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**APPROVED**  
DEC 14 1974

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

DEC 11 1974

Posted  
12/14  
Archived  
12/16

**MEMORANDUM FOR THE PRESIDENT**

**Subject: Enrolled Resolution H.J. Res. 444 - Use of lands in Sequoia National Park by a power project**  
**Sponsor - Rep. Mathias (R) California and 6 others**

Last Day for Action

December 17, 1974 - Tuesday

Purpose

Authorizes the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project.

Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Federal Energy Administration	Approval
Department of Commerce	No objection
Council on Environmental Quality	No objection
Federal Power Commission	No objection

Discussion

Under a 1921 law, the use of national park lands for power projects is prohibited without the specific approval of Congress. The hydroelectric power project which is the subject of H.J. Res. 444 was constructed in 1913, however, prior to the enactment of the current restriction.

Those portions of the project located in the Sequoia National Park in California were constructed under a permit from the Secretary of the Interior. When the original permit for the

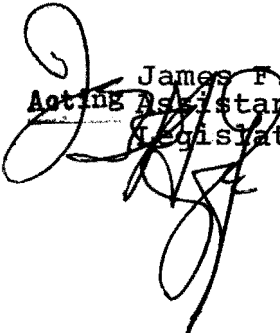


project expired in 1963, Congress authorized the issuance of a new permit, as required by law, to enable the project to continue to operate on park lands. That permit expired on August 6, 1974.

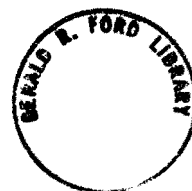
H.J. Res. 444 would authorize the Secretary of the Interior to issue a permit for the continued operation of those portions of the power project within the Sequoia National Park. The term of the permit would extend for the period of any existing or future licenses granted by the Federal Power Commission for those portions of the project not located within the Park, but in no event, would the term of the permit extend beyond 10 years from the date of its issuance unless specifically authorized by law. In including the 10-year limitation in H.J. Res. 444, Congress adopted the Administration's recommendation as set out in the Department of the Interior's report to the House Committee on Interior and Insular Affairs. After discussing some problems which the project creates in the Park, that report states:

"...while we are opposed to an indefinite or long-term extension of the existing permit to occupy park lands at this time, we do favor an extension not to exceed 10 years. Near the end of our proposed 10-year extension, we would reassess the situation to determine an appropriate balance between our environmental objectives and our national energy needs."

H.J. Res. 444 also requires the permit to contain such terms and conditions as the Secretary of the Interior deems necessary for the protection and utilization of Sequoia National Park and requires the National Park Service to report to the Congress at least 180 days before the permit expires on the impact of the hydroelectric project's operations on the Park.

  
James F. C. Hyde, Jr.  
Acting Assistant Director for  
Legislative Reference

Enclosures



THE WHITE HOUSE

WASHINGTON

December 12, 1974

ACTION

Last Day: December 17

MEMORANDUM FOR THE PRESIDENT  
FROM: KEN COLLE  
SUBJECT: Enrolled Resolution H.J. Res. 444  
Use of Lands in Sequoia National  
Park by a Power Project

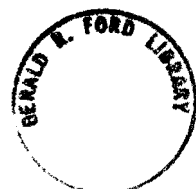
Attached for your consideration is Enrolled Resolution H.J. Res. 444, sponsored by Representative Mathias and six others, which authorizes the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project.

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

Bill Timmons and Phil Areeda both recommend approval.

RECOMMENDATION

That you sign H.J. Res. 444 (Tab B).



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 770

Date: December 11, 1974

Time: 4:30 p.m

FOR ACTION: Mike Duval *O.K.*  
Geoff Shepard *no obj.* cc (for information):  
Bill Timmons *O.K.*  
Phil Areeda *no obj.*

FROM THE STAFF SECRETARY

DUE: Date: Thursday, December 12

Time: 4:00 p.m.

SUBJECT: Enrolled Resolution H.J. Res. 444 - Use of lands  
in Sequoia National Park by a power project

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.: 770

Date: December 11, 1974

Time: 4:30 p.m

FOR ACTION: Mike Duval ✓  
Geoff Shepard  
Bill Timmons  
Phil Areeda

cc (for information): Warren Hendriks  
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Thursday, December 12

Time: 4:00 p.m.

