

# NATIONAL PARK SERVICE

## REPORT ON

### RESIDENTIAL OCCUPANCY UNDER SPECIAL USE PERMITS

Two bills presently before Congress, H.R. 2528 and H.R. 1666, would require the National Park Service (NPS) to allow certain individuals to occupy publicly owned houses and cabins in Sequoia National Park and Sleeping Bear Dunes National Lakeshore. H.R. 2528 would require the NPS to grant permits to the heirs of individuals who presently hold five-year permits to occupy publicly owned cabins in the Mineral King area of Sequoia National Park. H.R. 1666 would require the NPS to grant 99-year leases to individuals for publicly-owned structures in Sleeping Bear Dunes National Lakeshore. Another bill, H.R. 3534, could have virtually the same effect as H.R. 2528, as it could result in the permanent protection of the Mineral King cabins, and require the National Park Service to issue permits to the heirs of present and former Mineral King permittees.

The NPS opposes these bills because they would essentially give away public assets to a select group of individuals and impair the ability of the NPS to protect park resources in the affected areas of Sequoia National Park and Sleeping Bear Dunes National Lakeshore. The NPS allows some individuals to reside in government structures in certain parks under Special Use Permits (SUPs). There appears to be a perception among some members of Congress that the NPS does not have a consistent administrative policy for dealing with the occupancy of government structures under SUPs. The NPS has directed a work group consisting of Dennis Burnett, NPS Ranger Activities, John Debo, Superintendent, Cuyahoga Valley National Recreation Area, David Emmerson, NPS Legislative Affairs, Bill Shaddox, Chief, NPS Lands Division, Dick Young, NPS Ranger Activities, Bill Tweed, Sequoia National Park and Peggy Williams of Sequoia National Park, to look into this issue. Michael Tiernan, Attorney-advisor, Solicitor's Office, has provided the group with legal advice.

These are the findings of the Work Group.

#### Authority for SUPs

The legislative authority for most SUPs is implied from both the management responsibility of the NPS under the *Organic Act* (16 U.S.C. 1-3), which requires the Secretary of the Interior to manage and administer units of the National Park System, and the individual enabling acts for park areas. The NPS issued *Special Directive* 88-5 in 1988 (Appendix A), to clarify the Park Service's procedures with respect to SUPs and the expiration of retained "Term Estates" (also known as "term retentions").

Many parks contain properties that are subject to term retentions. Since the 1960s, laws establishing parks have tended to require the NPS to provide landowners with the opportunity to retain a term or life estate in the property they sell to the government. The term retention allows former owners to occupy the sold property for a fixed number of years. Under these laws the seller is typically allowed to determine the length of the retained term at the time of the sale.

Terms can run from one to thirty years. The purchase price is decreased by one percent of the value of the purchase price for each year of occupancy.

Frequently, the holders of retained terms request that their estates be extended as they near expiration. *Special Directive 88-5* makes clear that these terms cannot be extended. As a contractual condition of the conveyance of the property, once that transaction is completed the contract is fulfilled, and no alteration or extension can be allowed except through a land exchange.

As a policy matter, an extension could harm the taxpayer. The initial purchase price of the property took into account the exact term of the estate retained by the former property owner. The government would have paid less for the property if the term estate had been for a longer term of years than was agreed to by the seller. The taxpayer, therefore, is shortchanged when this term is extended without additional consideration because the taxpayer has not received anything in exchange for the extension.

The taxpayer would also be disadvantaged by the application of Public Law 91-646 to an extended term. This law provides qualified interest holders with relocation and moving benefits upon the expiration of their interests. If these benefits were held to cover extensions of interests, the taxpayer could be forced to pay for moving expenses relating to term estates that have legally expired.

While retained terms cannot be legally extended, the temporary residential occupancy of a park structure can be authorized by *Special Directive 88-5*. Someone who occupies a park structure under a retained term can ask to remain in a structure under a SUP after the term expires. *Special Directive 88-5* provides that park superintendents may issue SUPs for the temporary occupancy of a structure in situations where it is "advantageous" for the park. The term "advantageous" in this context stems from the requirement that the issuance of a Special Use Permit is justified only if it is in the best interests of the United States, and no interest in land is transferred.

In determining whether the occupancy of a residential structure would be advantageous to the park or in the best interests of the United States, the park superintendent's discretion is limited by the specific legislative mandate for the park, and the general legislative mandates for the park system under 16 U.S.C. 1-3. These legislative mandates force the superintendent to consider a variety of issues in determining whether to grant a SUP. The superintendent must consider the impact to the resource of continued occupancy and take into account that upon expiration of the term estate, the structure is the unencumbered property of the government, and is thus no longer subject to a property interest held by any specific individual. In short, the superintendent must consider the best interests of the public-at-large, in addition to the interests of one specific individual. Unless addressed otherwise by specific legislation, the authorization of a residential occupancy under a Special Use Permit is precluded as a matter of law if it would be in derogation of the purposes of the values of the park. (16 U.S.C. 1a-1).

