Stephen Castronova History 195H June 7, 1982

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Introduction hapthestic information

This paper is the history of the remote Mineral King
Valley in the High Sierra of California and the enormous
controversy that surrounded it from 1965 up until the
present. Mineral King was to evolve from a small,
secluded and relatively unheard of valley, into the
source of a heated battle between the pro-development forces
of the United States Forest Service (USFS), and the
conservationist forces led by the California based Sierra
Club. This paper will first present a brief description
of the Sierra Club, its purpose and goals, and then
focus will be placed upon the proposed development of
Mineral King and the Sierra Club efforts to keep the valley
undeveloped and in its natural condition.

In 1892, the Sierra Club was founded by John Muir, a wandering explorer, geologist, and ardent lover of nature. Muir spent much of his life traversing the High Sierra, studying their flora; animal life, geology and enjoying the primitive beauty of the remote wilderness areas. Muir founded the Sierra Club in the hope that he could attract people to the beauty of nature in its natural (untouched by man) state. Like Thoreau, Muir believed very strongly that "in wilderness lies the preservation of man," and he saw the need for educating people's awareness of and appreciation for wilderness. Thus he founded the Sierra Club, stating that its purposes were:

"to explore, enjoy, and render accessible the mountain regions of the Pacific Coast, publish authentic information concerning them; to enlist the support and cooperation of the people and the Government in preserving the forests and other natural features."

In this spirit, the Club began sponsoring organized packing trips to the High Sierra in 1901. The Sierra Club wanted to get people to know and love wild places and taking people into the wilderness was an excellent method which provided the participant with first hand knowledge and experience. Another method used by the Club to educate the public about wilderness values were its lengthy publications. In 1893, the first issue of the "Sierra Club Bulletin" was published, and it has been published monthly ever since. The "Bulletin's" content was equally split between articles on mountain climbing, notes on trips and club activities, historic and scientific information, and philosophic articles on wilderness concerns. The leaders of the Sierra Club recognized the wide impact of the written page, and they spent a lot of time and money publishing articles about the wild and scenic beauty of the High Sierra.

In its first decade of existence, the Sierra Club devoted its time and effort into creating a public awareness of wilderness values. But by 1906, the Club had begun to take a more active role in environmental concerns. Its publications took on a more militant tone, with Muir

writing many articles for "Century Magazine" calling attention to the necessity for protective legislation of wild lands. The catalyst was the controversy that was growing between the pro-development forces within the city of San Francisco, and the preservationists, over the fate of the Hetch-Hetchy valley in Yosemite National Park. San Francisco bureaucrats wanted to place a dam on the Tuolumne River to supply the city with water and hydroelectric power. Muir and the Sierra Club vigorously protested this development, but in the end lost out. Even though Hetch-Hetchy was a part of Yosemite National Park, Congress decided in 1913, that Hetch-Hetchy should be dammed. This decision was an unprecedented incident of the Federal Government taking away land from a National Park; Yosemite lost a magnificent valley forever to the forces of development and progress.

The Hetch-Hetchy battle was a milestone in Sierra
Club history. The Club realized that without strict
legislative protection, no land, no matter how beautiful
or unique was safe from the forces of development.
Hetch-Hetchy demonstrated to the Club that it was necessary
to become more sophisticated politically. The city of
San Francisco had a powerful lobby in Washington D.C., the
Sierra Club had none. The Club was determined to become a
political force fighting for conservation ethics.

Club membership remained fairly small, and by the 1940s its membership was estimated at about 7,000. The Club lacked the revenues and strength to raise a strong voice

in national affairs. But in the 1950s the Club went through a major transition with the hiring of David Brower as the first paid executive director of the Club. Brower, ardent mountain climber preservationist, probably more than any other person, was responsible for the "new" Sierra Club. Under his leadership the Club's membership swelled, and the Club became increasingly more militant in its defense of wilderness and primitive areas. Brower indoctrinated the Club into his line of thought: there were people who were hired to compromise, but the Sierra Club's most important role was to lobby for people not here. The Sierra Club must not compromise.

David Brower recognized the value and influences of the media; he desired to create an "arm chair clientele" for wilderness. Thus Brower spent much of the Club's funds on films, newspaper advertisements, and Sierra Club handbooks. The Sierra Club handbooks, or battlebooks as the Club calls them, were an instant success. They featured beautiful photography and philosophic arguments to the public in an attempt to indoctrinate the public into appreciating the values of preserving some areas in their natural state. By 1980, it was estimated that almost one-third of the Sierra Club's incoming revenue was generated by the sale of its books, and that the only source to capture more revenues were the Club membership dues.