SUBJECT: Enrolled Resolution H.J. Res. 444 - Use of lands  
in Sequoia National Park by a power project

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

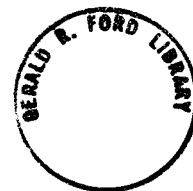
For Your Comments

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

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 770

Date: December 11, 1974

Time: 4:30 p.m

FOR ACTION: Mike Duval  
Geoff Shepard ✓  
Bill Timmons  
Phil Areeda

cc (for information): Warren Hendriks  
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Thursday, December 12

Time: 4:00 p.m.

SUBJECT: Enrolled Resolution H.J. Res. 444 - Use of lands  
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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

*Do Spencer*



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

To  
Walter H. Rife  
12-11-74  
4:45 p.m.

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

DEC 11 1974

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Resolution H.J. Res. 444 - Use of lands  
in Sequoia National Park by a power project  
Sponsor - Rep. Mathias (R) California and 6 others

Last Day for Action

December 17, 1974 - Tuesday

Purpose

Authorizes the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project.

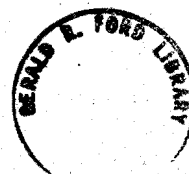
Agency Recommendations

Office of Management and Budget	Approval
Department of the Interior	Approval
Federal Energy Administration	Approval
Department of Commerce	No objection
Council on Environmental Quality	No objection
Federal Power Commission	No objection

Discussion

Under a 1921 law, the use of national park lands for power projects is prohibited without the specific approval of Congress. The hydroelectric power project which is the subject of H.J. Res. 444 was constructed in 1913, however, prior to the enactment of the current restriction.

Those portions of the project located in the Sequoia National Park in California were constructed under a permit from the Secretary of the Interior. When the original permit for the





project expired in 1963, Congress authorized the issuance of a new permit, as required by law, to enable the project to continue to operate on park lands. That permit expired on August 6, 1974.

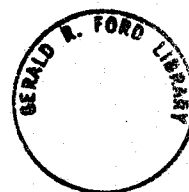
H.J. Res. 444 would authorize the Secretary of the Interior to issue a permit for the continued operation of those portions of the power project within the Sequoia National Park. The term of the permit would extend for the period of any existing or future licenses granted by the Federal Power Commission for those portions of the project not located within the Park, but in no event, would the term of the permit extend beyond 10 years from the date of its issuance unless specifically authorized by law. In including the 10-year limitation in H.J. Res. 444, Congress adopted the Administration's recommendation as set out in the Department of the Interior's report to the House Committee on Interior and Insular Affairs. After discussing some problems which the project creates in the Park, that report states:

"...while we are opposed to an indefinite or long-term extension of the existing permit to occupy park lands at this time, we do favor an extension not to exceed 10 years. Near the end of our proposed 10-year extension, we would reassess the situation to determine an appropriate balance between our environmental objectives and our national energy needs."

H.J. Res. 444 also requires the permit to contain such terms and conditions as the Secretary of the Interior deems necessary for the protection and utilization of Sequoia National Park and requires the National Park Service to report to the Congress at least 180 days before the permit expires on the impact of the hydroelectric project's operations on the Park.

  
James F. C. Hyde, Jr.  
Acting Assistant Director for  
Legislative Reference

Enclosures



THE WHITE HOUSE  
WASHINGTON  
December 12, 1974

MEMORANDUM FOR: MR. WARREN HENDRIKS

FROM: WILLIAM E. TIMMONS *WT*

SUBJECT: Action Memorandum - Log No. 770  
Enrolled Resolution H.J. Res. 444 - Use  
of Lands in Sequoia National Park by a Power  
Project

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

Attachment



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.: 770

Date: December 11, 1974

Time: 4:30 p.m

FOR ACTION: Mike Duval  
Geoff Shepard  
Bill Timmons  
Phil Areeda ✓

cc (for information): Warren Hendriks  
Jerry Jones

FROM THE STAFF SECRETARY

DUE: Date: Thursday, December 12

Time: 4:00 p.m.

SUBJECT: Enrolled Resolution H.J. Res. 444 - Use of lands  
in Sequoia National Park by a power project

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

*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



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

DEC - 9 1974

Dear Mr. Ash:

This responds to your request for the views of this Department on the enrolled bill H.J. Res. 444, "To authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project."