Some SUPs, like those in the Mineral King area of Sequoia, relate to a park-specific statute. Under 16 U.S.C. 45f, which made the Mineral King area part of Sequoia National Park, the Secretary is given the discretion to renew permits to individuals to occupy the publicly owned

cabins in Mineral King. To ensure the protection of the resource, and to be fair to the rest of the public, Congress limited the extent of the privileges granted under these permits by providing in 16 U.S.C. 45f(d) that the permits may be terminated if the Secretary determines the permit is incompatible with the administration of the park or that the land is needed for park purposes. Minuteman National Historical Park also has several SUPs issued pursuant to legislative authority.

## **Scope and Breadth of SUP/Residency Issue**

The group began its inquiry by attempting to discover the factual scope of the issue--the number of SUPs throughout the park system and the types of structures and permittees to which they relate. Unfortunately, this information is not contained in a central file. To gain this information, all parks were contacted by electronic mail and asked if they had structures occupied pursuant to SUPs.

The responses to this inquiry revealed that with the exception of SUPs in four parks, Sequoia National Park, Lake Chelan National Recreation Area, Coulee Dam National Recreation Area, and Delaware Water Gap National Recreation Area, the overwhelming majority of SUPs relate to structures that had been formerly occupied under a term estate. Thus, to gain insight into the SUP issue it was necessary to look at expired and current term estates. A 1993 list prepared by the Lands Division of the NPS shows that 51 parks have over 1,100 Term Estates. The 24 park units that have the most term estates, however, account for 95% of the total number of term estates. (Appendix B). Because the Work Group was operating in a short time-frame, the decision was made to focus our review on these parks, together with the other parks that responded to the electronic mail inquiry, in determining the scope and breadth of the SUP issue.

In most of these parks it appears that superintendents have acted consistent with the service's mission by issuing SUPs only when they have determined that the occupancy of the structure subject to the permit would be in the best interests of the United States, and not harmful to park resources and values. (See Appendix C).

In the parks surveyed, SUPs tend to be issued only under the following circumstances:

- 1. Where the structure cannot be removed for a significant time period and would be an "attractive nuisance", thus potentially endangering the public:**  
Superintendents often seek to keep a structure occupied that they believe would become a safety hazard or present a security problem if left vacant. In most of these situations, superintendents intend that the structure be vacated when it is possible to remove the structure. The usual impediment to removing a structure immediately is a lack of funding. However, environmental and historical compliance issues, property management procedures, and environmental mitigation, such as asbestos removal, can separately or in concert significantly delay the removal of a structure. Structures that relate to SUPs in this category are removed when funding becomes available or the compliance issues are resolved.
- 2. Where the structure has or may have special significance that would be endangered if it was vacated:**

Historical structures that must be preserved are often occupied under SUPS. In this instance the superintendent has determined that it is in the best interests of the United States to protect the structure because of its special historical significance, and that would be best accomplished by issuing a SUP to someone to occupy the structure. In addition, the significance of a structure may be undetermined at the time it is vacated. In these instances park superintendents have issued SUPs for the occupancy of a structure until its significance, either historical, or how it would relate to the achievement of park goals, is determined. SUPs issued in these situations are often later replaced by other authorizations, like historic leases, that provide a more permanent protection for the structure.

**3. Where Natural Conditions Prevent the Present Occupant From Vacating the Structure:**

In cases where inclement weather may prevent an occupant from vacating a structure, superintendents often give occupants extra time to remove their property from a structure. This extra time does not usually exceed 6 months.

**4. Legislative:**

Both Sequoia National Park and Minute Man National Historical Park have issued SUPs pursuant to park-specific legislation.

**5. Administrative agreement:**

Both Isle Royale National Park and Delaware Water Gap National Recreation Area have issued SUPs that relate to longstanding agreements with the permittees. See Appendix C for detailed discussion.

**6. Hardship:**

With the exception of SUPs in Lake Chelan National Recreation Area and Coulee Dam National Recreation Area, almost all of the SUP holders revealed by this survey that do not fall into categories 1-6 can be viewed as "hardship" cases. Each of the individuals that fall into this category is a former owner of the structure in which he or she resides. The overwhelming majority of hardship cases involve elderly individuals who would have difficulty finding alternative housing. Other people in this category have medical or financial hardships. Permits issued to individuals in the hardship category tend to be issued and renewed with the understanding that they are valid only for the period of the hardship.

As noted above, Lake Chelan National Recreation Area, and Coulee Dam National Recreation Area have issued SUPs that do not fall into one of the categories noted above. One common thread linking these situations is the fact each park inherited its permits from another federal agency that formerly administered the land in the park unit. In addition, the permittees under each of these SUPs own the structures that rest on park land. Each of these situations is explained more thoroughly in Appendix C.

## **Conclusion**

Our survey has shown that requests for SUPs that do not fall under any of the above categories are typically denied by park superintendents. Therefore, with few exceptions, superintendents appear to be consistent throughout the system in deciding when to allow the residential occupancy of a structure. In these instances they appear to have determined that the occupancy of a structure is advantageous to the park only if it falls into one of the six exceptional categories noted above.

