

TESTIMONY
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NATIONAL FOREST SYSTEM
FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SUBCOMMITTEE ON FORESTRY,
CONSERVATION AND RURAL REVITALIZATION
COMMITTEE ON AGRICULTURE
UNITED STATES SENATE

Concerning
S. 1938, the “Cabin User Fee Fairness Act of 1999”
March 22, 2000

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to discuss S. 1938, the “Cabin User Fee Fairness Act of 1999”. I am accompanied by Randy Karstaedt, Forest Service Special Uses Program Manager, and Paul Tittman, Forest Service Chief Appraiser.

Enactment of S. 1938 would replace the recreation residence fee policy for National Forest System lands and direct the Secretary of Agriculture to establish a set of guidelines for arriving at an annual fee for the privilege to use and occupy a National Forest recreation residence lot. S. 1938 identifies specific, technical provisions to be included in those guidelines. The stipulated practices would be different from the appraisal standards that all federal agencies are required to use in assessing fair market value.

The Administration strongly opposes S. 1938. I will address three of our most significant concerns in my testimony. First, let me give some background.

The Forest Service has encouraged people to use the national forests since 1908. We encouraged them to recreate, watch for fires, render emergency aid, and report damages or abuse of forest resources. We established cabin tracts and issued special use term permits for cabin owners. Owners were charged an annual rent representing the market value of the land at that time. This permit allowed the holder to build a structure for recreational purposes, not to be used as a permanent full-time residence. The permit fee

is only for the site, it is not related to the value of the structure. The Forest Service grants this privilege only to approximately 15,200 cabin owners nationwide.

In the 1980's, the Forest Service worked closely with the public and permit holders, including the National Forest Homeowners in revising our recreation residence policy, including the manner in which we determine and assess fair market rental fee. In 1987, the Forest Service published for public review and comment proposed revisions to its appraisal and fee determination procedures and policies for recreation residence uses. Nearly 3,200 respondents commented on the proposed regulations, 96 percent of whom were permit holders or associations of holders. Eighty-five percent of those who commented responded favorably to our proposed appraisal procedures. The regulations were subsequently published and adopted in 1988.

The terms and conditions of every recreation residence special use permit direct that recreation residence lots be appraised at least every 20 years. In 1996, we started a 5-year effort to appraise the fee simple value of all 15,200 of our recreation residence lots. We will complete appraisals for all of those lots within the next 2 years. We are using the same appraisal specifications and procedures today that were set in 1988.

For the record, I would like to include several charts displaying the changes nationally, as well as in several states, in annual rental fees resulting from appraisals that have been completed to date. The national information is the result of completed appraisals that affect approximately 9,600 recreation residence lots, or about 63% of the total. More than 58% of our holders will be experiencing either a decrease in their annual rental fee, or relatively moderate increases. Less than 3% will experience dramatic fee increases of more than 5 times the current fee being paid. The remainder will see less dramatic but still significant increases that, on average, will result in an approximate tripling of their current annual rental fee. Note that the changes in fee amounts shown in the charts are cumulative averages.

We realize that a sudden rise in user fees can be a hardship for some summer residence owners. Therefore, once the appraisal is completed, in accord with Sec. 343 of P.L. 105-83, we phase in fee increases that exceed 100 percent over a three-year period. Also, in accord with Sec. 342 of the Department of Interior and Related Agencies Appropriations Act, 2000, increases in recreation residence fees will be implemented in FY 2000 only to the extent they do not exceed FY 1999 fees by \$2000. In addition, no fee can be increased any sooner than one year from the time the Forest Service has notified the holder of the results of the appraisal. It is also our policy to allow the permit holder to get a second appraisal if they disagree with the results of the first appraisal. If necessary, our policy allows for a third appraisal when there is an unresolved disagreement in value.

Many of the permit holders who are most concerned with our appraisals occupy lots with high-appraised values, or will experience significant increases in their land use rental fees. At this time, our appraisal procedures are being evaluated by the Appraisal Foundation, the governing body over all appraisal practices carried out by licensed appraisers in the United States. In our conversations with the Foundation staff

conducting the evaluation, we have been given no reason to believe that the Foundation will not recognize our appraisal specifications as a professionally accepted means of establishing an estimate of the fee simple value of National Forest recreation residence lots. I would be happy to provide a copy of the Foundation's findings to the Subcommittee when it is available.

