system, shall segregate such area from any or all appropriation under the Public Land Laws to the extent deemed necessary by such Secretary . . ."

Mrs. Hansen. May I ask the Chairman a question?

Where it says public lands, does this include, or will it include, those acquired by trade or purchase, or any other devices used to secure Federally-owned lands?

Mr. Aspinall. On page 7, the words, "public lands" are defined. It says it means all public lands. Then it includes some of the values within those public lands in the United States, getting 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 Public Lands.

Mrs. Hansen. You feel it does cover all the lands we have concentrated in the way of ownership, of Federally-owned lands and individually-owned lands? I think there are three million acres in this category.

Mr. Aspinall. As soon as the transfers have been made, they come under the control of the Government.

Mrs. Hansen. The definition covers that?

Mr. Aspinall. Yes. I think maybe you might go a step further at this time. I cannot remember, myself, whether or not we have an exception here for Post Offices.

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Mrs. Hansen. No.

Mr. Rivers. Would the gentlewoman yield?

Mrs. Hansen. Yes.

Mr. Rivers. I was thinking the White House was made a Monument a year or so ago.

Mr. Pearl. That is is under 5000 acres, I think.

Mr. Johnson. Would the gentlewoman from Washington yield?

Mrs. Hansen. Yes.

Mr. Johnson. There is one other question, Madam Chairman, I would like to ask a little advice on from counsel. This has to do with Trinity Alps Diversion. The Congress was very generous to us in California when they gave us the Trinity River project where we had to divert water from one watershed to another. In doing that, we have skimmed up quite a bit of country and we have about two-thirds of our water on our very famous watersheds going to waste but they will be developed. In the hearings there were discussions by various witnesses representing the Department as to their thoughts when it comes to a trans-Sierra or trans-Trinity Alps or Cascade water tunnel or ditch, or dam, that makes it necessary, similar to what you have in Colorado.

If the language in this bill were to pass in its substitute form, I presume that which is now in wilderness --

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because they are taking the crests of those mountains -- it would eliminate any water development unless by an Act, or Executive Order of the President, we were given permission to go in there.

You have about 30 projects on the drafting boards out there now to perfect our water development in California amounting to about $25 billion.

Mr. Pearl. Mr. Johnson, the difference between the statute and S.174 is that the Secretary of Agriculture could grant that authority or permission under the substitute.

Mr. Johnson. Under the substitute?

Mr. Pearl. Yes; while under S. 174 it would take the President. That change has been made in this amendment.

Mr. Johnson. It is going to be very necessary we have many crossings for water development purposes. I presume it would be in the form of a tunnel similar to what is now being constructed or will be constructed in Colorado where you divert water from the western slope to the eastern slope.

Mr. Pearl. The specific ones, sir --

Mr. Johnson. We have that in both the Cascade area and the Trinity Alps region , and also the Sierra. There are numerous crossings that will have to be made for water purposes, I am sure.

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Mr. Pearl. That provision is found on page 15.

Mr. Johnson. In the substitute, as you say, it takes a directive from the Secretary of Agriculture where the Forest Service is involved, but under S. 174 it would take an Executive Order or action of the President, or by the President; is that right?

Mr. Pearl. Yes, sir.

Mr. Johnson. That is all, Madam Chairman.

Mr. Aspinall. The gentleman still has time left.

Mrs. Hansen. May I say I want to join my colleague from California relative to the road situation. The road which Congressman Westland mentioned has been discussed for about 40 years. More than that, as he said, there will never be any development in that particular part of the State, either on the eastern side of the mountains or on the western side of the mountains unless the use of this corridor can be secured. It is fundamental to Route 97 and to the west via Route 101 on the far west, and across over at that point is the only place they will allow us the full potential of our use of the road for development of northwest Washington and the corner of northwest Washington that touches it as they go into Canada. Otherwise, all of your traffic is siphoned directly into the interior part of

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British Columbia Province, rather than allowing it to come out and utilize the tourist potential on the west side of the mountains.

Hearing after hearing has been held in which I have had the privilege of presiding on this particular situation and about 4 years ago we finally secured the cooperation of the Forest Service in working on the road development in this area. They grant that it is necessary but the question is that the corridor is so narrow and it borders between the primitive and the wilderness areas. The wilderness is almost on top so that there can be a curtailment in that program. I would sincerely be sorry for the sake of the State of Washington to see that development curtailed.