Our survey has also shown that if expired term estates or Special Use Permits were extended by legislation on a system-wide basis, the effect on the Park Service and the taxpayer would be disastrous. There are over 1,400 structures being occupied under term estates or Special Use Permits throughout the park system (See Appendices C, D, and E). A significant number of these term estates will expire within the next 5 years. The taxpayer has paid for the right to have these structures used in the best interests of the United States when the term estate or Special Use Permit expires. Legislative extensions of permits or term estates would completely shortchange the taxpayer, as the taxpayer wholly owns the property associated with these interests. Legislative extensions of these authorizations would also disregard the plans parks have for these structures, which in many cases calls for them to be removed from parks to protect park resources.

There appears to be some confusion, however, about the application and scope of *Special Directive 88-5*. This Special Directive does not give specific guidance to park managers, as it provides that SUPs for occupancy can be issued when it is to the advantage of the park to do so. The Work Group believes this Special Directive should be clarified, so that park managers will have more guidance in making these determinations. To this end, we recommend that *Special Directive 88-5* be replaced by a revised directive that makes clear that resource concerns are paramount when considering the issuance of a Special Use Permit for the residential occupancy of a park structure. The new directive should also offer guidance to superintendents by listing the situations in which superintendents have tended to issue Special Use Permits for this purpose.



**United States Department of the Interior  
NATIONAL PARK SERVICE**

P.O. Box 37127  
Washington, D.C. 20013-7127

IN REPLY REFER TO:

Special Directive    ##-##

**Memorandum**

To:                Directorate, Field Directorate, WASO Division Chiefs,  
                      All Park Superintendents and Manager, Appalachian  
                      Trail

From:             Director

Subject:          Residential Occupancy of Structures under Special use  
                      Permits

A Special Use Permit for residential use should not be utilized where it would compromise significant resource values or where it would significantly impede accomplishment of park management goals. The charge for the permit must be based on the current fair market rental value of the property.

In some situations a park superintendent may find that it is in the government's best interest to issue a Special Use Permit to allow for the private residential occupancy of a park-owned structure. This could include situations where security of the property or the safety of the public can be best achieved through continued occupancy, where structures are to be preserved because of their historical significance, or where a former owner of a property desires continuing occupancy due to financial, health, or other bonafide hardship.

Frequently, former owners or other occupants of property in which a right of use and occupancy had been reserved at the time of conveyance to the government request an "extension" of the reservation. Reservations of Use and Occupancy cannot be extended. A reservation is a contractual condition of the conveyance of the property; once that conveyance is accomplished, the contract is fulfilled and legally there can be no alteration or extension.

## ***APPENDIX B***

	<u><b>TE</b></u>	<u><b>LE</b></u>	<u><b>TOT</b></u>	<u><b>SUPs</b></u>
Apostle Islands National Lakeshore	17	6	23	
Appalachian National Scenic Trail		9	10	19 *
Assateague Island National Seashore	35		35	*
Big Cypress National Preserve	6	5	11	
Buffalo National River	36	7	43	
C & O Canal National Historical Park	78	3	81	
Canaveral National Seashore	10	3	13	
Cape Cod National Seashore	59	14	73	*
Cumberland Island National Seashore	4	12	16	
Cuyahoga Valley National Recreation Area	91	28	119	*
Delaware Water Gap National Recreation Area		10	10	*
Glacier National Park	5	7	12	
Golden Gate National Recreation Area	24	6	30	*
Grand Teton National Park	7	23	30	*
Hot Springs National Park	23	36	59	*
Indiana Dunes National Lakeshore	185	7	192	*
Isle Royale National Park		12	12	*
Minute Man National Historical Park	8	8	16	*
Olympic National Park	24	5	29	
Point Reyes National Seashore	50			*
Saint Croix National Scenic Riverway	100	9	109	*
Sleeping Bear Dunes National Lakeshore	141	9	150	*
Voyageurs National Park	109	14	123	*
Yosemite National Park	23	11	34	*

\* These parks have structures occupied under SUPs.

***Special Use Permits/Term Estates: A Sampling of Parks***

**Appalachian National Scenic Trail:**

*The Appalachian NST has seven structures that are occupied under SUPs. They are occupied permanently by caretakers and used by hikers for shelter. One of the seven might be demolished soon, as the Club that is responsible for maintaining it may discontinue this arrangement.*

*The trail has six life estates and six term estates. Most of these are slated for demolition when the terms expire. Some, however, might be retained to further park purposes. Some individual residents have requested extensions.*

*For demolition activities, the park uses repair/rehabilitation funds. This costs the park about \$80,000-\$100,000 per year. The park has over 100 vacated structures that need to be demolished. Houses that are in good shape are often sold and moved off the trail. Most, however, do not have salvage value.*

**Apostle Islands National Lakeshore:**

*Apostle Islands NL has seventeen term estates and six life estates. Most are cabins, but few are larger complexes, like farms. Some of the estates are on the National Register of Historic Places. None are used as permanent residences. A number of authorizations have expired. Some structures have been removed and others have been converted for operational use -- like rangers' quarters. Structures that have been vacated recently have been demolished. The park has received requests for extensions, but has denied them. Demolition costs are not very high, as structures are relatively simple cabins. The structures on the mainland have been sold.*