Mr. Chairman, I will now briefly discuss our objections to the legislation.

First, S. 1938 would exempt the permit fee for a recreation residence cabin owner from the fair market value provisions in existing law and regulation. The Congress and the Administration have had a longstanding policy that the people of the United States receive not just a "fair" fee, but fair market value for the use of public lands and resources. The current recreation residence fee policy and procedures that the Forest Service are now implementing were developed to do what Congress has directed us to do: to assess and collect land use rental fees for special uses based on the fair market value of the rights and privileges granted to the holders of our authorizations.

Based on our preliminary analysis of the valuation procedures specified in this legislation, we estimate that the "fair fee" S. 1938 proposes to establish would result in a return to the Treasury of fees that are between \$8 and \$12 million less than fair market value annually. A significant percentage of our recreation residence permit holders would be paying an annual fee that is less than the fee now being paid, fees based on appraisals of land values that are now more than 20 years old.

Second, the "fair fee" that would be established by S. 1938 for recreation residence special uses would be different than a fair market value rental fee. In a market economy, we rely upon the market to determine what is "fair." Trying to establish a rental fee without regard to market rates for similar properties cannot lead to a fair outcome, but rather only a subsidized result. That is not "fair," although it is likely very welcome by permit holders.

Moreover, the standard for setting fees would thus be different than the standard by which the Forest Service assesses and collects fees from those who hold permits and easements for the 130 other types of special uses occurring on the National Forests and Grasslands. By exempting recreation residence permit holders from the principle of fair market value rental fees, this bill sets a precedent for other user groups.

If S. 1938 were to become law, it would encourage other users of National Forest System lands to seek comparable statutory authorities that would similarly exempt them from land use rental fees based on the principles of fair market value. The communications, oil and gas pipeline, outfitting/guiding, and commercial filming industries, along with other user organizations, might well seek similar downward adjustments in their own user fees to satisfy their particular economic interests at a time when the Forest Service is criticized for failing to charge sufficient fees for the use of the public land.

Third, S. 1938 would create a 4-5 year period of disruption and inequity in the assessment and collection of fees for recreation residence uses. S. 1938 would require the Secretary to contract with a professional appraisal organization to develop appraisal guidelines that would include the specific, technical provisions provided in section 6(b) of the Bill. We estimate that the procedures needed to develop the guidelines proposed in S. 1938 would take more than a year to complete. Before the Forest Service could adopt those guidelines, they would be subject to public notice and comment, and Congressional review. Promulgating regulations could take several years.

S. 1938 would suspend all current recreation residence appraisal activities pending the promulgation of those new regulations. In addition, S. 1938 would provide all permit holders who have already had their lot or tract appraised by the Forest Service the opportunity to request a new appraisal anytime within a 2-year period following the Secretary's promulgation of new regulations. In the interim, S. 1938 proposes three options for the Forest Service to assess what are characterized as "transition fees." The manner in which S. 1938 proposes to assess transition fees would create fee inequities between permit holders occupying comparably valued lots during the 4-5 year transition period.

Since 1996, the Forest Service has spent \$3.5 million of appropriated funds completing recreation residence appraisals. Another \$500,000 is being spent on ongoing appraisals. Most of this \$4 million investment would be lost if S. 1938 were enacted. In addition, we estimate it would cost the Forest Service \$500,000 to develop the appraisal guidelines and regulations directed in this Bill. After that, we estimate that more than 90% of the 9,600 permit holders who occupy lots affected by appraisals that the Forest Service has already completed would take advantage of the opportunity provided in this Bill and request another appraisal. In satisfying those requests, the agency could spend more than \$3-4 million in another round of appraisals.

The use of National Forest land for private recreation residences is a privilege afforded to a relatively few number of persons. Taxpayers should be adequately compensated for this private use of their public lands.

The appraisals we have completed confirm that the value of the National Forest System land being occupied by recreation residences has increased over the last 20 years. For some lots, with particularly desirable amenities, that value has increased significantly. We are implementing our fee policy in a manner consistent with federal laws, agency management direction, and sound management principals concerning fair market rental fees for these uses of the public's land and we believe the appropriate course would be to allow us to continue this process.

Thank you for providing me this opportunity to testify on S. 1938. We would be pleased to answer any questions you may have, particularly on other, more technical, concerns with the legislation.