I have before me a map of the State which shows all of our lands, and some of you may be interested in this sort of thing.

All of the lands shown in color belong to either the Federal Government or the State and this leaves a very small amount of land for development, particularly when you realize that this part of the State is not a very valuable section.

Mr. Aspinall. Without objection, the gentlewoman will be granted an additional five minutes.

Mrs. Hansen. Thank you.

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This is why we call attention to safeguard some of these programs, particularly on our highway building because the west is utterly dependent on its highway construction.

Mr. Aspinall. Would the gentlelady yield?

Mrs. Hansen. Yes.

Mr. Aspinall. The Chair would like to know whether the original bill of the gentleman from Pennsylvania, or S.174, or the substitute offered, do any violence, one way or the other, to the situation that now exists?

Mrs. Hansen. The question is, if you lock the entire North Cascade area up into a wilderness, I do not think the substitute is going to do violence at all because you have provided for review and so on, but in that North Cascade area, as the Congressman from Washington, Mr. Westland, knows, there is constant pressure to extend down. It is through a heavily forested area and I might say it is a pretty area. It is also a very pretty area for tourists and it is also a very fine area for development from the standpoint of transportation coming out of the Okanogan Valley and going over into the section in Northwest Washington.

I do not feel the substitute is going to do violence to that, and that is one of the reasons I have been interested. I do have the same question that Congressman Johnson

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has, that people begin to want to shut up when there is the prospect of a road. There are those who want no roads and I can point to repeated instances, to a group known as, let us in this case call them the Absolute Conservationists, in lieu of other names. They want no road development and they cannot see the economic necessities for these things in certain areas.

We had a case in our own State University where it was necessary to relocate a bridge. We had to move several new acres of rhododendron and other things or otherwise the bridge could not have been built. Otherwise we had the stormiest hearings I can ever remember.

The same situation can occur, which I am sure Congressman Johnson understands, and there will be demands to extend that wilderness area down to preclude crossing at this one single point that is left in Northwest Washington.

Mr. Aspinall. You still have the same situation existing?

Mrs. Hansen. No; the Forest Service has granted the use across this particular area, but I think the thing has to be made clear that in the future the crossings can be secured across the mountains.

Mr. Aspinall. The gentlelady knows we cannot bind the next Congress.

Mrs. Hansen. I realize that but we cannot bind the

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Legislature but we certainly can go ahead and put a project through and expect the good faith and integrity of the next Congress --

Mr. Aspinall. Do you think that will do away with the emotionalism of people?

Mrs. Hansen. I do not think so. That is why this bill came about.

Mr. Johnson. Would the gentlewoman yield?

Mrs. Hansen. Yes.

Mr. Johnson. Under the language of S. 174 they have a deviation there in their studies of so much. I think it is 10 per cent. It was more or less considered in these studies and recommendations of these primitive areas, there can be a deviation of so many percentages in boundaries. If they would extend this all in one direction they would take my corridor out because my corridor is a very narrow corridor between the now-wilderness area and the primitive area.

Certainly, I think the language of S. 174 gives a lot of people a lot of thought in California who are looking to the construction of this highway pass. It will have to come, I am sure. We want to do the least amount of damage to the countryside but we would accept a tunnel. These conservationist groups tell me this tunnel does not have any portholes in this mountainside.

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Mr. Saylor. Would the gentleman yield to me?

Mrs. Pfost. I think the time of the gentlewoman has expired.

Mrs. Hansen. I will be glad to yield.

Mr. Saylor. It seems to me that the four Senators from these two great States in the west certainly should have as much interest in this as anyone. Even S. 174, when it was before them, they voted for it.

Mrs. Hansen. I might point out, I know my Senators very well and the only time they remembered the North Cascade wagon road was at election time. I would just as soon say that right on the record.

Mrs. Pfost. Is there further discussion?

Mr. Johnson. Would the gentlewoman yield?

Mrs. Hansen. Yes.

Mr. Johnson. I might say to my good friend from Pennsylvania that my two Senators are looking for other things besides this corridor. They said the corridor was protected but I know it is not protected in the minds of those who want to eliminate it. When they voted, they both voted for the bill and made no mention of it. There is a move on now to have the Secretary of Agriculture eliminate this corridor and I know there is.

