

Committee on Resources

Subcommittee on Forests & Forest Health

Witness Statement

Testimony Before the U.S. House of Representatives

Subcommittee on Forests and Forest Health

House Committee on Resources

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H.R. 3327, the Cabin User Fee Fairness Act of 1999

by

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**Representing the Association, as well as the Mead family--cabin owners at the
Valley View tract**

in the Sawtooth National Recreation Area,

Sawtooth National Forest, Idaho

Madam Chairman, I am David Mead, a long time citizen of Twin Falls, Idaho, which as you know is in south central Idaho on the Snake River Plains. The area's base economy is from value added natural resources--farming, ranching and food processing, some timber, and mining. As in most areas of Idaho, the policies and practices of federal land managers substantially determine the economic viability of each community. These same forest supervisors and BLM area managers also make day-to-day decisions that determine whether my family and my neighbors will continue to enjoy affordable opportunities for outdoor recreation on the public's lands.

In my case, I am a National Forest cabin owner lot permittee. A special use permit issued by the Sawtooth National Forest allows me to maintain our family cabin on a half acre lot of the forest's natural, undeveloped land at the southern end of the Sawtooth Valley. This permit also contains many restrictions on our use of

the lot, and I have attached a copy to my written testimony. The cabin permit is one, among a few key documents, that must be read to understand the values, both positive and negative, to be taken into consideration in the appraisal process.

I am also the president (volunteer) of the Sawtooth Forest Cabin Owners Association, which represents the 181 families with cabin permits at various tracts located within the Sawtooth National Forest. I am representing both the Sawtooth Forest Cabin Owners Association and my own family today.

I am here to support Congressman Nethercutt's legislation, H.R. 3327, the Cabin User Fee Fairness Act of 1999. The bill will provide relief to nearly 15,000 of families in 25 states and Puerto Rico, who suddenly face alarmingly and excessively high cabin lot fees.

Cabin fees are being recalculated throughout the forest system, based on the results of a routine reappraisal of the lots underlying these cabins. This is a process that normally recurs under current policy every 20 years, but should occur more frequently. However, appraisal methodology utilized by the Forest Service in this round has proven to be inconsistent and unreliable, and cabin owners learned quickly that there is no inclination within the agency to resolve several problems that plague the fee determination process.

It appears that only further guidance from Congress will succeed in sorting out the conflicting objectives the Forest Service faces, as well as unnecessary problems the Forest Service has created. On the one hand, Congress and the General Accounting Office have directed resource agencies to maximize revenues from federal lands, and in doing so the agency contrived a system that now will capture more than fair market value from cabin owners.

On the other hand, both Congress and the Forest Service made commitments to the American people to provide ample opportunities for appropriate, affordable recreation on federal lands--diverse recreational opportunities for average families and individuals with average or lower income or pensions. The new cabin fees make unaffordable for most families one of the oldest recreation programs--the cabin program--authorized (in 1915) by Congress.

These policy objectives need not be in conflict. Congressman Nethercutt's legislation sorts out the elements of revenue-driven policy objectives and the recreation program policy objectives, allowing the Forest Service to meet both sets of obligations.

I'd like to share with the subcommittee details of our experiences in Idaho that are already well known to Chairman Chenoweth-Hage.

I last paid an annual fee based on the earlier appraisal of my lot (20 years ago) in December 1996. The fee was \$390, and that was actually too low, despite the original base fee having been annually adjusted for inflation over a 20 year period in which the national economy was overall very strong, however much of our regional economy in south central Idaho was actually in decline. This failure to keep pace with the national economy tells us something about an important feature of the Forest Service policy that guides cabin fee administration: the index that currently measures and adjusts for annual inflation (or deflation) is fundamentally flawed and must be replaced, as is required by Congressman Nethercutt's bill.

The lots in our cabin tracts in the Sawtooth were among the first (in 1996) to be appraised by the Forest Service in the current round of reappraisals. The 34 families at the Valley View tract, where my cabin is located, were stunned by the results--a 541% increase in each of our cabin lot fees, from \$390 annually to

\$2,500. Each family had to consider carefully whether the limited seasonal use of the cabin justified this extraordinary hit on the family budget. For most families, it was readily apparent that such an increase was simply unaffordable, and the cabin would have to be sold to people with much greater discretionary income.