**Assateague Island National Seashore:**

*This unit has six term estates, which are old hunting lodges. The lodges consist of a number of shacks that are patched together and are occupied pursuant to twenty-year term estates. Two have expired recently. The buildings are on the National Register of Historic Places and will not be torn down. The General Management Plan (GMP) provides for the demolition of the other buildings, though the park believes that one or two would be suitable for environmental education. The park has denied requests for extensions. The original term estates were granted pursuant to the park establishment legislation. No one lives in the structures year-round.*

**Big Cypress National Preserve:**

*The park has two life estates and eighteen term estates. These are primarily single family dwellings that are occupied year-round. The park has revoked one use and occupancy because it was being used for purposes contrary to park values.*

*Two structures that have been vacated are presently being used by the park for park purposes. A life-estate structure that was recently relinquished voluntarily was demolished. A term-estate structure in a remote area of the park that has been abandoned will also be demolished. Demolition is not easily accomplished because of funding constraints. No SUPs have been*

*granted for continued occupancy. Salvage has been a possibility with some structures, but not with most.*

**Buffalo National River:**

*The park has five life estates and nine residential term estates. A number have expired. One of these is used as a weekend residence. The rest are permanent residences. Some of these structures are fairly substantial houses.*

*The park does not have a formal plan for dealing with vacated structures. Only one residential term estate has expired. The structure it is related to is still standing and may be rehabilitated and used as a research center or temporary quarters. The other term estates do not expire until after the year 2000.*

**Canaveral National Seashore:**

*The park has fourteen structures under term estates. Ten are occupied year-round. Four are occupied as second homes. The park's enabling legislation allows owners to retain these interests. The park's GMP provides that the structures should be torn down. Four term estates have expired recently. One was demolished, as it was deemed a safety hazard. The structures are fairly simple -- the park estimates demolition costs to be about \$1,000 per structure. Of the remaining structures that were recently vacated, one is used as a ranger station, one is standing but is in a remote area, and another is used for storage.*

*Holders of term estates have repeatedly asked for extensions, but the park has not granted any.*

**Cape Cod National Seashore:**

*Twenty-one term estates have expired over the past few years. Over sixty remain, of which about a dozen are life estates. These relate to structures that range from fully developed and winterized homes to "summer shacks" that do not have running water. Some of the houses rent for \$800 a week or more during the summer. The park estimates that about 1/3 of the estate holders are permanent and 2/3 are seasonal. Many estate holders are not original permittees. They have either inherited or purchased their occupancy rights. Almost all term estates will expire within five years. Previous ROU properties have been sold and removed, demolished, used for park purposes, or are vacant and awaiting disposal.*

*In some cases, estate holders are elderly "hardship" cases. In many cases, they are prosperous, seasonal users. The park is developing a strategy for these structures through a "Committee" and has publicly expressed the options it is considering. A draft GMP is being developed that will address this issue.*

*The park is striving to avoid being left with unoccupied summer residences. In prioritizing structures, it will first determine whether the structure is affecting a natural resource. If so, it would be high on the list for demolition. Second, it will assess whether the structure can be moved outside the park. Local municipalities or housing authorities might be interested in them. A short-term SUP program is also being considered to accrue monies for demolition.*

## **APPENDIX C**

### **Coulee Dam National Recreation Area:**

*Coulee Dam NRA has issued twenty-six SUPs to individuals to occupy cabin sites. The structures occupied pursuant to these sites are residential homes, not cabins. The structures are owned by the permittees and have been there since the 1950s.*

*Special Uses in the park had been administered by the Bureau of Reclamation. Now, they fall under the jurisdiction of NPS pursuant to a cooperative agreement with the Bureau of Reclamation. The park does not have enabling legislation to offer it guidance. Nothing in the park planning documents calls for the removal of these cabins.*

### **Cumberland Island National Seashore:**

*The park has four term estates and four life estates. There have been no expirations. The first expiration of a term estate will occur in 2000. The GMP does not address this issue.*

*The determination of what to do upon expiration depends on the structure. Some are historic and will not be torn down. Structures that can be used by park personnel may be converted for housing, depending on park needs. Some structures will be demolished.*

*Some structures are occupied year-round, but most are occupied seasonally and are houses. The park has received pressure to extend the term estates. The park has denied these requests.*

*The park enabling legislation allows individuals to retain interests -- term or life estate. In some cases, the retained interests have been transferred.*

### **Cuyahoga Valley National Recreation Area:**

*Cuyahoga Valley NRA has 115 structures occupied pursuant to term or life estates. The park also has seven structures occupied pursuant to SUPs. Each of these relates to situations where the park has felt the need to keep a structure occupied for safety, preservation, or hardship considerations.*

### **C & O Canal National Historical Park:**

*The C & O Canal NHP has eighteen expired term estates. Most are seasonal in nature. The term of the reservations was factored into the purchase price for the land. There are presently 86 term estates, mostly in Washington County. They will all expire by 2001. Many of the eighteen structures that relate to expired permits were destroyed in storms. Many of these structures are between the canal and the Potomac River in very hazardous situations.*