David Brower, as executive director of the Club, was creating a viable political force. Brower tried to make the Sierra Club name a household word. He tried to put

the Sierra Club name into print as often as possible, and people across the nation began to hear more and more about the Sierra Club and the value of conserving America's natural resources. Brower achieved his goal of attaining more publicity for the Club. But in 1960, the Internal Revenue Service ruled that the Sierra Club must forfeit its tax-deductible status. Losing this status of exemption didn't really hurt the Club that much even though its members' contributions were no longer tax-free. The loss of status might have even helped the Club because it brought more front page attention, and the Club's current tax status permits them to establish political action committees, something the other large conservation groups, like the Audobon Society or the Wilderness Society, are colons of the Sierra . They believed not allowed to do.

The Sierra Club has become an extremely powerful grass roots organization. It has become a lobby which "weilds a clout out of all proportion to its size and budget."

Brock Evans, the Club's chief Washington representative stated: "We have a powerful grass roots constituency. This is where we can overcome industry's financial superiority. They have the money, but we have the people. We can get on the phone to our coordinators around the country, and we get out the word in our publications, and we get thousands of people all over the country to wire or write in. And a flood of mail will really impress a Congressman,

especially when it comes from his own district."3

But there is a basic contradiction that the Club has to face. One of its primary pledges is to "render accessible" wilderness areas. The battle over Mineral King vividly represented this contradiction. On one hand, the Club wanted people to explore and enjoy wilderness areas, but on the other hand, wilderness areas would cease to be wilderness when a lot of people started to use and frequent them. A ski resort at Mineral King was viewed by some Sierra Club members as another way to "render accessible the mountain regions of the Pacific Coast." but wouldn't such development also ruin the wilderness values that Mineral King possessed?

In the 1940s, the Club members had favored development in less desireable regions of the Sierra. They believed in cooperation with Federal agencies and economic enterprises, and they whole-heartedly endorsed the Forest Service's policy of multiple-use. But by 1965, the Government was no longer trusted. In the eyes of the Sierra Club, Federal agencies were actively destroying the environment and wilderness, and the fact that the USFS and State of California stood to make a large profit on the proposed facilities at Mineral King, made the Sierra Club all the more suspicious. The Sierra Club began to express the view that nature and the public had rights, and that it was the role of organized preservationists to defend these rights. Thus the Sierra Club intent

came to stress active participation and public awareness on environmental concerns.

It is important to note that the Sierra Club subsists mainly on volunteers. It is an organization which is made up by people who are willing to expand their time and effort toward the common cause of making this world a better place to live in. They are preservationists not solely for their own interests, but also for the interests of their children, and their children's children. The Sierra Club represents the rights of future generations to have and enjoy wilderness areas.

In a sense, the Sierra Club is a staple American institution. It is American politics, from the grass roots level, in action. One of the main weapons of the Sierra Club is its interpretation and use of the Constitution. The Club has many lawyers on its payroll, and its devotion to lawyers represents the Club's desire to work within the system. (The Club's current director, J. Michael McCloskey, is an active lawyer also). As of 1976, the Club was currently involved "in thirty-eight major suits all over the country."

In 1965, the Sierra Club board of directors decided that they would respond negatively to the USFS announcement that it was considering opening up the Mineral King area to recreational development. The USFS stated: "On the site of the old, decaying mining town of Mineral King will rise a new self-contained village bearing the same name.

Imaginative in concept, and contemporary in design, this carefully planned development will create one of the world's major outdoor recreation facilities in a spectacular valley of the California Sierras. Free of cars and skillfully blended into the Alpine setting, Mineral King and its attractions will provide wholesome enjoyment for thousands of American Families."

This is the opening paragraph of a 1969 draft environmental statement published by the United States Forest

Service, explaining their proposed development of the Mineral King Valley. From the outset, the USFS statement of their intent to develop winter recreation facilities at Mineral King became surrounded by a considerable amount of concern and controversy. Most of the opposition has been voiced by the Sierra Club, which has waged an expensive court battle in an attempt to halt any development of Mineral King.