Mrs. Hansen. May I say further to the gentleman that

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it is very easy to forget and when you have to legislate for an entire State, it is very easy sometimes to forget all of the projects and to forget which ones are of major importance to certain groups and certain areas at certain times. I think that expresses it as well as anything.

When this was called to the Senators' attention --

Mrs. Pfost. The time of the gentlewoman has expired.

Is there further discussion on the Chairman's amendment to the substitute?

(No response.)

If not, all in favor of the amendment, signify by saying aye; all opposed, no.

The ayes have it and the amendment is adopted.

Off the record, please.

(Discussion off the record.)

Mrs. Pfost. On the record.

Are there further amendments to the substitute?

Mr. Westland. Madam Chairman?

Mrs. Pfost. The gentleman from Washington.

Mr. Westland. On page 2, line 3, section 102, after the word "has" insert the word "first" so it will read, " . . become effective until it has first been approved by Act of Congress . . ."

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I think it is the intention of the gentleman from Colorado to have Congress act first but I think the insertion of the word "first" would make this even clearer. As it reads at the present time, it says it would not become effective until it has been approved by Congress. I suppose it would be argued that no other language is necessary and perhaps this is not entirely necessary, but I think it would make it very clear to the Departments that action by Congress would come before and would be necessary before any reservation, restriction, or withdrawal, could be accomplished.

Mr. Aspinall. Would the gentleman yield?

Mr. Westland. I yield.

Mr. Aspinall. Where did you put the word?

Mr. Westland. After the word "has".

Mr. Aspinall. Why not put it before the word "has"?

Mr. Westland. Suits me. That is all right if it is better grammar, 'fore or aft. It does not make any difference.

Mr. Aspinall. I have no objection to it.

Mr. Saylor. Question?

Mrs. Pfost. Is there further discussion of the gentleman's amendment?

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Mr. Saylor. Question ?

Mrs. Pfost. Without objection, the amendment will be adopted.

Mr. Cunningham. Madam Chairman?

Mrs. Pfost. The gentleman from Nebraska.

Mr. Cunningham. I move to strike out the requisite number of words.

Mrs. Pfost. The gentleman is recognized for five minutes.

Mr. Cunningham. This may be a technical matter but on page 2 of General Provisions, Section 102, the fifth paragraph says that in time of war or national emergency hereafter declared by the President, withdrawal is made for the purpose, and so on. It would occur to me that the President and the Congress would have to declare another national emergency before that would become operative. In fact, we are in a national emergency now holding over from the Korean War and it might be construed in a technical, or a legal, sense, that some second emergency would have to be proclaimed by the President and the Congress before that would be operative.

I thought I would make that observation in case it needs clarification. Maybe it does not.

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Mr. Aspinall. Would the gentleman yield to me?

Mr. Cunningham. I yield.

Mr. Aspinall. Am I to understand from what you say that the Order of President Truman is still in effect?

Mr. Cunningham. Still in effect. I have gone into that quite thoroughly because I think it is ridiculous it is still in effect. Many of the original provisions of the original Emergency have been taken away, but this is still in effect.

Mr. Saylor. Would the gentleman yield to me?

Mr. Cunningham. That was under President Eisenhower and President Kennedy. I have written a letter to them but I have gotten no satisfaction.

Mr. Saylor. That is the only reason they keep us here legally after the 31st day of July.

Mr. Westland. Let us repeal that law.

Mr. Saylor. Once this emergency is over, Congress cannot legally stay here after the 31st of July and that is why it has not been repealed.

Mr. Cunningham. Madam Chairman, I have no further statement.

Mr. Aspinall. If the gentleman would yield to me, I support this amendment to strike the word "hereafter" and

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put in lieu thereof, "as".

Mr. Cunningham. I do not know, not being a lawyer, what should be done about this, but I thought I would call this to the attention of the Committee because it might involve some problem if this law becomes effective.

Mr. Pearl. May I say a word on that?

Similar language, or this principle, was adopted in the Engle Act of February 1958 requiring military departments to send up Defense withdrawals over 5000 acres to the Congress. It was thought at that time that the existing emergency, which we are still in, was not such as to waive the requirement for an Act of Congress for withdrawals over 5000 acres.

This just carries through on that, and if you strike out the words "hereafter" then everybody could go ahead now, as in the military departments, with their withdrawals over 5000 acres without coming up for an Act of Congress. This merely perpetuates existing law in so far as that is concerned.