*Several of the structures are permanent homes to their occupants. Most of the structures under estates are trailers, mobile homes, and small summer shacks. All receive electricity. The park does its own demolition work. It is factored into the budget, and is probably not as costly as it is in other parks because the structures at the canal tend to be simple, small structures. The park has not granted SUPs for continued occupancy in recent years.*

### **Delaware Water Gap National Recreation Area:**

*The park has fourteen authorizations under Special Use Permits that run for five-year terms.*

## **APPENDIX C**

*The structures are houses that were built on land added to the park under 1978 legislation. Prior to 1978, the structures had been under the jurisdiction of the Army Corps of Engineers. A special arrangement allows the occupants to remain until 2005 under Special Use Permits. All of the occupants are permanent residents. A policy statement issued in 1980 called for the elimination of all houses associated with seasonal use.*

*Only the permittees who were authorized users under the Corps of Engineers administration are allowed to remain under NPS permits. The park has denied permits to the offspring of original permittees and none have been transferred.*

*At least two have expired recently and have not been renewed. One generated a great deal of controversy in the local media. Both structures still exist. The park does not have enough money to demolish them, as costs are estimated at \$30,000 per structure.*

### **Glacier National Park:**

*The park has five term estates and seven life estates. The structures are described as nice cabins and are used as summer homes. A life estate expired this past year -- the structure remains vacant, and the park has not decided what to do with it. Park planning documents do not address this. The park's plan is to get rid of these structures so that the area will revert back to its natural state. Park uses are being considered for structures. The park has not granted extensions of these interests.*

### **Golden Gate National Recreation Area:**

*One term estate has recently expired. The structure associated with this interest was used by an elderly woman as a permanent residence. The park does not want to evict this woman and will give her a Special Use Permit to continue residing in the park.*

*Of the thirteen other structures in the Camino Del Canyon area, twelve are occupied under life estates, and one is a term estate.*

### **Grand Teton National Park:**

*The park has seven term estates and twenty-three life estates. The structures range from 3-4 bedroom units to "shacks." Some are occupied year-round. A couple have expired recently. Handling expirations usually depends on the time of year the estate expires. If it expires during the winter, the park will usually give the occupant some extra time to remove his or her personal belongings from the structure.*

*The structures that have recently been vacated have been put up for sale. The park has two SUPs. Both are for elderly individuals.*

*When a structure cannot be sold it is removed or converted to a park use. The main problem experienced by the park is the tension between the forces that advocate removal of a structure and those that advocate the preservation of a structure. It is impossible for the park to maintain and save all of the old structures. For example, a couple are Dude ranches with many buildings.*

*The park has not experienced safety problems with vacated structures. Individuals that visit vacated structures tend to be careful. There are some funding problems associated with the removal of structures. The park has had success with selling cabins as the economic conditions in the area make these cabins attractive purchases.*

### **Great Smoky Mountains National Park:**

*At one time the park had over 100 residents under Special Use Permits. There is only one left, and the permit expires in 2002. The structures relating to the 100 that have expired are vacant. They were all used as summer residences. The park has been challenged on its policy of refusing to renew to heirs of permittees. A court decision recently upheld their policy.*

*The State of Tennessee Historic Preservation Office has challenged the park's plan to tear the structures down. This is an ongoing dispute. Park planning documents do call for the removal of the homes, as they are considered an environmental hazard.*

### **Hot Springs National Park:**

*The park has twenty-three term estates and thirty-six life estates. They are for single family homes that are occupied year-round. Most are for twenty year terms.*

*The park policy is to try to sell permits that expire. About 50-60% are disposed of this way. About twelve will be put on the market soon. The park expects to sell about seven of these.*

*There is often a waiting period between the abandonment structure and its demolition. This period can be lengthened considerably if there is an environmental problem like asbestos or lead in the structure. The NPS does its own testing for asbestos. If no environmental problem is found with a structure, the park can usually do the demolition itself.*

*The park has issued two SUPs for the continued occupancy of structures. These structures are occupied by individuals in their nineties, and the park receives fair market value for the structures. The park receives many requests for extensions of term estates.*

*Structures are usually not kept up by an occupant in the last few years of a term estate. The planning documents state the structures should be removed.*

### **Indiana Dunes National Lakeshore:**

*Indiana Dunes NL has structures occupied under life estates, term estates, and Memoranda of Understanding (MOUs). The park relies heavily on 16 U.S.C. 3a, which allows it to recover costs associated with SUPs. The park did a study that showed administration of the use and occupancy program costs the park about \$250,000 per year (including labor costs). This money is backed out of the ONPS budget and put into a contingency account that is used for demolition.*

*The park presently has seventy-five houses that need to be demolished. The park views this as a life-safety issue. The fee for Special Use Permits is based on the fair market value of the use of the structure. Most structures can accommodate permanent use, as they are primarily houses and cottages.*

## **APPENDIX C**

*The park's GMP supports the removal of houses and the restoration of the environment. Term estates and life estates were offered through the park's enabling legislation. Through land acquisition, the park has acquired entire subdivisions of structures. The legislation gives owners of property the opportunity to seek reservations of use.*

*Most of the individuals living under reservations are the original owners of the interest. The park will only give a Special Use Permit to the individual who has the reservation of use in his or her name at the time it expires.*

