

USE OF CABINS IN THE MINERAL KING VALLEY

SEPTEMBER 8, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. POMBO, from the Committee on Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4508]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 4508) to amend the National Parks and Recreation Act of 1978 to require the Secretary to permit continued use and occupancy of certain privately owned cabins in the Mineral King Valley in the Sequoia National Park, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 4508 is to amend the National Parks and Recreation Act of 1978 to require the Secretary to permit continued use and occupancy of certain privately owned cabins in the Mineral King Valley in the Sequoia National Park.

BACKGROUND AND NEED FOR LEGISLATION

The National Parks and Recreation Act of 1978 which took the Mineral King Valley out of the Sequoia National Game refuge and brought it into the Sequoia National Park did so for the primary purpose of protecting the development from skiing facilities. The Mineral King community contains approximately 66 privately owned cabins. In 1978, owners who signed an agreement with the National Parks Service (NPS) were able to renew their permits an-

nually. The agreement stated that owners would be allowed to retain their cabin for themselves or their successors for twenty-five years or until death, whichever is later.

The NPS has stopped renewing permits and will soon acquire all cabins upon the death of the owners who held them in 1978. Although the General Management Plan for the Sequoia National Park acknowledges that the Mineral King community has been placed on the National Register of Historic Places, nowhere does it recognize the need for preservation of the cabins as a part of the community. The concern has been raised that by shifting ownership from the private sector to the NPS, the cabins will eventually fall into disrepair and need to be removed, inevitably destroying part of the community's unique history. This has been the case for several cabins which has passed to the NPS.

H.R. 4508 will allow the cabins to be retained by their current owners and passed down to their heirs and assigns in perpetuity.

COMMITTEE ACTION

H.R. 4508 was introduced on June 3, 2004, by Congressman Devon Nunes (R-CA). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on National Parks, Recreation and Public Lands. On July 14, 2004, the Full Committee met to consider the bill. The Subcommittee on National Parks, Recreation and Public Lands was discharged from further consideration of the bill by unanimous consent. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by voice vote.

During the 104th Congress, a similar bill, H.R. 3534, was ordered reported by the Committee on Resources by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not

contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 6, 2004.

Hon. RICHARD W. POMBO,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4508, a bill to amend the National Parks and Recreation Act of 1978 to require the Secretary to permit continued use and occupancy of certain privately owned cabins in the Mineral King Valley in the Sequoia National Park.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

ELIZABETH ROBINSON
(For Douglas Holtz-Eakin, Director).

Enclosure.

H.R. 4508—A bill to amend the National Parks and Recreation Act of 1978 to require the Secretary to permit continued use and occupancy of certain privately owned cabins in the Mineral King Valley in the Sequoia National Park

H.R. 4508 would eliminate certain restrictions on the occupancy of about 65 cabins located in the Mineral King Valley addition of the Sequoia National Park. Specifically, the bill would remove existing limits on the right of use and occupancy granted to the owners (and their successors) of cabins purchased by the National Park Service (NPS) after the valley was added to the park in 1978. In addition, the bill would require the NPS to issue or renew certain special-use permits or leases on other cabins that were covered by various occupancy agreements at the time that the agency assumed jurisdiction of the valley from the Forest Service. CBO estimates that enacting these changes would have no significant impact on the federal budget.

The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandate Reform Act and would impose no costs on state, local, or tribal governments.

Under current law, the previous owners (and their successors) of cabins in the Mineral King Valley that were purchased by the NPS were granted a right of use and occupancy in exchange for a reduction in the price of their property. That right expires at the end of 25 years or with the death of the original owner or spouse.

In addition, current law allows persons who owned or leased cabins on land that was transferred to the park from the Forest Service to continue to occupy that property (unless such occupancy is incompatible with park purposes) until their deaths. Five-year renewable permits or leases for those cabins may only be issued to the original property-owner or lessee of record at the time the property was transferred to the NPS. The NPS currently charges less than \$1,000 a year for such leases or permits (collecting a total of less than \$1000,000 annually) and spends about half of that amount on administrative expenses.

Few if any occupancy agreements are still in effect on cabins purchased by the NPS in 1978, and extending those agreements would have no budgetary impact because such occupants do not pay any fees for the use of these cabins.

For those cabins originally occupied under agreements with the Forest Service, the NPS has generally stopped issuing five-year renewals if the original lessees or permit-holders have died. (The agency has been issuing annual permits in some cases.) Once an agreement has expired on a cabin, the structure may be left standing (and unoccupied), be demolished, or be restored and leased out at fair market value. Proceeds from such fair-market-value leases are available to the agency to spend without appropriation action.