The Forest Service policy allows the cabin owner to obtain and pay for a second appraisal by an outside appraiser of the cabin owner's choosing. The cabin owners at Valley View chose to hire an appraiser for this purpose, because it was evident from reading the first appraisal report that the "typical lot" chosen at Valley View for appraisal was treated as if it were a fully developed lot within a legally subdivided neighborhood of fee simple second homes. I can offer that observation with a considerable degree of confidence. I am a retired country banker, and I've dealt with appraisal data from both urban and rural transactions throughout my career. I'm also an accredited rural appraiser of the American Society of Farm Managers and Rural Appraisers (retired).

The appraiser we hired at the Valley View tract was required by the Forest Service to use the same appraisal guidelines that had been provided to agency appraisers for their initial appraisals. This set of appraisal guidelines is flawed and inappropriately changes the rules of the road with respect to determining proper value for land in an undeveloped "natural, native state" as expressed within and required by the agency's own policy. Nonetheless, our appraiser worked within those guidelines, but determined the value of the "typical lot" at our tract to be dramatically lower than the Forest Service's appraisal results.

For those of you who have not visited cabins in the program, it might help put what you're hearing from me in better perspective if I pause to describe the log cabin my family built in 1975. Our general location is reached by a dirt road built by the Forest Service. As is typical of all cabin tracts, my family then cleared the dirt lane that runs up a steepish hill to within about 150 feet of the cabin's door. The terrain becomes very steep at that point, and we haul goods and gear up this final slope on foot.

There is no electricity. We use kerosene lanterns. We have no phone. My wife and I, and the kids and the grandkids, carry water to the cabin in a bucket from a small stream over the hill. We rigorously maintain an outhouse, consistently meeting appropriate health and environmental standards. Food is refrigerated in an "Ice Box", meaning a primitive example of the very earliest technology. Had we elected to provide ourselves with more amenities, as a good number of cabin owners in some other forests have elected to do, my family and myself would be responsible for these additional costs and risks and, presumably, benefits--not the Forest Service.

The fee that resulted from our second appraisal was \$1,750, an increase of approximately 350%. The increase resulting from this second appraisal came far closer to my own expectations, but also keep in mind that the independent Idaho-based appraiser hired by our tract was required to do his data gathering and analysis, using the same set of appraisal instructions the Forest Service had given its own initial in-house appraiser.

The new fee resulting from the second appraisal is much lower, but nonetheless unaffordable to a number of our families at Valley View, and only marginally affordable to many others. They are facing tough decisions. Some of our cabin owners have already bailed out, and the buyers of these cabins are wealthy. As we feared and predicted, the "cash cow" appraisal objectives that appear to drive the Forest Service are now driving retired people and average income families out of the forests.

Put aside for the moment your personal opinion about whether \$1,750 is too little or too much for the government to be receiving annually as fair market value for use of a quarter or half-acre parcel of

undeveloped raw land. The real issue here is the wide variance between two appraisals, each undertaken with the same set of instructions. In the first instance, a Forest Service appraiser examined the comparable sales, and in the second instance these sales were examined by a local, Idaho-based appraiser experienced in rural land transactions within the market area that affects the value of the lots underlying our cabins. An unquestionable piece of evidence validates this variance as a fundamental flaw in the system: the Forest Service accepted the results of our second appraisal without taking exception to any element of the second appraisal report.

The subcommittee needs to also know about appraisal results elsewhere in the Sawtooth National Recreation Area, some two-plus miles away from our Valley View tract as the crow flies. And here, at the Pettit Lake tract, we can also compare new cabin fees at Pettit Lake to new Forest Service campground fees that will kick in this year.

Cabin owners at Pettit Lake enjoy a significant natural amenity not present at our tract--a small lake that is one of a string of moraine lakes running through the region. A few cabins have lake frontage; others have a lake view, although at many of the individual lots this view is obstructed by trees. Otherwise, many cabins at the Pettit Lake tract are very old, and some resemble my own cabin with respect to primitive conditions.

Also present at the Pettit Lake tract is the "poster child" cabin for purposes of quite an array of media coverage about the cabin fee issue. This is the structure and outbuildings built in recent years by a well-known public personality. Objections to various violations of the Forest Service's cabin policy were overcome by high level political intervention, and the lot now supports an outsized main dwelling and additional structures that have housed security and domestic staff from time to time. While this owner's cabin and outbuildings cannot be considered to be "typical," it is the lot that was to have been appraised in a "natural, native state." The result is a new annual fee that exceeds \$30,000, and fees nearly as high are also be charged to people I consider to be "typical families."