*There are six life estates in the park. The park has issued eighty-five SUP's, which have terms that are no longer than five years. Some have been limited to an initial two-year term. SUPs are issued when it is in the government's interest to do so. However, to maintain the SUP, the individual must pay fair market value.*

*Prior to deciding whether a structure should be demolished, the park asks:*

- 1. Is it a cultural resource? If so, no demolition.*
- 2. Can the House be used for park purposes? If so, no demolition.*
- 3. Can the structure be sold? If so, no demolition.*
- 4. If the structure does not fall under any of the above categories it will be slated for demolition.*

*Reservations of Use are very often not maintained in good condition in the final years of a term as the interest holders do not have any incentive to make capital investments. The park estimates demolitions to cost about \$20,000. Some, however, have cost as much as \$80,000. The park has 304 term estates.*

### **Isle Royale National Park:**

*The park has issued four SUPs to individuals for the occupancy of summer cabins. These permits have been issued to the children of former life lessees and relate to the agreement between the NPS and the former life lessees made during the 1930s. Under the agreement, only children born prior to the signing of the life estate (all leases were signed between 1938 and 1942) are eligible for the permits. Planning documents do not address the issue of what to do with these structures.*

### **Lake Chelan National Recreation Area:**

*Lake Chelan NRA presently has three cabins under SUPs. These permits were initially issued by the Forest Service when it had administrative jurisdiction of the area. Permittees are in their sixties and seventies, and their permits are renewed on an annual basis. The park's General Management Plan calls for the structures to be removed. The structures are owned by the permittees and are used as seasonal cabins.*

### **Lake Mead National Recreation Area:**

*Lake Mead does not have any structures occupied under SUPs. It does, however, have over 100 structures occupied under leases. These are authorized under the park's enabling*

legislation.

**Minute Man National Historical Park:**

*The park has about twenty term estates and eight life estates. About six have expired in recent years. Some structures occupied under these interests are historic while some are modern ranch homes. Most are occupied on a full-time basis.*

*With respect to expired term estates, the park has restored the historic structures. It recently burned down a structure that was not historic. This is much less expensive than demolition, as it cost the park only \$2,000-\$3,000. Demolitions cost the park about \$25,000 when hazardous materials cleanup is factored in. Only two or three structures can be burned per year, however, under EPA guidelines.*

*The park has granted SUPs. Three SUPs are authorized by recent legislation. In these cases, the SUPs were essentially converted into life estates by Public Law 102-488. There is presently only one other permittee living in a structure under an SUP. It is a couple in their eighties. The park views this as a hardship exception to the general rule that SUPs should not be granted to the holders of term estates. The park will only grant these exceptions to people in the hardship category who are permanent residents of the park.*

**Olympic National Park:**

*The park has several structures subject to term estates. Most are occupied seasonally and do not have insulation. A few are occupied year-round. Upon expiration of the interest, the park usually tries to sell the structure. Most houses are sold for salvage. The park has not received any pressure from the holders of these interests to extend the interest. The park believes this is probably because most of the structures are very old and would require a great deal of investment if the authorization was extended. In addition, the park has openly communicated to the holders of these interests that there would be no extensions once the interests expired.*

**Point Reyes National Seashore:**

*The Seashore has fifty retained terms, many of which will expire in the next few years. The seashore has one SUP that is purely residential. A few others involve grazing and are authorized under the park's enabling legislation.*

**Saint Croix National Scenic Riverway:**

*The riverway has some life estates and more than 125 fixed-term estates, most of which run for a period of twenty-five years from the original date of purchase. Most of these are simple summer cabins. However, some that are used as permanent residences are more complex, with full basements, garages, and detached storage basements. Twelve reservations will expire in 1996, thirty-five in 1997, twenty-two in 1998, ten in 1999, and the remainder over the following fifteen years, through 2014.*

*The riverway has two options when a reservation expires. First, it goes through a compliance analysis. The Section 106 historical compliance, the archeological compliance, and the NEPA compliance are all part of this exercise. None of the riverway's structures have been deemed*

*historical.*

*If the property passes through the compliance analysis, it will be offered to the public by sealed bid for removal or salvage with site restoration. If it cannot be sold because of waste, deferred maintenance, or the lack of a useable road access for removal, the structures will be torn down. The riverway uses repair/rehabilitation funding to do this.*

*About 90% of the structures offered to the public get sold. However, because states are tightening up their environmental and zoning controls, this percentage may decrease in the future. Money derived from these sales is deposited in the general treasury. Park units would prefer it be retained in the local park account. Structures that do not get sold are burned or demolished. The riverway prefers to demolish because burning a structure tends to generate negative publicity and the possibility of adding to pollution.*

*Many structures lie vacant until funding is available for demolition. During that time they are often heavily vandalized and represent not only a safety problem but also generate adverse reaction from the public.*

*It has been automatic for the riverway to receive a request for an extension prior to the scheduled expiration of a reservation of use. No such extensions have ever been granted by the riverway.*

*There are three individuals living in structures under SUPs. Two of these individuals were given the permits for reasons relating to personal hardship. One was given to avoid forcing someone to move during a period of inclement weather.*