Why develop Mineral King at all? Mineral King, as part of the Sequoia National Forest, was administered by the USFS. The USFS follows a policy known as multiple-use. Basically, the multiple-use policy states that every National Forest is to be managed according to what use it is best suited for. For example, in a hypothetical 1,000 acre plot of land, 600 acres might be used for lumber, 200 acres for recreation, 100 acres for the grazing of livestock, and so on. Multiple-use was designed to utilize a given area in its most productive way. But opponents of the multiple-use policy, including the Sierra Club, state

that the multiple-use is not at all what the USFS claims it is. These opponents say that the multiple-use policy of the USFS is really a "dominant-use" policy, that is, the USFS cares only about the most profitable use of National Forest lands; whatever industry will make the most money warrants development on any given piece of land. Needless to say, the USFS denies that this is the case; it insists that its actions under the Multiple-use Sustained Yield Act (1960) are broad-minded and equitable. Profit is not its only motivation.

The USFS cited their justifications for developing a winter ski resort at Mineral King as follows: there would be a 37% increase in recreational demand for skiing on National Forest lands in California from 1970 to 1990.

The demand for camping would increase 43% during the same time period. Also the major centers generating recreational demand were Southern California and the San Francisco Bay area, and Mineral King was located near these two high demand areas.

What exactly is this place called Mineral King Valley?

Mineral King is a unique combination of eight alpine bowls or basins surrounded by mountains up to 12,400 feet above sea level, and all tributary to the spectacular Mineral Valley. The valley itself, is about 2 miles long and seldom over one quarter mile wide, and its floor is slightly over 7,000 feet above sea level--nearly twice as high as the

^{* (}All figures from U.S. Dept. of Agriculture Draft Env. Statement - MK - 1974 p. 21).

king encompasses roughly "16,000 acres and to a large extent most of it is fragile, unstable, still in formation, subject to shifting stream beds, rock slides, and avalanches."

The waters originating in the alpine basin watersheds, and forming the small stream in the valley, are the headwaters of the East Fork of the Kaweah River.

Mineral King, as part of the Sequoia National Forest, is located in that portion of the Sierra Nevada mountains of south-central California known as the "High Sierras."

The Mineral King Valley itself is designated as a National Game Refuge, and it is bordered on three sides by Sequoia National Park. It is 55 miles west of Visalia, California, 228 miles northeast of Los Angeles, and 271 miles southeast of San Francisco.

Currently, the only access to Mineral King is a low standard road which connects with a state highway (198) near the town of Hammond, about 25 miles west of Mineral King. This road is a steep and winding single lane dirt highway, part of which runs through Sequoia National Park. During the winter this road is impassable, and Mineral King is therefore only accessible during the summer months.

In the late 1800s, Mineral King was active as a typical western mountain mining community. Prospects were bright for rich strikes in gold, silver, copper, and lead, and at one time there was a bustling community of up to "500" people. The first white man reported to have seen Mineral

King was Harry O'Farrell, who was the meat hunter for the trail crew that chewed out the Hockett Trail that ran between Three Rivers on the edge of the San Joaquin Valley, and Fort Independence, on the eastern side of the mountains. In the summer of 1865, O'Farrell, on a hunting foray, one day climbed from the south into Farewell Gap, looked north into the bowl that would be known as Mineral King, and found it teeming with game. He kept the place as sort of a secret hunting grounds for years.

In 1871, Joseph Lovelace climbed the Sawtooth Peak while deer hunting, saw the mountain bowl, came back, fenced part of the meadowland and grazed cattle there. But the real boom came in 1872, with the arrival of James Crabtree to the valley. Crabtree was a spiritualist who claimed that he was guided by an Indian spirit to Mineral King Valley. Crabtree founded the White Chief mine at the south end of the valley, which he duly staked and recorded in 1873. Crabtree and a group of businessmen and ranchers from the nearby San Joaquin Valley town of Porterville immediately formed a Mineral King Mining District. paper reports of a fabulous lode of gold, silver and other precious metals lured prospectors onto the rugged backcountry trails in a rush to the remote valley. By the fall of 1873, over 65 claims had been filed. A spate of mining companies formed overnight and the speculators rushed in; another boom town had begun.

The trails into Mineral King were upgraded into a narrow

by mules. A sawmill sprang up to provide lumber for the new homes, stores, hotels, and saloons of Mineral King.

