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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

NOV 27 1974

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MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 17434 - Transfers of wildlife
refuge rights-of-way
Sponsor - Rep. Sullivan (D) Missouri and 13 others

Last Day for Action

December 6, 1974 - Friday

Purpose

Requires the payment of fair market value for rights-of-way which the Secretary of the Interior may grant upon National Wildlife Refuge System lands.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Department of Transportation	No objection
Council on Environmental Quality	No objection
Department of the Treasury	No recommendation

Discussion

On October 22, 1974, you vetoed H.R. 11541, a bill which included the requirement that the Secretary of the Interior grant refuge system rights-of-way only "after reviewing all reasonable alternatives to the use of such area and determining that such use is the most feasible and prudent alternative for such purpose." Your veto message noted that existing law properly protects our wildlife refuges and that "we should avoid changes in the law that could



create further obstacles and delays in the construction of vitally needed facilities, particularly those facilities designed to help meet urgent energy needs."

H.R. 17434 is essentially a re-enactment of H.R. 11541 except that the objectionable requirement for the "most feasible and prudent alternative" has been completely deleted. The enrolled bill would require the Secretary of the Interior to obtain the fair market value (as a lump sum or rental payment) for all rights-of-way granted through any area within the National Wildlife Refuge System. In cases where units of Federal, State, or local government are exempted from such payment by any other provision of Federal law, compensation would be by any other means agreeable to the Secretary, including land exchange or the loan of personnel or equipment. These non-monetary forms of compensation could be waived by the Secretary if he finds them impracticable or unnecessary. Funds collected in payment for refuge rights-of-way would generally be used to acquire new refuge system lands.

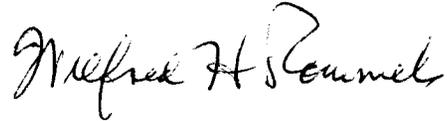
H.R. 17434 would also require that any surplus revenues obtained in administering the National Wildlife Refuge System be transferred to the Migratory Bird Conservation Fund for refuge land acquisition purposes. These funds -- which totalled about \$1,300,000 in fiscal year 1974 -- have previously been used for refuge system management and enforcement purposes.

In its views letter on the enrolled bill, Interior states that except for Federally aided highways:

". . . this Department requires payment for all rights-of-way across lands of the refuge system . . . H.R. 17434 would make such payment a statutory requirement and would authorize compensation for the highway systems . . . this requirement of reimbursement for refuge lands converted to other uses, tends to discourage applications for all but essential uses, and facilitates the replacement of refuge lands affected by such uses."

* * * *

"H.R. 17434, as enrolled, contains the provisions of H.R. 11541 which we supported but the provisions to which we were opposed have been deleted. Accordingly, we recommend that the President approve the enrolled bill H.R. 17434."



Assistant Director for
Legislative Reference

Enclosures

ACTION

THE WHITE HOUSE

Last Day: December 6

WASHINGTON

December 2, 1974

MEMORANDUM FOR THE PRESIDENT
FROM: KEN COLE
SUBJECT: Enrolled Bill H.R. 17434
Transfers of Wildlife Refuge
Rights-of-Way

Attached for your consideration is H.R. 17434, sponsored by Representative Sullivan and 13 other Congressmen, which would require the payment of fair market value for rights-of-way which the Secretary of Interior may grant upon National Wildlife Refuge System lands.

H.R. 17434 is essentially a re-enactment of H.R. 11541 (vetoed October 22) except that the objectionable requirement for the "most feasible and prudent alternative" has been completely deleted but still contains the provisions of the former bill which you supported.

OMB recommends approval and provides you with additional background information in its enrolled bill report (Tab A).

Secretary Morton, Phil Areeda and Bill Timmons recommend approval.

RECOMMENDATION

That you sign H.R. 17434 (Tab B).



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

NOV 26 1974

Dear Mr. Ash:

This responds to your request for the views of this Department on the enrolled bill, H.R. 17434 "To amend the National Wildlife Refuge System Administration Act of 1966 to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses, and for other purposes."

We recommend that the President approve this enrolled bill.