If H.R. 4508 is enacted, the NPS would have to allow the heirs or successors of the original permit-holders or lessees to occupy the Mineral King cabins in perpetuity. CBO estimates that this outcome would have no significant impact on the federal budget. For cabins that would be demolished or left empty in the absence of legislation, we estimate that enacting the bill would increase net receipts by less than \$50,000 a year. For cabins that might otherwise be refurbished and leased at market value, renewing the existing agreements could keep the NPS from executing more lucrative agreements. Any amounts that could have been collected from such rental agreements, however, would have been spent without appropriation action.

The CBO staff contact for this estimate is Deborah Reis. This estimate was approved by Robert A. Sunshine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) 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 italic, existing law in which no change is proposed is shown in roman):

SECTION 314 OF THE NATIONAL PARKS AND RECREATION ACT OF 1978

ADDITION OF MINERAL KING VALLEY TO SEQUOIA NATIONAL PARK

SEC. 314 (a) * * *

* * * * *

(c)(1) * * *

(2) Where the private use of any property acquired pursuant to this subsection would, in the judgment of the Secretary, be compatible with the purposes of this section, the Secretary may, as a condition of such acquisition, permit the owner or owners of such property to retain for themselves and their successors or assigns rights of use and occupancy. [Such rights of use and occupancy shall be for not more than twenty-five years or for a term ending at the death of the owner or his or her spouse, whichever is later.] The owner shall reserve such rights and elect the term to be reserved on the date of acquisition of the property. Except for so much of the property as is donated, the Secretary shall pay to the owner the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner.

* * * * *

(d)(1) * * *

(2)(A) * * *

(B) In the case of a lease or permit which is continued under subparagraph (A), upon notice to the Secretary by the lessee or permittee of his intention to seek renewal or extension of such lease or permit, the lease or permit shall be reviewed by the Secretary, and may be renewed or extended for an additional period of five years. Any such lease or permit shall be reviewed at the end of such renewal or extension period and may also be renewed or extended in the same manner for additional five-year periods thereafter. Any renewals or extensions of leases or permits shall be granted only to those persons who were lessees or permittees of record on the date of enactment of this Act *and to their heirs, successors, and assigns*, and any such lease or permit shall provide that the lease or permit may be terminated by the Secretary at any time if the Secretary determines that such lease or permit is incompatible with the administration of the park pursuant to this section or that the land is needed for park purposes.

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DISSENTING VIEWS

H.R. 4508 is special interest legislation that would subvert the public interest for the benefit of a few select private parties. It was bad legislation eight years ago and it is bad legislation today. For those members not here in 1996 and for others who had long since forgotten this matter, a little history is in order.

Back in the 1970's, the 67 cabins covered by H.R. 4508 were slated for removal as part of a plan to put a Disney Ski Resort on national forest lands in Mineral King Valley. The proposed ski resort was very controversial and as a result legislation was introduced and signed into law in 1978 that transferred Mineral King Valley and the cabin permits to the administration of the National Park Service as part of Sequoia National Park.

The law was very clear on the issue of these cabin permits for the use of public land in Mineral King Valley. The extension of cabin permits was to only be for permittees of record as of the date on enactment. No one was tricked and no one was blind sided. In fact, earlier versions of that 1978 legislation had more restrictive terms for cabin permits but was amended to grant existing permittees potential lifetime use of these national park lands.

In the 104th Congress legislation was introduced to accomplish the same thing that H.R. 4508 seeks to do today. That legislation was very controversial. We don't often receive veto threats on legislation in the Resources Committee but we did receive a veto threat from the Administration on that bill. In hearings before the Resources Committee the sponsor of the 1978 legislation and the Congressman who represented the area at that time, John Krebs, vigorously protested the attempt to overturn the clear terms of the law. That legislative attempt died in 1996 only to arise again today.

What generated so much concern from the Administration, former Representative Krebs, and many others was that the cabin permittees were then and are again today attempting to gain for themselves and their heirs the exclusive use of publicly owned national park lands in perpetuity. There are definite winners and losers here. The winners are the cabin permittees and their heirs. The losers are the public.

Mineral King is a small valley prone to avalanches. Because of this there is a limited amount of usable land and the cabin permittees monopolize most of the limited space available for recreational development.

The National Park Service has reported that on many summer weekends overnight visitors to the valley had to be turned away because the NPS campground was full and other available sites were occupied by the cabins. So, it is really the public who is being evicted from the valley.

The National Park Service has taken an extra step to work with permittees. Under the terms of the 1978 Act, a number of cabin permits have expired. But rather than enforcing the law, the NPS has allowed several expired permits to be renewed on a yearly basis while it develops a new plan for public use of the valley. In fact, options for that plan were put out for public comment just recently but would be negated by H.R. 4508.

Permits are privileges, not rights. A reasonable deal was made in 1978. Now those cabins permittees and their heirs want to break that deal for their exclusive benefit. The public is the loser under H.R. 4508. We should be looking out for the public interest, not a special interest and as such we oppose H.R. 4508.

NICK RAHALL.
GEORGE MILLER.
EDWARD J. MARKEY.
MARK UDALL.
JAY INSLEE.