But the Indian spirit who had beckoned to Crabtree apparently did not know too much about mineralogy. The Mineral King ore gained the name "rebellious" simply because it didn't contain enough gold, silver, copper or lead to support extraction. In 1877, the New England Tunneling and Smelting Company declared bankruptcy. The following winter a series of disastrous landslides crushed a bunkhouse, killing three occupants, and damaged mining equipment at the largest of the remaining active mines—which was owned by the Empire Mining Company. This forced the closure of the big Empire mine, and the town's population began to dwindle rapidly.

Mineral King began to fall into disuse until Tom Fowler, a state senator and cattle baron from Visalia, bought the Empire Mine and recharged the boom. To spur his miners on he would leave the mine with a load of raw ore and return with a handsome silver bar that spelled a fortune for everyone. Unfortunately, the same bar was used over and over again; it was bogus and had been melted down from silverware.

With unbounded optimism, Fowler spent over \$50,000
to upgrade the road into Mineral King and install a
stamp mill. But nature rebelled; a disastrous avalanche
in April 1880 ripped out the stamp mill and ruined much of
the Empire Mine. It was finally accepted that the ore in

Mineral King was too expensive to extract. By 1882

Mineral King was virtually deserted, the ghost town serially destroyed by avalanches over the years.

But while mining at Mineral King had proved unprofitable, another industry was booming just a few miles down the hill. Timber interests had sprung up near a grove of giant redwoods that were visible from the road that lead into Mineral King. In 1879, two lumbermen, Paul Collins and Tom Redfield built a sawmill. Eventually, the mill and surrounding area passed into the hands of A.J. Atwell of Visalia. Atwell Mill continued to operate until 1920, when D.E. Skinner of Seattle obtained the property and donated it to the U.S. Department of Interior. From the late 1880s through 1920, Atwell Mill had become sort of a controversy. Many people were dismayed to see the great Sequoia redwoods cut down. It was recognized that these great trees were too majestic to be lumbered for a quick profit. Acting to save these trees, Congress in 1890 created Sequoia National Park. However, both the Mineral King area and Atwell Mill were excluded from becoming a part of Sequoia National Park. Atwell Mill didn't transfer into the hands of the national park because the land was privately owned, and Mineral King was excluded because there were still active mining interests in the area. However, both Mineral King and Atwell Mill became part of the Sequoia National Forest when it was established in 1908.

By the turn of the century, San Joaquin Valley families

had rediscovered Mineral King. But whereas once gold was sought, now the attraction became the peaceful serenity of the High Sierras amidst the beautiful setting of Mineral King Valley. Mineral King soon became a popular summer vacation spot where families could go to enjoy peace and quiet, and escape from the hot valleys of interior California. In the 1920s, families began building modest summer cabins on land leased from the USFS. A number built, or converted, abandoned mining shacks into summer homes, many which are still used; many were built by school teachers in a locale dubbed Faculty Flat. Each summer hardy vacationeers would come to Mineral King to fish, hike, backpack, ride, climb, or explore old mining ruins. No phone, electric or gas lines ever came in, and all water was obtained from the stream which runs through Mineral King. Three pack stations and a tiny summer resort with nine cabins catered to tourists. Crowds were no problem because the winding road into the area, (322 turns over the last 22 miles), acted as a natural control.

In 1926, a federal act incorporated most of the national forest land around Mineral King into the Sequoia National Park. Mineral King, however, was again excluded because of the few remaining mining interests that were still active. The region was instead designated as a Sequoia National Game Refuge because it was the home range for the large Mineral King deer herd, and also many rare species including

the California condor, the Peregrine falcon, and the wolverine. But the USFS decided that this calm use of the area was not profitable enough. So it conceived "winterizing" Mineral King, and in 1949 issued a prospectus seeking private investors to develop a ski area.

As early as 1945, the USFS began investigating the suitability of Mineral King for a major ski development. One group of ski experts spent the winter of 1947-1948 in Mineral King in order to study firsthand the overall suitability of Mineral King as a winter sports area. Taking part in this survey were the USFS, the Tulare County Board of Supervisors, the California Ski Association, and the Sierra Club. The general conclusions of the report (Hasher and Gibson, 1948), were: "(1) Mineral King has superlative ski terrain, equal to some of the best to be found at well established winter sports centers of Europe; (2) weather remains moderate throughout the winter, permitting skiing in comfort without the burden of extraheavy and bulky clothing; (3) adequate snowfall may be depended upon to furnish skiing in some parts of the area throughout the season, even in a poor snow year; (4) the high U-shaped rim surrounding Mineral King gives excellent protection from winds; (5) many avalanches can be expected each year; however, intelligent planning and adequate , supervision of use can practically eliminate danger to skiers."8 In addition, the report also noted that most of the terrain was suitable for intermediate skiers,

(the classification into which the majority of skiers fall), and that the vertical drop (3,700 feet), surpassed that of any existing winter sports area in California.