Mr. Cunningham. You may be right but that does not quite satisfy me. They may not have been cognizant of this existing emergency, or maybe we would be just compounding the error, or maybe we would not.

I am through, Madam Chairman. I do believe it is confusing but I could be wrong.

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Mrs. Pfost. Without objection, the amendment of the gentleman from Washington will be adopted.

Is there objection?

(No response.)

Hearing none, it is so ordered.

Now, we can move to the question the gentleman has raised and if he desires to offer an amendment to subsection (a) on page 2 --

Mr. Cunningham. Madam Chairman, I am not knowledgeable enough on the subject. I did not have an amendment in mind but it just seemed to me contradictory and there was some confusion so I thought I would bring this out.

Mrs. Pfost. We thank the gentleman for his contribution.

Are there further amendments?

Mr. Westland. Madam Chairman?

Mrs. Pfost. The gentleman from Washington.

Mr. Westland. On page 3, under Title (a) strike that line.

Mr. Pfost. The gentleman is recognized for five minutes in support of his amendment.

4) Mr. Westland. I think, in order to read that line properly, one has to go back to the last line of the first paragraph on page 2, which says that no Act of Congress

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shall be required . . and then would come withdrawal or reservation in aid of pending legislation. First of all, the question would be in whose mind is this "in aid" ? It might be that somebody might have an idea this would aid the Wilderness Bill which is pending legislation, S.174, and therefore they would withdraw whatever they wanted to withdraw,or reserve, or restrict. Then they could go ahead. There might be different opinions on that and other people might think this was not in aid of pending legislation.

Pending legislation is a pretty big phrase when you have something like 10,000 bills before the House of Representatives alone. I am sure they could find some bill somewhere, where the withdrawal or reservation could apply to that particular piece of legislation. It might apply to any of the States.

Again, that would be in the mind of the person who had the authority to make the withdrawal which would, I presume, be either the Secretary of Agriculture or the Secretary of Interior.

I have a bill before this Committee, for example, to build a road down the coast from La Push to Ozette.

The Secretary of Interior might think it would be a pretty good idea, in his view, to aid that legislation to withdraw 10,000 acres, or 50,000 acres, out of the Olymppic Peninsula, the Park, and this road might go through a part

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of it.

I think that that language gives great discretion to a few hands and Congress would have no opportunity to take a look at it.

It would be a fait accompli before anyone could have a chance to do anything about it, so I believe that that particular line should be stricken.

Mr. Aspinall. Madam Chairman, I rise in opposition to the amendment.

Mrs. Pfost. The gentleman is recognized for five minutes.

Mr. Aspinall. I may have misunderstood the gentleman's preface to his argument but this is dependent upon reading it in conformity with the first part of subsection 4; "No Act of Congress shall be required if, relative to any of the following actions . . ."

Then we have a, b, c, d, e, and 180-day period has elapsed since the submission of the notification to Congress is here enacted provided, or the Committee on Interior and Insular Affairs of the Senate and House of Representatives advise the head of the Department or Agency involved in writing.

If there are no further questions to be asked concerning

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the withdrawal, reservation, restriction, designation, or classification, maybe the adjective in front of "Legislation" is desirable. It seems to me that the action that is referred to is as legitimate as any of the rest of them; withdrawal, or reservation is in aid of pending legislation.

Mr. Rivers. Will the gentleman yield?

Mr. Aspinall. Yes.

Mr. Rivers. You spoke of an adjective. Would "specific pending legislation" improve matters?

Mr. Aspinall. I think you need a little bit more than that. Reservation is an aid to pending withdrawal legislation, or something like that. How far do we wish to go on this particular item?

Mr. Pearl. Mr. Chairman, this was in your other bill and is taken from it, in part. It was intended to cover some situations, you will recall, where a project was being discussed and there was legislation pending, for, let us say, a reclamation project. In order to preclude the possibility of new claims being staked, the Secretary withdraws the area pending action on the legislation.

Of course, under this, notification must be given to Congress of all of these actions and, in addition to that, there is a 180-day waiting period during which Congress

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can take action on it or can set it aside. There were several instances shown by the Department where it would be beneficial to withdraw the lands so that new claims would not arise that would have to be extinguished after the legislation is enacted.

Mr. Aspinall. I yield back to my colleague.

Mrs. Pfost. Is there further discussion of this amendment?

All in favor of the amendment of the gentleman from Washington signify by saying aye.

Mr. Westland. Aye.