**Sequoia National Park:**

*Currently, fifty-four Special Use Permits authorize the occupancy of cabins in the Mineral King area of the park. These permits were issued under the authority of 16 U.S.C. 45(d) and are issued for five-year terms. Permittees own the cabins, but not the land itself. Park planning documents call for the eventual removal of the cabins. Language in the permits calls for the removal of the cabins upon permit expiration.*

**Sleeping Bear Dunes National Lakeshore:**

*Sleeping Bear Dunes NL has 142 structures under term estates and eight under life estates. Some are simple cabins or seasonal structures and some are year-round, full-size residences. Many properties are extremely valuable because of their location and amenities -- some could rent for \$1,000-\$1,500 per week during the summer season. Many structures show a great deal of wear and tear when they come off of term estates.*

*Sleeping Bear Dunes NL has made a concerted effort to begin the process of removing a property immediately after it has been vacated. The process, however, can take as long as 2-3 years. After evaluation under Section 106 and survey action, the park puts the property up for sale. Structures not sold are usually demolished. Presently, there are four structures that need to be demolished. These structures are near occupied structures and can become safety*

hazards as "attractive nuisances." An additional six sites are being processed for sale.

Three term estates will expire this year, eleven in 1997, and fifty-five in 1998. The growing numbers will cause a problem for the park in the future. Many structures require an environmental cleanup, which can be costly. The park operating budget will be insufficient to address this need. Many structures have underground oil tanks. Costs could be up to \$4,000-\$8,000 per structure for these cleanups and as high as \$25,000 for some structures. Without sufficient funding the lag time between the abandonment of a structure and its ultimate disposition will increase. This will create serious safety, and other problems, for the park.

The park has one property occupied under an SUP by a woman in her nineties. Term estate holders in the park are seeking 99-year extensions of their term estates through H.R. 1666.

**Voyageurs National Park:**

The park has 110 use and occupancies. They are primarily summer cabins. About 5% are occupied year-round. Some are very simple structures and others are a little more complex. The policy of the park is to put structures up for sale and then remove and restore the land. Some buildings have been identified for interpretive programs and have historical associations. If the buildings are not sold, they are slated for demolition. Demolitions are expensive because the structures must be accessed by boat.

Many term estates expire between 2001 and 2006. It is unlikely the park will have enough funding to demolish all of these. There are presently several vacant structures that should be demolished but have not been because of lack of funding. This creates a safety issue and is also bad from a public relations standpoint, as vacated residents ask why they were asked to leave if the NPS was going to let the structures go vacant and not remove them.

The park has issued two SUPS. One was issued to an individual whom the park did not plan to give an ROU. The park planned to eventually develop this land. However, this individual has been residing in this structure pursuant to an SUP for almost twenty-five years. The individual has been advised, however, that when the current SUP expires, he will be required to vacate the structure.

An SUP has also been issued for a remote cabin. It had been occupied by a woman in her late eighties who had used it as a permanent residence. Upon the woman's death, her son continued to use the cabin. The son has been advised that he will be required to vacate upon the expiration of the permit, which is now in his name.

**Yosemite National Park:**

The park has over thirty structures occupied under term estates. The park does not have any structures occupied under an SUP for non-employee and non-commercial residential purposes.

***Listing of Life Estates & Reservations of Occupancy****April 1996**National Park Service  
Land Resources Division*

UNIT	RESERVATIONS OF USE AND OCCUPANCY (1)	LIFE ESTATES (2)	TOTAL
<i>Acadia National Park</i>		1	1
<i>Apostle Islands National Lakeshore</i>	17	6	23
<i>Appalachian National Scenic Trail</i>	9	10	9
<i>Appomattox Court House National Historical Park</i>	4		4
<i>Assateague Island National Seashore</i>	35		35
<i>Badlands National Park</i>	1		1
<i>Big Cypress National Preserve</i>	6	5	11
<i>Big Thicket National Preserve</i>	1	2	3
<i>Biscayne National Park</i>		1	1
<i>Blue Ridge Parkway</i>	3	5	8
<i>Buffalo National River</i>	36	7	43
<i>C &amp; O Canal National Historical Park</i>	78	3	81
<i>Canaveral National Seashore</i>	10	3	13
<i>Cape Cod National Seashore</i>	59	14	73
<i>Cape Lookout National Seashore</i>	6	1	7
<i>Capitol Reef National Park</i>		1	1
<i>Channel Islands National Park</i>	1		1
<i>Chickasaw National Recreation Area</i>	1		1
<i>Colonial National Historical Park</i>		4	4
<i>Cumberland Island National Seashore</i>	4	12	16
<i>Cuyahoga Valley National Recreation Area</i>	91	28	119
<i>Delaware Water Gap National Recreation Area</i>		10	10
<i>El Malpais National Monument</i>	1		1
<i>Fire Island National Seashore</i>	1		1
<i>Fort Clatsop National Memorial</i>		1	1
<i>Fort Necessity National Battlefield</i>		1	1
<i>Fredericksburg-Spotsylvania National Military Park</i>		6	6
<i>Gates of the Arctic National Park</i>		1	1
<i>Gettysburg National Military Park</i>		6	6
<i>Glacier National Park</i>	5	7	12
<i>Golden Gate National Recreation Area</i>	24	6	30
<i>Grand Teton National Park</i>	7	23	30
<i>Great Sand Dunes National Monument</i>	1		1
<i>Great Smoky Mountains National Park</i>		2	2
<i>Haleakala National Park</i>		1	1
<i>Hamilton Grange National Memorial</i>	1		1
<i>Harpers Ferry National Historical Park</i>		2	2
<i>Harry S. Truman National Historic Site</i>		1	1
<i>Hawaii Volcanoes National Park</i>	1		1
<i>Herbert Hoover National Historical Site</i>		2	2
<i>Hot Springs National Park</i>	23	36	59
<i>Indiana Dunes National Lakeshore</i>	185	7	192
<i>Isle Royale National Park</i>		12	12