Families at the Pettit Lake tract are the worst hit, to date, by flaws in the appraisal methodology utilized by the Forest Service. The forest lots appraised at Pettit Lake are within the influence of the Sawtooth NRA real estate market. Here, large acreages of fee simple land have been acquired by the federal government and a multitude of easements have been bought for conservation purposes. Federal acquisition has made the availability of truly comparable market evidence from sales of parcels of undeveloped, raw land as scarce as hen's teeth.

Further, this market is deeply influenced by the proximity of recreational real estate development at Sun Valley--an influence on real estate values at Pettit Lake, but for these forest cabin owners, Sun Valley is not an actual amenity related to, or adding value to, their day-to-day activities, interests or enjoyment of their cabin.

The results of the reappraisals at Pettit Lake were astonishing. The annual fee for the majority of cabin owners jumped from \$1,114 to \$22,500--an increase of 1,900%. At the high end of the range of values determined by the Forest Service appraiser, the annual fee for occupancy of a "natural, native state" lot is \$67,500.

Cabin owners at the Pettit Lake tract elected without a minute's hesitation to seek a second appraisal. The results from the second appraisal have been in the hands of the Forest Service for over a year, and the agency is obviously treating the appraisal report with "kid gloves"--if I might use such a term to underscore that the 23 families involved have yet to receive a response from the agency.

There's an interesting comparison of Forest Service special use fees at Pettit Lake that the subcommittee needs to consider. It's a small lake, shared by a variety of visitors doing a variety of things. The Forest Service provides a campground for visitors, not too far away from the cabin tract. Some visitors elect instead to camp within the cabin tract on the "yards" of the cabins, which these forest visitors have every right to do. Only the "footprint" of the cabin structure itself is privately owned, and the public is free to wander at will on any forest land not within the walls of our cabins. Cabin owners generally make an extra effort to let the public know they are welcome to camp or picnic within the "boundaries" of a tract, because we would otherwise invite opposition to the existence of the cabin recreation program.

The Forest Service campground at Pettit Lake provides developed campsites at no charge to the public. In the coming season, however, the Forest Service announced last week that the agency will for the first time begin charging \$6 or \$7 per night for each campsite. The agency will spend "several hundred thousand dollars" (according to press coverage) to add 13 additional individual campsites to the existing inventory of campsites, for which I can't provide overall capacity statistics.

Let's do the math based on charging \$6 per night per campsite, calculated over the four and one half months in which cabins at the Pettit Lake tract are accessible by their owners:

- A hypothetical long term camper would pay \$810 in fees to the Forest Service during this period for the privilege of continuously occupying a small parcel developed by the Forest Service at considerable taxpayer expense, and in these months the Forest Service will provide an individual cooking pit at each campsite, restroom facilities, trash disposal, hazard abatement, and other maintenance and amenities.
- The majority of Pettit Lake cabin owners will pay \$22,500 in fees to the Forest Service for this same period for the privilege of occupying bare land at their own expense with full responsibility to comply with highly restrictive terms and conditions contained in the policy and the special use permit. The cabin owner has the obligation to fully indemnify the federal government in any liability exposure the Forest Service might experience from our occupancy. The Forest Service has the ability to block the cabin owner from renewing the permit, from selling the cabin, or from replacing the cabin in the event of a natural disaster. Along with that thin "bundle of rights," the cabin owner is solely responsible for the family's "cooking pit," sanitary facilities, water supply, fuel, access, maintenance and liability.

Cabin owners made the investment in infrastructure and amenities--certainly more cost effectively than the "several hundred thousand dollars" being spent by the Forest Service at Pettit Lake to make space for 13 more families each night. We'll continue to pay our own way. We always have.

The announcement last week by the Forest Service about the new fee for camping at Pettit Lake perfectly illustrates the inconsistency in policy that affects forest users. This complex system of inequities between forest users, their diverse activities, and whether they pay big fees, or small fees, or no fees could not be more apparent than as managed within the Sawtooth National Forest.

The cabin fee coalition, in which I've been participating regularly, developed a chart outlining the real differences between owning a cabin on private land and having one on a National Forest. Time is too short to read these differences to you now, but they are contained in my written testimony and are on the easel in the hearing room.