H.R. 17434 would amend section 4(d) of the Act of October 15, 1966, to prohibit the granting of any right-of-way, easement, or reservation in, over, across, through or under any area in the National Wildlife Refuge System to any Federal, State, local agency or private party without payment of the fair market value. The Secretary may accept such payment either in a lump sum as of the date of conveyance or in annual payments on a rental basis. In the case of a Federal, State or local agency, the Secretary may agree to compensation other than payment of fair market value, if such compensation is consistent with the objectives of the National Wildlife Refuge System, or he may waive such a requirement if he finds it impracticable or unnecessary.

H.R. 17434 also requires that all such sums received, after payment of necessary expenses, must be deposited in the Migratory Bird Conservation Fund and be available to carry out the land acquisition activities authorized under the Migratory Bird Conservation Act and Migratory Bird Hunting Stamp Act. In addition, the bill would make any pending actions filed with the Secretary of the Interior under section 4(d)(2) of the Act of October 15, 1966, subject to the above amendments. H.R. 17434 would also require that any moneys remaining in the Refuge Fund after all payments are made for any fiscal year be transferred to the Migratory Bird Conservation Fund and be available for land acquisition pursuant to the Migratory Bird Conservation Act.



Save Energy and You Serve America!

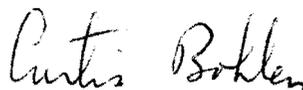
Currently, by regulation the Fish and Wildlife Service of this Department requires payment for all rights-of-way across lands of the refuge system at a rate commensurate with charges made for similar right-of-way privileges across private lands. Excepted from payment are rights-of-way acquired as part of the Federal Aid Highway System and the National System of Interstate and Defense Highways. H.R. 17434 would make such payment a statutory requirement and would authorize compensation for these highway systems unless the Secretary determined that such compensation was impracticable or unnecessary.

This Department supported these provisions of (H.R. 11541) the earlier version of this bill because we believed that payment for rights-of-way is consistent with Public Law 90-404, which required payment into the Migratory Bird Conservation Fund of not less than the acquisition costs of lands acquired with migratory bird conservation funds or the fair market value of donated lands in the event of their disposal. This requirement of reimbursement for refuge lands converted to other uses, tends to discourage applications for all but essential uses, and facilitates the replacement of refuge lands affected by such uses.

However, we opposed the inclusion of a "feasible and prudent alternative" standard in decision-making process for right-of-way siting through refuges which would have been required by H.R. 11541. Because of the inclusion of this requirement we recommended that the President not approve H.R. 11541 and on October 22, 1974 the President vetoed H.R. 11541.

H.R. 17434 as enrolled, contains those provisions of H.R. 11541 which we supported but the provisions to which we were opposed have been deleted. Accordingly, we recommend that the President approve the enrolled bill H.R. 17434.

Sincerely yours,



Acting Assistant Secretary of the Interior

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503



OFFICE OF THE SECRETARY OF TRANSPORTATION

WASHINGTON, D.C. 20590

November 25, 1974

GENERAL COUNSEL

Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C. 20503

Dear Mr. Ash:

This is in response to your request for the views of this Department on H.R. 17434, an enrolled bill

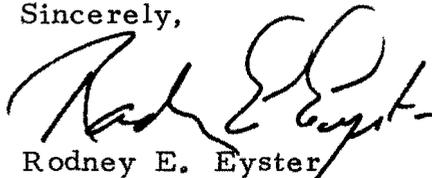
"To amend the National Wildlife Refuge System Administration Act of 1966 to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses, and for other purposes."

The National Wildlife Refuge Administration Act of 1966 authorizes the Secretary of the Interior to permit the use of areas within the National Wildlife Refuge System for such purposes as roads, canals, and pipelines whenever he finds that such uses are compatible with the purpose for which the areas are established. H.R. 17434 amends that Act to require grantees of rights-of-way, easements, or reservations in areas within the Refuge System to pay the fair market or fair rental value for the interest acquired. This would change current practice where a Federal agency may obtain a permit for the use of land under the jurisdiction of another Federal agency without compensation. The proceeds will be deposited in the Migratory Bird Conservation Fund and shall be available for land acquisition under the Migratory Bird Conservation Act and the Migratory Bird Hunting Stamp Act.