We recommend that the President approve this enrolled bill.

Enrolled bill H.J. Res. 444 would authorize the Secretary of the Interior to issue a permit for the use of Federal land in Sequoia National Park for the Kaweah No. 3 project of Southern California Edison Company. The term of the permit shall expire not later than the expiration of existing or future licenses granted by the Federal Power Commission for the Project, but in no event shall its term extend beyond ten years after the date of issuance unless specifically authorized by law. Further, such permit shall contain such other terms and conditions as the Secretary of the Interior shall deem necessary for the protection and utilization of Sequoia National Park. The permit shall specifically recite that the privileges granted thereby are to be exercised in accordance with the Federal Power Act and the rules and regulations thereunder which the Secretary of the Interior, after consultation with the Federal Power Commission, determines to be applicable. In addition, the bill requires the National Park Service of this Department, to report to the Congress, not less than one hundred eighty days prior to the termination of the permit, on the impact of the operations of the project of the Sequoia National Park.

Keweah No. 3 project, currently operated by the Southern California Edison Company, consists of two concrete conduits with a combined length of 25,000 feet, a low concrete diversion dam for each conduit, an 11.5 acre-foot forebay, a pressure pipe, and a generating station of 3,900 kw capacity. Both the diversion dams are located within Sequoia National Park, one on the Marble Fork and the other on the Middle Fork of the Kaweah River. The conduits are concrete canals 6 feet wide, 3 feet deep, with walls 3 inches thick. They are also on Federal lands which are part of Sequoia National Park. The dams and conduits affect about 4-1/2 miles of the Keweah River within the park.



The project has been in existence since May 1913. That part of the facility located on land outside the park is operated pursuant to a 50-year Federal Power Commission permit which expired on August 6, 1974. That part located on park lands is operated by virtue of a 10-year National Park Service permit which also expired on August 6, 1974. The National Park Service issued the permit for this use of park land pursuant to special legislation enacted June 21, 1963 (P.L. 88-47, 77 Stat. 70), which specifically authorized the issuance of a permit for this project.

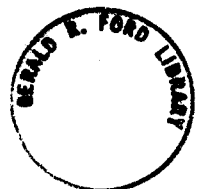
Under the Federal Power Act as amended (41 Stat. 1353), and under the Act of July 13, 1926 (44 Stat. 820), which revised the boundary of Sequoia National Park, no power project may be permitted on park lands "without specific authority of the Congress." Special authority such as the Congress passed in 1963 and such as is embodied in this enrolled bill is therefore necessary if the project is to continue to occupy park lands.

In its report of March 5, 1963, to the House Committee on Interior and Insular Affairs concerning H.J. Res. 180, which became Public Law 88-47, this Department recommended the enactment of the joint resolution, stating, in part:

Since the prior permit extended over the period of 50 years, it, of course, has been a long time since the Congress has had any opportunity to take a look at this situation. By providing a permit expiration date of August 6, 1974, section 2 of the resolution affords Congress another opportunity to review the circumstances surrounding the existence of this hydroelectric project in Sequoia National Park. That date would be contemporaneous with the Company's Federal Power Commission license (Project No. 298).

The opportunity to review this situation, referred to in the Department's earlier report, was afforded the National Park Service as well as the Congress by virtue of the 1974 expiration date.

The diverted portion of the Kaweah River is characterized by sluggish runs, warm water, and algae-coated pools during the seasons of highest visitor use.

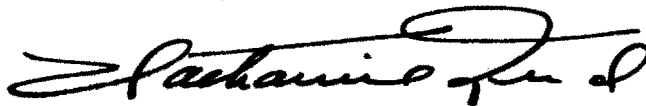


Located near the Ash Mountain entrance to the park, where 458,000 visitors enter each year, the project facilities are detrimental to such popular visitor uses as hiking, visual enjoyment and photography, fishing, and swimming.

Reduction of the natural flow of the river by the diversion works increases water temperature to lethal levels for trout. Reduction of pool size concentrates fish and subjects them to abnormal pressure from predatory animals such as racoons, water snakes, and herons. Abundant algae growth, favored by higher temperatures, is unsightly, and further contributes to the environmental degradation of this stretch of the Kaweah River.