These are the significant differences that the coalition calls the "bundle of sticks":

Rights on Private Land:

1. Can prevent trespass
2. Live in cabin year round
3. Sell cabin with no restrictions
4. Lease the cabin
5. Give the cabin away
6. Put cabin in a family trust
7. Subdivide the land
8. Will/bequeath cabin and land
9. Have multiple owners on the title
10. Borrow against it
11. Run a business from it
12. Use it whenever you choose
13. Control who walks on or near it
14. Add buildings
15. Install a swimming pool/hot tub/sauna
16. Landscape any way you choose
17. Cut down old/plant new trees
18. Paint whatever color you choose
19. Remodel/enlarge the cabin
20. Put up signs, fences & clothes lines
21. Maintain it as you see fit

Rights on a National Forest:

1. Control only cabin footprint (cabin interior only; public can use lot)
2. Vacation cabin only
3. Sell only to a USFS approved buyer
4. Rent up to 15 days annually, but only with USFS approval
5. Put cabin in a family trust

22. Remove hazards as you see fit
23. Have horses or cattle around your cabin
24. Allow your pets to run loose
25. Have any number of cars in your driveway
26. Services of local fire department
27. Services of local police department
28. Services of local sanitation department
29. Services of local water & power utilities
30. Have mail/newspaper boxes
31. Have children's play equipment
32. Plow snow from road, driveway and lot
33. Have Rvs, trailers or boats on your lot

As a retired country banker, I will leave you with one fundamental, professional observation. Assuming credit worthiness, I would approve a mortgage to the owner or prospective buyer of a fee simple "native, natural" parcel. Assuming vast riches, no banker would ever grant a mortgage for the "asset" that is a cabin authorized for occupancy and use on a National Forest under the cabin program.

Nor have cabin owners ever sought this level of "property right." It is a privilege for my wife and me to enjoy our retirement in the forest each summer, for however long we are able to drag food, water and goods up that last 150 feet between the lane and our front door. It has been far more than a mere privilege to raise our children in harmony with the Sawtooth Valley--it was a remarkable opportunity to expand their lives beyond day-to-day urban life in Twin Falls. Today, all but one of our six children have settled in major western cities. They return with the grandchildren like homing pigeons to the family cabin in the Sawtooths. Their values, and the experiences of so many of their friends that they bring along to stay at the cabin, are permanently measured against the "native, natural state" experience in the Sawtooth National Forest that creates personal integrity and lasting memories.

Can a Forest Service appraiser factor in human values of this magnitude? No, nor should they. But the Congress certainly needs to take into account the social and physiological value of the cabin program. The objective is the forest experience, creating in each generation a constituency for good stewardship on the National Forest System. A return of fair market value for the privilege and opportunity to be a forest citizen is embodied in the law, and H.R. 3327 also fulfills that objective.

Madam Chairman, you were the first to hold a hearing on this issue in the fall of 1997, when the first results in this current reappraisal of the cabin system demonstrated, at the Sawtooth National Forest, that something was wrong. I am grateful for how promptly you moved. Cabin owners in both northern and southern Idaho know that you, Senator Craig and Congressman Nethercutt created the space and the opportunity for cabin owners to sort through appraisal and fee methodology issues that the Forest Service is not inclined to "cure."

I've regretted that it has taken all of us so long to identify, and reach consensus, on a reliable solution in H.R. 3327, but I'm comfortable today in realizing that good, long term policy evolves slowly. The problems we confront as cabin owners are absolutely unique, and these conflicting values and bundle of rights are virtually unprecedented in normal appraisal activities. The solution drawn by Congressman Nethercutt from this effort is good policy and is sufficiently specific in its direction to the Forest Service that it will hold up over time.

I'd like to close by expressing the gratitude of cabin owners in Idaho to Congressman Nethercutt. The enactment of his legislation, H.R. 3327, will become one of those landmark "household words" that passes from one generation of cabin owners to their children and grandchildren. But Mr. Nethercutt has also been our stalwart from one year to the next at the Interior appropriations subcommittee, a loyalty and caring for the cabin program that goes largely unnoticed by cabin owners who are not directly involved as watchdogs over political or regulatory concerns.

I simply want to say to Mr. Nethercutt that his efforts on our behalf are known by many cabin owners, certainly from the State of Washington and increasingly throughout the country. The reappraisal situation has been a wake-up call for cabin owners who trusted that their good relationship with the local ranger was all that was needed to keep this Forest Service recreation program working effectively. Not necessarily so. The world has changed. The pressures are different now, for both the cabin owners and the hard-pressed field staff of the Forest Service. ALL cabin owners will learn in time that Congressman Nethercutt is one who continues to step forward to maintain fairness and good balance in the determination of cabin fees and in the administration of the program overall.

Madam Chairman, let me say once again how much I appreciate the opportunity to testify and continue to appreciate your leadership in our behalf.

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