Mrs. Pfost. Opposed, no.

The Chair is in doubt.

Mr. Westland. A division.

Mrs. Pfost. All in favor of the gentleman's amendment signify by raising your right hand.

Will the Clerk help count?

Those opposed?

The vote is seven to four and the amendment is carried.

Are there further amendments?

Mr. Aspinall. I have a further amendment, but you ought to reletter the following paragraphs accordingly.

Mrs. Pfost. You heard the amendment to reletter the

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following paragraphs accordingly.

Is there objection?

(No response.)

Hearing none, it is so ordered.

Are there further amendments?

Mr. Westland. Madam Chairman?

I move to strike the last word.

Mrs. Pfost. The gentleman is recognized for five minutes.

Mr. Westland. For the purpose of a little discussion on this following paragraph on withdrawal and reservation, this means no action is required by the Congress but you have a six-months waiting period. No action is required where the withdrawal or restriction, or change in designation, or classification is desired by the Agency having primary jurisdiction of the lands for purposes related to its administration of the land. An Act of Congress is not specifically required by this or any other Act.

Any Agency desiring to withdraw, let us say, to get specific, 50,000 acres out of Olympic National Park, the Park Service has primary jurisdiction over that area and no Act of Congress is required under present law for the Secretary to do that.

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To give you another example, North Cascade Primitive Area. He could withdraw or designate any part of that without action by the Congress and the only thing he would need to do would be to give notice. Is that the intention of the gentleman from Colorado, to give that sort of authority?

Mr. Aspinall. It seems to me that this goes at least to the situation and I called it to the attention of the Committee a while ago relative to the activities in the Forest Service when they withdraw lands for administrative purposes and consider them to be recreational rather than for grazing purposes.

Provided further, that no Congress shall be required relative to any of the following conditions or actions. Then we have a limiting statement on withdrawal, reservation, restriction, or change in designation of the classification desired by the Agency, and the instance which you have brought to the attention of the Committee, the Forest Service having primary jurisdiction of the land for purposes related to its administration, an Act of Congress is not specifically required for this or any other act.

It changes it from grazing purposes or from mining uses to purely recreation. If you change a tract of land purely

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from either one of the uses which were permitted, placing an administrative facility of some kind in there on the land, it might change it for water resource development.

The protection is that we have a 180-day period but we have knowledge of what is going on.

Mrs. Hansen. Would the gentleman yield?

Mr. Westland. I yield.

Mrs. Hansen. Let me ask the Chairman, would this allow the taking of timber from a multiple-use administered forest?

Mr. Aspinall. It certainly would permit the Forest Service, as I understand the language, to go in and take the timber down.

Mr. Westland. Unless there is a restrictive phraseology, it seems to me, and I suppose perhaps a change in designation, they might conceivably change something from a primitive area to a forest area although that is inconceivable to me.

Mr. Aspinall. I do not agree.

Mr. Rivers. Sub (c).

Mr. Westland. Change the designation, if it is desired by the Agency. The Agency has jurisdiction over primitive areas and I suppose they could change the

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designation to National Forest.

Mrs. Pfost. Mr. Pearl.

The time of the gentleman has expired.

Mr. Aspinall. I move to strike the requisite number of words.

Mrs. Pfost. The gentleman from Colorado is recognized for five minutes.

Mr. Pearl, will you answer this?

Mr. Pearl. Mr. Chairman and Members, I am sure you recall the Agriculture Department and its report on the withdrawal bills raised this question. It was afraid they would be hamstrung in their administration of the Forest Service lands if there was not some blanket exception which they wanted for any actions they considered in connection with the Administration.

This does not relieve them of reporting but it does permit them some flexibility so that when they submit it under the notification process, the Committee can review it and see if it is, in fact, merely for their administration, and then can advise them that there are no questions.

They can go ahead immediately and not be tied up in waiting for consideration.

On the other hand, if it is a major item, then some

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bill could be introduced or they could be asked to hold it up, but the Forest Service asked for a blanket exception, or exemption, from anything related to administration.

It was my inability to define management and administration that led to this particular language and putting it in this category.

Mr. Westland. Will the gentleman yield?

Mr. Aspinall. Yes.

Mr. Westland. Is it their idea they perhaps need a few acres, or something, to build homes on, or build a ranger station, something of that nature? Is that what they were talking about?