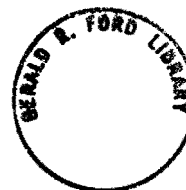
In our reports to the Congress on H.J. Res. 444, as introduced, we recommended an amendment to provide for an extension of the term of the permit for a ten year period only and not for a period coterminous with the term of the FPC license. As enrolled, H.J. Res. 444 contains such a ten year limitation. Accordingly, we recommend that the President approve this enrolled bill.

Sincerely yours,



Assistant Secretary of the Interior

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



FEDERAL ENERGY ADMINISTRATION  
WASHINGTON, D.C. 20461

MEMORANDUM FOR: Wilfred H. Rommel  
Assistant Director for  
Legislative Reference  
Office of Management and Budget

ATTN: James McCullough

FROM: Robert E. Montgomery, Jr. *By Jim Rudi*  
General Counsel

SUBJECT: Enrolled Bill H.J. Res. 444 "To authorize  
the continued use of certain lands within  
the Sequoia National Park by portions of  
an existing hydroelectric project."

This responds to your request for the views of the Federal Energy Administration on the subject enrolled bill.

FEA supported passage of H.J. Res. 444, and therefore, recommends that the President sign the bill into law.





**GENERAL COUNSEL OF THE  
DEPARTMENT OF COMMERCE**  
Washington, D.C. 20230

DEC 9 1974

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

Attention: Assistant Director for Legislative Reference

Dear Mr. Ash:

This is in reply to your request for the views of this Department concerning H. J. Res. 444, an enrolled enactment

"To authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project."

This Department would have no objection to approval by the President of H. J. Res. 444.

Enactment of this legislation will not involve the expenditure of any funds by this Department.

Sincerely,

*Karl E. Bakke*

General Counsel





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

DEC 9 1974

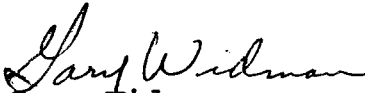
MEMORANDUM FOR W. H. ROMMEL  
OFFICE OF MANAGEMENT AND BUDGET

ATTN: Mrs. Garziglia

SUBJECT: Enrolled Bill, H. J. Res. 444, "To authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydro-electric project."

This is in response to your request of December 4, for our views on the above-mentioned enrolled bill.

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

  
Gary Widman  
General Counsel



FEDERAL POWER COMMISSION  
WASHINGTON, D.C. 20426

DEC 10 1974

ENROLLED BILL  
H.J. Res. 444 - 93d Congress

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

Attention: Ms. Mohr  
Legislative Reference Division  
Room 7201, New Executive Office Building

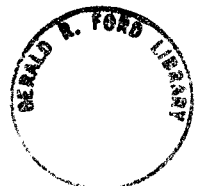
Dear Mr. Ash:

This is in response to Mr. Rommel's request of December 5, 1974, for this Commission's views on H.J. Res. 444, an Enrolled Bill, "To authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project."

As enrolled, H.J. Res. 444 would authorize the continued use of certain lands within the Sequoia National Park <sup>1/</sup> by facilities associated with the existing FPC licensed Kaweah Project No. 298. The minor part license expired August 6, 1974, and the licensee, Southern California Edison Company, has since filed an application for relicensing. The facilities involved are the portions of Kaweah No. 1, Kaweah No. 2, and Kaweah No. 3 which occupy Federal lands outside of the National Park. The Kaweah powerhouses and all other project works not on Federal lands are within the Sequoia National Park. The National Park permit which expired on August 6, 1974, authorized use of the Park for the power facilities.

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<sup>1/</sup> Pursuant to Section 3(2) of the Federal Power Act (16 U.S.C. 796(2)) the Federal Power Commission is prohibited from licensing project works located in national parks or national monuments.

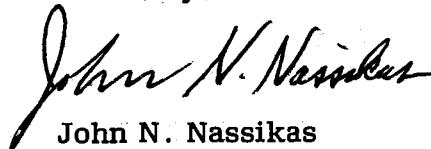


Upon enactment, H.J. Res. 444 will enable the Park Service to extend the permit for not to exceed ten years. It further provides that existing or future licensed project works shall be operated in accordance with the Federal Power Act and such rules and regulations thereunder as the Secretary of the Interior, after consultation with the Federal Power Commission, determines to be applicable. The resolution also stipulates that the permit shall contain such other terms and conditions as the Secretary deems necessary for the protection and utilization of the Park.