We note that if a Federal, State, or local agency is exempted from making payments for the use of such lands, the agency involved may compensate the Secretary of the Interior by means agreeable to the Secretary, and that the compensation may be waived if the Secretary of the Interior finds that the making of payments would be impracticable or unnecessary. The report of the Senate Commerce Committee respecting H. R. 11541 (subsequently vetoed by the President) indicated that this provision was aimed, in part, at highway projects financed under the Federal-Aid Highway Program.

The Department of Transportation has no objection to the President's signing H. R. 17434.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rodney E. Eyster". The signature is written in dark ink and is positioned above the printed name.

Rodney E. Eyster

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

NOV 25 1974

MEMORANDUM FOR W. H. ROMMEL
OFFICE OF MANAGEMENT AND BUDGET

ATTN: Mrs. Garziglia

SUBJECT: Enrolled Bill H.R. 17434, "To amend the National Wildlife Refuge System Administration Act of 1966 to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses, and for other purposes."

This is in response to your request of November 22, for our views on the subject enrolled bill.

The Council has no objection to the approval and enactment of this bill.


Gary Widman
General Counsel



THE GENERAL COUNSEL OF THE TREASURY
WASHINGTON, D.C. 20220

NOV 28 1974

Director, Office of Management and Budget
Executive Office of the President
Washington, D. C. 20503

Attention: Assistant Director for Legislative
Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of H.R. 17434, "To amend the National Wildlife Refuge System Administration Act of 1966 to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses, and for other purposes."

The enrolled enactment is similar to an earlier enrolled enactment, H.R. 11541, vetoed by the President on October 22, 1974, because of a section which added a new standard in determining the authority of the Secretary of the Interior to allow certain rights-of-way across lands of the National Wildlife Refuge System. The current enrolled enactment has been amended to delete the section objected to by the President.

The Department in its report to the Office of Management and Budget on the enrolled enactment of H.R. 11541, objected to certain financial provisions contained in the bill, but made no recommendation in view of indications in the legislative history that the Department of the Interior had generally supported the bill and specifically the financial provisions objected to by the Department.

In view of the foregoing, the Department would have no recommendation with respect to approval of the enrolled enactment.

Sincerely yours,


General Counsel

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

NOV 27 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 17434 - Transfers of wildlife
refuge rights-of-way
Sponsor - Rep. Sullivan (D) Missouri and 13 others

Last Day for Action

December 6, 1974 - Friday

Purpose

Requires the payment of fair market value for rights-of-way which the Secretary of the Interior may grant upon National Wildlife Refuge System lands.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Department of Transportation	No objection
Council on Environmental Quality	No objection
Department of the Treasury	No recommendation

Discussion

On October 22, 1974, you vetoed H.R. 11541, a bill which included the requirement that the Secretary of the Interior grant refuge system rights-of-way only "after reviewing all reasonable alternatives to the use of such area and determining that such use is the most feasible and prudent alternative for such purpose." Your veto message noted that existing law properly protects our wildlife refuges and that "we should avoid changes in the law that could

To -
Hawaii Headlines
11-27-74
6:15 p.m.

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 752

Date: November 27, 1974

Time: 6:30 p.m.

FOR ACTION: Mike Duval *O.K.*
 Bill Timmons *O.K.*
 Phil Areeda *no obj.*

cc (for information): Warren Hendriks
 Norm Ross
 Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, December 3, 1974

Time: 4:00 p.m.

SUBJECT:

Enrolled Bill H.R. 17434 - Transfers of
 wildlife refuge rights-of-way

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

 K. R. COLE, JR.
 For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 752

Date: November 27, 1974

Time: 6:30 p.m.

FOR ACTION: Mike Duval ✓
Bill Timmons
Phil Areeda

cc (for information): Warren Hendriks
Norm Ross
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, December 3, 1974

Time: 4:00 p.m.

SUBJECT:

Enrolled Bill H.R. 17434 - Transfers of
wildlife refuge rights-of-way

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

OK
Mike Duval

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

THE WHITE HOUSE

WASHINGTON

November 29, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS

FROM: WILLIAM E. TIMMONS *WT*

SUBJECT: Action Memorandum - Log No. 752
Enrolled Bill H.R. 17434 - Transfers
of Wildlife Refuge Rights-of-Way

The Office of Legislative Affairs concurs in the attached proposal and has no additional recommendations.