## APPENDIX D

UNIT	RESERVATIONS OF USE AND OCCUPANCY (1)	LIFE ESTATES (2)	TOTAL
<i>Jean Lafitte National Historical Park</i>	1		1
<i>John Muir National Historic Site</i>	1		1
<i>Joshua Tree National Park</i>	3	2	5
<i>Kings Canyon National Park</i>	7	1	8
<i>Lake Chelan National Recreation Area</i>		3	3
<i>Lake Clark National Preserve</i>	1		1
<i>Lake Mead National Recreation Area</i>		2	2
<i>Lassen Volcanic National Park</i>	3		3
<i>Lower Saint Croix National Scenic Riverway</i>	6	1	7
<i>Lyndon B. Johnson National Historical Park</i>	1	1	2
<i>Minute Man National Historical Park</i>	8	8	16
<i>Monocacy National Battlefield</i>	1	1	2
<i>Muir Woods National Monument</i>	14	3	17
<i>Natchez Trace Parkway</i>	1		1
<i>North Cascades National Park</i>		1	1
<i>Olympic National Park</i>	24	5	29
<i>Pecos National Historical Park</i>	1		1
<i>Petersburg National Battlefield</i>		1	1
<i>Point Reyes National Seashore</i>	23		23
<i>Redwood National Park</i>		2	2
<i>Rocky Mountain National Park</i>	3	2	5
<i>Saguaro National Park</i>		1	1
<i>Saint Croix National Scenic Riverway</i>	100	9	109
<i>San Antonio Missions National Historical Park</i>		2	2
<i>Santa Monica Mountains National Recreation Area</i>	2		2
<i>Saratoga National Historical Park</i>	1		1
<i>Shenandoah National Park</i>		1	1
<i>Shiloh National Military Park</i>		1	1
<i>Sleeping Bear Dunes National Lakeshore</i>	141	9	150
<i>Upper Delaware Scenic &amp; Recreational River</i>		1	1
<i>Valley Forge National Historical Park</i>	2	1	3
<i>Virgin Islands National Park</i>	9	3	12
<i>Voyageurs National Park</i>	109		109
<i>Whiskeytown-Shasta National Recreation Area</i>		1	1
<i>Wrangell-St. Elias National Preserve</i>		2	2
<i>Yosemite National Park</i>	23	11	34
<b>TOTALS:</b>	<b>1,096</b>	<b>318</b>	<b>1,414</b>

(1) *Reservations of use and occupancy: When the United States acquires property and the owner retains the right to use and occupy the property for a finite term (i.e., 5 years, 10 years). Generally the maximum term is 25 years.*

(2) *Life estate: When the United States acquires property from an owner who retains use and occupancy of the property for the remainder of the owner's life.*

***Special Use Permits: Survey Results******Surveyed Parks with Special Use Permits for Residential Occupancy:***

<i>Appalachian National Scenic Trail</i>	<i>7</i>	
<i>Cape Cod National Seashore</i>	<i>2</i>	
<i>Coulee Dam National Recreation Area</i>		<i>26</i>
<i>Cuyahoga Valley National Recreation Area</i>	<i>7</i>	
<i>Delaware Water Gap National Recreation Area</i>		<i>14</i>
<i>Golden Gate National Recreation Area</i>		<i>1</i>
<i>Grand Teton National Park</i>	<i>2</i>	
<i>Great Smoky Mountains National Park</i>		<i>1</i>
<i>Hot Springs National Park</i>	<i>2</i>	
<i>Indiana Dunes National Lakeshore</i>	<i>85</i>	
<i>Isle Royale National Park</i>	<i>4</i>	
<i>Lake Chelan National Recreation Area</i>		<i>3</i>
<i>Minute Man National Historical Park</i>	<i>3</i>	
<i>Monocacy National Battlefield</i>		<i>1</i>
<i>Point Reyes National Seashore</i>		<i>1</i>
<i>Richmond National Battlefield Park</i>	<i>1</i>	
<i>Saint Croix National Scenic Riverway</i>	<i>3</i>	
<i>Sequoia National Park</i>		<i>58</i>
<i>Sleeping Bear Dunes National Lakeshore</i>	<i>1</i>	
<i>Voyageurs National Park</i>	<i>2</i>	
<b><i>TOTAL</i></b>	<b><i>224</i></b>	