In response to your request, the Commission by letter dated May 8, 1974, recommended that H.J. Res. 444 be amended to provide that Interior, in conjunction with FPC, undertake a study of the impact of continued operation of the project on the National Park and to report to Congress on this subject five years before the expiration of the ten-year term of the permit.

The purpose of the above suggested amendment was to insure that project facilities would be removed only after a thorough investigation. Section 4 of the joint resolution as approved by Congress requires the National Park Service to report to Congress on the impact of the hydroelectric project operations not less than 180 days prior to the termination date of the permit. Presumably, the required report will be developed in consultation with the Federal Power Commission and will assess the impact of continued use or removal of these facilities. Accordingly, the Commission offers no objection to the enactment of H.J. Res. 444 as enrolled.

Sincerely,



John N. Nassikas  
Chairman



AUTHORIZING THE CONTINUED USE OF CERTAIN LANDS WITHIN  
THE SEQUOIA NATIONAL PARK BY PORTIONS OF AN EXISTING  
HYDROELECTRIC PROJECT

---

SEPTEMBER 17, 1974.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

---

Mr. HALEY, from the Committee on Interior and Insular Affairs,  
submitted the following

## REPORT

[To accompany H.J. Res. 444]

The Committee on Interior and Insular Affairs, to whom was referred the joint resolution (H.J. Res. 444) to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project, having considered the same, report favorably thereon with amendments and recommend that the joint resolution as amended do pass.

The amendments are as follows:

Page 1, line 7, strike out "Kameah" and insert "Kaweah".

Page 2, strike out all of lines 1 through 5 and insert in lieu thereof the following: "than the expiration of the next renewal license granted by the Federal Power Commission to Southern California Edison Company for said Kaweah Numbered 3 project (Federal Power Commission Project Numbered 298), and the permit shall contain such other".

### PURPOSE

H.J. Res. 444,<sup>1</sup> as amended by the Committee on Interior and Insular Affairs, would authorize the Secretary of the Interior to issue a permit for the continued use of certain lands within Sequoia National Park by portions of an existing hydroelectric project. The resolution provides that the permit shall expire not later than the date of expiration of the next renewal license for the project issued by the Federal Power Commission. The permit would include any conditions deemed necessary by the Secretary for the protection and use of the National Park.

---

<sup>1</sup> H.J. Res. 444 was introduced by Representative Bob Mathias and cosponsored by Representatives Johnson of California, Don H. Clausen, Sisk, Ketchum, Hosmer, and the late Charles M. Teague of California.



## BACKGROUND AND NEED FOR LEGISLATION

Sequoia National Park, established in 1890, preserves a portion of the Sierra Nevada Mountains of California. The hydroelectric project which has come to be known as Kaweah Number 3 was constructed in 1913, with those portions of the project on park lands constructed under permit from the Secretary of the Interior. The Act of March 3, 1921 (41 Stat. 1353) prohibits any such permit on national park lands without the specific approval of Congress. In this case, Congress last acted on June 21, 1963 (77 Stat. 70), authorizing the issuance of a permit which expired on August 6, 1974.

The Federal Power Commission permit for this same project also expired on August 6, 1974. The project is now being operated under a temporary extension of that permit while the FPC reviews both the Kaweah Number 3 and other projects in the same system for re-licensing. The amendments adopted by the Committee, in addition to making a technical correction, specify that the permit to be issued by the Secretary of the Interior shall expire no later than the expiration date of the next renewal license issued by the FPC. This date refers to a term estimated by witnesses at the Committee hearings to be from 20 to 30 years. At that time Congress would again be called on to exercise its review authority in this situation.

Members of the Committee have noted that this project would almost certainly not be permitted to be constructed in this area today. The very heart of the concept of National Park policy is that these areas should be preserved and protected for public use and enjoyment; thus they are removed from other resource uses. However, this particular project has not been shown to be the source of widespread adverse environmental effects and, since it is already in place, its continued use is considered reasonable. H.J. Res. 444 will allow further congressional review of the project at the termination of the next licensing period. By that time there should be additional data developed which will document the changes in the Kaweah River as a result of the diversion of water by this project. Until then, the Secretary is directed to include such conditions in the permit as will be necessary for the protection of park values in the operation of this hydroelectric facility.