Attachment

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 752

Date: November 27, 1974

Time: 6:30 p.m.

FOR ACTION: Mike Duval
Bill Timmons
Phil Areeda ✓

cc (for information): Warren Hendriks
Norm Ross
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, December 3, 1974

Time: 4:00 p.m.

SUBJECT:

Enrolled Bill H.R. 17434 - Transfers of
wildlife refuge rights-of-way

ACTION REQUESTED:

- | | |
|---|--|
| <input type="checkbox"/> For Necessary Action | <input checked="" type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief | <input type="checkbox"/> Draft Reply |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks |

REMARKS:

Please return to Judy Johnston, Ground Floor, West Wing

No Objection
P. Areeda

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Warren K. Hendriks
For the President

Ninety-third Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-first day of January,
one thousand nine hundred and seventy-four*

An Act

To amend the National Wildlife Refuge System Administration Act of 1966 to require payment of the fair market value of rights-of-way or other interests granted in such areas in connection with such uses, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Wildlife Refuge System Administration Act Amendments of 1974".

SEC. 2. Section 4(d) of the Act of October 15, 1966 (80 Stat. 928, 16 U.S.C. 668dd(d)), is amended—

(1) by striking out "(1)" and "(2)" and inserting in lieu thereof "(A)" and "(B)", respectively;

(2) by inserting "(1)" immediately after "(d)"; and

(3) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding any other provision of law, the Secretary of the Interior may not grant to any Federal, State, or local agency or to any private individual or organization any right-of-way, easement, or reservation in, over, across, through, or under any area within the system in connection with any use permitted by him under paragraph (1)(B) of this subsection unless the grantee pays to the Secretary, at the option of the Secretary, either (A) in lump sum the fair market value (determined by the Secretary as of the date of conveyance to the grantee) of the right-of-way, easement, or reservation; or (B) annually in advance the fair market rental value (determined by the Secretary) of the right-of-way, easement, or reservation. If ~~any Federal~~ Federal, State, or local agency is exempted from such payment by any other provision of Federal law, such agency shall otherwise compensate the Secretary by any other means agreeable to the Secretary, including, but not limited to, making other land available or the loan of equipment or personnel; except that (A) any such compensation shall relate to, and be consistent with, the objectives of the National Wildlife Refuge System, and (B) the Secretary may waive such requirement for compensation if he finds such requirement impracticable or unnecessary. All sums received by the Secretary of the Interior pursuant to this paragraph shall, after payment of any necessary expenses incurred by him in administering this paragraph, be deposited into the Migratory Bird Conservation Fund and shall be available to carry out the provisions for land acquisition of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) and the Migratory Bird Hunting Stamp Act (16 U.S.C. 718 et seq.)."

SEC. 3. Section 4(d)(2) of the Act of October 15, 1966 (as added by this Act), shall apply with respect to any right-of-way, easement, or reservation granted by the Secretary of the Interior on or after the date of the enactment of this Act, including any right-of-way, easement, or reservation granted on or after such date in connection with any use permitted by him pursuant to section 4(d)(2) of the Act of October 15, 1966 (as in effect before the date of the enactment of this Act).

H. R. 17434—2

SEC. 4. That section 401 (e) of the Act of January 15, 1935 (16 U.S.C. 715s(e)), is amended to read as follows:

“(e) Any moneys remaining in the fund after all payments under this section are made for any fiscal year shall be transferred to the Migratory Bird Conservation Fund and shall be available for land acquisition under the provisions of the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.); except that the funds available for the management of the National Wildlife Refuge System or for enforcement of the Migratory Bird Treaty Act shall not be diminished by the amendments made to this subsection by the National Wildlife Refuge System Administration Act Amendments of 1974, unless by specific Act of Congress.”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

①

November 25, 1974

Dear Mr. Director:

The following bills were received at the White House on November 25th:

H.R. 16757

H.R. 17434

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable Roy L. Ash
Director
Office of Management and Budget
Washington, D. C.