Mr. Pearl. Mostly they are concerned with interference with their timber sales. When it comes right down to discussing it with them, they are concerned about interference with timber sales. They feel they must have enough flexibility in management to be able to regulate their timber sales.

Mr. Westland. I cannot follow that. They regulate their timber sales pretty well now.

Mr. Pearl. That is right but they are --

Mr. Westland. Is there any withdrawal?

Mr. Pearl. No; but what they are afraid of is, if they designate an area where there has never been a timber sale

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before as open for timber sales, that that might be considered as a change in use. As a matter of fact, there have been some complaints registered with the Forest Service on a couple of occasions by conservation groups that have objected toopening areas to timber sales and who have sought to keep them from holding timber sales in those particular areas.

On the reverse side of this, if they had held timber sales in an area and then they decided to just wait a while and hold them in a different area for that particular season, then they want to make sure that that is not considered a change in use.

Mr. Westland. If the gentleman would yield further, could this possibly be construed that the Forest Service would have to give six months notice to Congress before it took a little different area in a National Forest to make sales?

Mr. Aspinall. I personally do not think so, but this

4) is what --

Mr. Westland. I would hate to think so. If there is any implication in that respect, I certainly would not want to see that language in there.

Mr. Durno. Would the gentleman yield?

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Mr. Aspinall. Yes.

Mr. Durno. I believe there is a case in point at the present time in the Central Cascade in Oregon involving the Lake area.

Mr. Pearl. Yes, sir.

Mr. Durno. Which has been the subject of a great deal of controversy. There have been various groups of people go out there and visit the area on the spot. The Secretary of Interior and the Secretary of Agriculture went out together and reviewed this area. This is a large primitive area with a large lake in the Central Cascades of Oregon surrounded by a lot of little lakes. It is up in the sub-Alpine area and there is not too much good timber up there.

It was first designated as a primitive area and then the Forest Service took out certain portionsof that land and prepared certain areas of it for timber sale. Then the controversy arose. It was a very loud controversy out in Oregon because the Agriculture Department, through the National Forest Service, wanted to take out part of this land from the primitive area and put it into the multiple-use concept and sell certain timber lands.

Then the conservationists came along and objected very strenuously to it and it has been in a state of argument

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for years. I believe that fits in the category we are discussing.

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Mr. Aspinall. As I understand the language of this whole section, this is not adding any additional authority to the new program. In other words, it is trying to protect some of the present administrative practices of these agencies.

Mrs. Pfost. The time of the gentleman has expired.

The Chair recognizes the gentleman from Oregon.

Mr. Durno. Madam Chairman, I think there is no point in my discussing this further. It is my idea that this would improve the administration of the Forest Service in presently described primitive areas for multiple use.

Mrs. Pfost. Did you have something you wanted to say, Mr. Witmer?

Mr. Witmer. I was going to point out that so far as the timber sale problem is concerned, that is taken care of by the words "change of designation". If you will look at page 7 it says: "'designation or classification' means" such and such, "provided, however, That these terms shall not be construed to include actions necessary for the conduct of timber sales or incident to fire fighting" and so on.

Mr. Durno. But it is a lot more than the timber sales.

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It is the small lakes around that.

Mr. Witmer. That is right, I was going to the question Mr. Westland brought up. I agree it goes beyond timber sales.

Mr. Westland. If the gentleman will yield, I have very serious doubts about that phraseology. If it is not supposed to add any administrative burdens to the sale of timber, we must know what it is for so these agencies, if they desire a change in designation or restriction, can do so merely by giving six months' notice to the Congress. I do think Congress could act in six months, but we have a whole bunch of things we have taken a lot more than six months for, including appropriations.

Mr. Aspinall. You would be surprised the number of instances of such responsibility the Chairman of this Committee has and as far as I know we get them out pretty fast.

Mr. Westland. I do not mean this in derogation of this Committee by any means, because this committee acts most expeditiously.

Mrs. Pfost. The time of the committee has expired.

Mr. Aspinall. Madam Chairman, may I ask if we can all

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be here Monday morning.

(Discussion off the record.)

Mrs. Pfost. The time of the committee has expired. Let the Chair thank the members for being here so promptly this morning and staying through. The committee stands adjourned until 9:45 Monday morning.

(Thereupon, at 11:55 a.m. on Friday, July 27, 1962, the Subcommittee adjourned until Monday, July 30, 1962, at 9:45 a.m.)