## SECTION-BY-SECTION ANALYSIS, AS AMENDED

*Section 1* authorizes the Secretary of the Interior to issue a permit for the continued use of park lands required by the Kaweah Number 3 hydroelectric project.

*Section 2* specifies that the term of any such permit shall not extend beyond the next renewal license granted by the Federal Power Commission for the project. This refers to the next licensing term, not to any temporary extensions of the permit which expired August 6, 1974. It also specifies that the permit to be issued will contain any conditions and terms which the Secretary deems necessary to protect park values. An example of such a condition in the current permit is a requirement that certain releases of water shall be maintained in the river channel.

*Section 3* directs that any such permit also requires compliance with the Federal Power Act and any specific regulations pursuant to that

Act which the Secretary, after consulting with the FPC, may determine to be applicable.

## COST

As H.J. Res. 444 simply authorizes the issuance of an administrative permit, no costs are involved. There is, in fact, an income yielded to the Federal Government under the terms of the most recent permit.

## COMMITTEE AMENDMENTS

Only one substantive amendment to H.J. Res. 444 was adopted by the Committee. It provides that the permit shall be coterminous with the next renewal license granted by the Federal Power Commission for this project. The Committee believed that, as a matter of policy, the Congress should have an opportunity to review any further extension of the permit when the license expires.

## COMMITTEE RECOMMENDATION

On August 14, 1974, the Committee on Interior and Insular Affairs, in open session, by voice vote, ordered H.J. Res. 444 favorably reported in amended form to the House of Representatives.

## DEPARTMENTAL REPORT

The report of the Department of the Interior, dated May 24, 1974, which was before the Committee during deliberation on the legislation, follows:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., May 24, 1974.

HON. JAMES A. HALEY,  
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your committee has requested the views of this Department on H.J. Res. 444, a joint resolution "To authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project."

We recommend that this joint resolution be enacted, if amended as suggested herein.

H.J. Res. 444 would authorize the Secretary of the Interior to issue a permit for the use of Federal land in Sequoia National Park for the Kaweah No. 3 project of Southern California Edison Company. The term of the permit shall expire not later than the expiration of existing or future licenses granted by the Federal Power Commission for the Project, or any extension or renewal thereof, and it shall contain such other terms and conditions as the Secretary of the Interior shall deem necessary for the protection and utilization of Sequoia National Park. The permit shall specifically recite that the privileges granted thereby are to be exercised in accordance with the Federal Power Act and the rules and regulations thereunder which the Secretary of the Interior, after consultation with the Federal Power Commission, determines to be applicable.

from predatory animals such as racoons, water snakes, and herons. Abundant algae growth, favored by higher temperatures, is unsightly, and further contributes to the environmental degradation of this stretch of the Kaweah River.

On the other hand, we recognize that imported oil will, continue to be the "swing fuel" for generating electric power over the next 10 years. Thus, the elimination of Kaweah hydroelectric plant would require the importation of additional oil to be burned in a power plant somewhere in the United States.

For the foregoing reasons, while we are opposed to an indefinite or long-term extension of the existing permit to occupy park land at this time, we do favor an extension not to exceed 10 years. Near the end of our proposed 10-year extension, we would reassess the situation to determine an appropriate balance between our environmental objectives and our national energy needs.

We therefore recommend the following amendments to H.J. Res. 444:

1. As a perfecting amendment the word "Kameah" on line 7, page 1 should be amended to read "Kaweah".

2. On page 2, delete lines 1 through 5, and substitute the following: "than August 6, 1984, and the permit shall contain such other".

This amendment deletes language that would make the term of the permit to use park land coincide with the term of the FPC license, and instead provide for only a 10-year extension.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

JOHN KYL,  
*Assistant Secretary of the Interior.*

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# Calendar No. 1174

93D CONGRESS }  
2d Session }

SENATE

{ REPORT  
No. 93-1236

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AUTHORIZING THE CONTINUED USE OF CERTAIN LANDS WITHIN  
THE SEQUOIA NATIONAL PARK BY PORTIONS OF AN EXISTING  
HYDROELECTRIC PROJECT

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OCTOBER 4, 1974.—Ordered to be printed

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Mr. BIBLE, from the Committee on Interior and Insular Affairs,  
submitted the following

## REPORT

[To accompany S.J. Res. 237]

The Committee on Interior and Insular Affairs, to which was referred the bill (S.J. Res. 237) to authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project, having considered the same, reports favorably thereon without amendment and recommends that the bill as amended do pass.

### PURPOSE OF BILL

The purpose of S.J. Res. 237 is to authorize the Secretary of the Interior to issue a permit for the use of Federal land in Sequoia National Park for the Kaweah No. 3 project of Southern California Edison Co. The proposed legislation would terminate the permit at the same time that existing or future licenses granted by the Federal Power Commission for the project expire. The bill also specifies that the permit is to contain terms and conditions considered necessary by the Secretary to protect the Sequoia National Park, and states that the permit shall specifically set forth that the privileges granted by it are to be exercised in accordance with the rules and regulations of the Federal Power Act which the Secretary of the Interior, after consultation with the Federal Power Commission, determines to be applicable.

### BACKGROUND AND NEED

The Kaweah No. 3 project has been in existence since May 1913. Part of the facility, which is located on land outside the park, is operated pursuant to a 50-year Federal Power Commission permit which expired on August 6, 1974. The part of the project which is





located on park lands operates under a 10-year National Park Service permit which also expired on August 6, 1974. The National Park Service issued the permit for this use of park land pursuant to special legislation enacted June 21, 1963 (Public Law 88-47, 77 Stat. 70), which was similar to S.J. Res. 237, in that it specifically authorized the issuance of a permit for this project.

Under the Federal Power Act as amended (41 Stat. 1353), and under the Act of July 13, 1926 (44 Stat. 820), which revised the boundary of Sequoia National Park, no power project may be permitted on park lands without specific authority of the Congress.

#### COST

Enactment of S.J. Res. 237 will result in no expenditure of Federal funds.

#### COMMITTEE RECOMMENDATION

The Committee on Interior and Insular Affairs in open mark-up session on October 1, 1974, unanimously ordered S.J. Res. 237 favorably reported to the Senate.

#### DEPARTMENTAL REPORTS

The report of the Department of the Interior on S.J. Res. 237 is set forth in full as follows:

U.S. DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
WASHINGTON, D.C., September 12, 1974.

HON. HENRY M. JACKSON,  
*Chairman, Committee on Interior and Insular Affairs,*  
*U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: There is pending before your committee S.J. Res. 237, a joint resolution "To authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project."

We recommend that this joint resolution be enacted, if amended as suggested herein.

S.J. Res. 237 would authorize the Secretary of the Interior to issue a permit for the use of Federal land in Sequoia National Park for the Kaweah No. 3 project of Southern California Edison Co. The term of the permit shall expire not later than the expiration of existing or future licenses granted by the Federal Power Commission for the project and it shall contain such other terms and conditions as the Secretary of the Interior shall deem necessary for the protection and utilization of Sequoia National Park. The permit shall specifically recite that the privileges granted thereby are to be exercised in accordance with the Federal Power Act and the rules and regulations thereunder which the Secretary of the Interior, after consultation with the Federal Power Commission, determines to be applicable.

Kaweah No. 3 project, currently operated by the Southern California Edison Co., consists of two concrete conduits with a combined

length of 25,000 feet, a low concrete diversion dam for each conduit, and 11.5 acre-foot forebay, a pressure pipe, and a generating station of 3,900 kw capacity. Both the diversion dams are located within Sequoia National Park, one on the Marble Fork and the other on the Middle Fork of the Kaweah River. The conduits are concrete canals 6 feet wide, 3 feet deep, with walls 3 inches thick. They are also on Federal lands which are part of Sequoia National Park. The dams and conduits affect about 4½ miles of the Kaweah River within the park.

The project has been in existence since May 1913, whereas Sequoia National Park was established in 1890. That part of the facility located on land outside the park is operated pursuant to a 50-year Federal Power Commission permit which expires on August 6, 1974. That part located on park lands is operated by virtue of a 10-year National Park Service permit which also expires on August 6, 1974. The National Park Service issued the permit for this use of park land pursuant to special legislation enacted June 21, 1963 (Public Law 88-47, 77 Stat. 70), which was similar to S.J. Res. 237, in that it specifically authorized the issuance of a permit for this project.

Under the Federal Power Act as amended (41 Stat. 1353), and under the act of July 13, 1926 (44 Stat. 820), which revised the boundary of Sequoia National Park, no power project may be permitted on park lands "without specific authority of the Congress." Special authority such as the Congress passed in 1963 and such as is embodied in S.J. Res. 237 is therefore necessary if the project is to continue to occupy park lands.

In its report of March 5, 1963, to the House Committee on Interior and Insular Affairs concerning H.J. Res. 180, which became Public Law 88-47, this Department recommended the enactment of the joint resolution, stating, in part:

Since the prior permit extended over the period of 50 years, it, of course, has been a long time since the Congress has had any opportunity to take a look at this situation. By providing a permit expiration date of August 6, 1974, section 2 of the resolution affords Congress another opportunity to review the circumstances surrounding the existence of this hydroelectric project in Sequoia National Park. That date would be conterminous with the Company's Federal Power Commission license (Project No. 298).

The opportunity to review this situation, referred to in the Department's earlier report, is afforded the National Park Service as well as the Congress by virtue of the 1974 expiration date.

The diverted portion of the Kaweah River is characterized by sluggish runs, warm water, and algae-coated pools during the seasons of highest visitor use.

Located near the Ash Mountain entrance to the park, where 458,000 visitors enter each year, the project facilities are detrimental to such popular visitor uses as hiking, visual enjoyment and photography, fishing, and swimming.

Reduction of the natural flow of the river by the diversion works increases water temperature to lethal levels for trout. Reduction of pool size concentrates fish and subjects them to abnormal pressure from predatory animals such as racoons, water snakes, and herons. Abundant algae growth, favored by higher temperatures, is unsightly,

and further contributes to the environmental degradation of this stretch of the Kaweah River.

On the other hand, we recognize that imported oil will, continue to be the "swing fuel" for generating electric power over the next 10 years. Thus, the elimination of the Kaweah hydroelectric plant would require the importation of additional oil to be burned in a powerplant somewhere in the United States.

For the foregoing reasons, while we are opposed to an indefinite or long-term extension of the existing permit to occupy park land at this time, we do favor an extension not to exceed 10 years. Near the end of our proposed 10-year extension, we would reassess the situation to determine an appropriate balance between our environmental objectives and our national energy needs.

We therefore recommend the following amendment to S.J. Res. 237:

On page 1, delete lines 10 through 4 on page 2, and substitute the following: "than August 6, 1984, and the permit shall contain such other terms and conditions as the".

This amendment deletes language that would make the term of the permit to use park land coincide with the term of the FPC license, and instead provide for only a 10-year extension.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the administration's program.

Sincerely yours,

JOHN KYL,  
*Assistant Secretary of the Interior.*

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# 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*

## Joint Resolution

To authorize the continued use of certain lands within the Sequoia National Park by portions of an existing hydroelectric project.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized to issue a permit to occupy and use lands of the United States within Sequoia National Park necessary for the continued operation, maintenance, and use of the hydroelectric project known as the Kaweah Number 3 project of Southern California Edison Company.*

SEC. 2. The term of such permit shall expire not later than the expiration of existing or future licenses granted by the Federal Power Commission to Southern California Edison Company for said Kaweah Number 3 project (Federal Power Commission project numbered 298), but in no event shall the term of such permit extend for any period in excess of ten years following the date of its issuance, unless specifically authorized by law. Such permit shall contain such other terms and conditions as the Secretary of the Interior shall deem necessary for the protection and utilization of Sequoia National Park.

SEC. 3. Such permit shall specifically recite that the privileges granted thereby are to be exercised in accordance with the Federal Power Act (16 U.S.C. 791(a)-825(u)), and the rules and regulations thereunder which the Secretary of the Interior, after consultation with the Federal Power Commission, determines to be applicable.

~~SEC. 4. The National Park Service shall, not less than one hundred and eighty days prior to the termination date of such permit, report to the Congress, in writing, with respect to the impact of the operations of the hydroelectric project (known as the Kaweah numbered 3 project of Southern California Edison Company) on the Sequoia National Park.~~

*Speaker of the House of Representatives.*

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

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December 5, 1974

Dear Mr. Director:

The following bills were received at **the** White House on December 5th:

S. 433 ✓  
S. 3537 ✓  
H. J. Res. 444 ✓

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.