Thus in 1949, the Forest Service Regional Office in San Francisco issued a statement that, it would accept applications until February 28, 1950, from any individuals or firms who could show ability to develop and operate a resort and ski facility at Mineral King. But the lack of an all-weather highway scared off all would-be bidders. It was estimated in 1949, that the cost of constructing a year round road into Mineral King would cost between 2 and 4 million dollars. While the Forest Service tried to solve the highway problem, a new visitor began frequenting Mineral King during the 1950s. His name was Walt Disney and he would dramatically alter the history of the valley.

Why was the USFS so eager to develop a ski resort at
Mineral King? The Forest Service is responsible for the
management of most of the high elevation country in the
Sierra Nevadas and throughout California. The USFS has
cited that they have a responsibility for managing the
designated Wilderness and Primitive areas, as well as
accommodating winter sports. (The USFS currently provides
the sites for over 2/3 of all the commercially developed
winter sports areas in California). The Forest Service
pointed to the rapid growth of the state's population,
increasing leisure time and income, and overcrowding at
existing ski areas as indicators of the need for additional

skiing developments. It was estimated that the recreational demand for skiing and outdoor activities would double from 1960 to 1980. The Forest Service also stated that their primary objective was to create a winter sports area that was close, and therefore, could cater to the needs of Southern Californians.

Mineral King was not the first choice of the USFS in their attempt to supply southern California with a local ski resort. In 1947, it was proposed that 11,500 foot Mt. San Gorgonio in the San Bernadino National Forest be developed for winter sports. A public hearing on this issue was held in 1947, and after much debate it was decided that developing San Gorgonio for winter sports would not be in the public interest. In this decision it was stated that the area held a higher public value as a wilderness and watershed than as a downhill skiing area. One of the reasons that San Gorgonio was turned down as a possible site was the efforts of the Sierra Club in lobbying against any development. In fact, one of the reasons that the Sierra Club had at first supported the development of Mineral King was that it had made saving San Gorgonio their first priority. Throughout the 1950s the USFS continued to talk about developing San Gorgonio as a skiing area. In 1963, the proposal was again raised and rejected. To block any further attempts of development, San Gorgonio was incorporated into the Wilderness System by an act of Congress on September 3, 1964. However, the Forest Service refused need on army of Diose, a, to tell the world what we have

to admit defeat. In 1965 it sponsored a proposal
(H.R. 6891) that would have removed the central portion
of the San Gorgonio Wilderness from classified status
and allowed it to become developed as an alpine ski area.
At a Congressional hearing held in San Bernadino, testimony
was received that Mineral King was the more logical
place to provide for the ever-mounting winter and summer
recreation needs of the Southern Californian population.
There was considerable support for the proposed legislation,
as well as testimony against it. Congress was unable to
resolve the opposing views, and the bill died in committee.

Thus the Forest Service once again began to entertain the idea of developing Mineral King. The USFS was not, however, the only group interested in creating outdoor recreational facilities at Mineral King. Walt Disney Productions had long been interested in building a ski resort near the Los Angeles area. Walt Disney Productions (WDP), had been interested in the proposed Forest Service plan to develop San Gorgonio, but Disney discovered that the Sierra Club was opposed to development in this wilderness area. He would have no part of such a scheme. After all, said Walt, how would it look for an honorary member of the Sierra Club to go against the organization? Walt took great pride in the 1955 citation that honored , his wildlife films and movies. Sierra Club president, Dr. Ernest Griffith, wrote: "Disney is like a sun ripening the grain for the wilderness advocates to harvest...We need an army of Disneys, to tell the world what we have

found, what we are fighting for, the glory of creation with the bloom on it, the splendor that men can continue to explore and enjoy as long as they respect all that is alive, protect beauty and cherish the equal rights of future generations in this precious planet."

Walt Disney first visited Mineral King in 1954, when Ray Buckman, the operator of the rental cabins, store and pack station, invited Disney up for a visit. Walt was mesmerized by Mineral King and returned often as Buckman's guest. As a skier who had invested in the Sugar Bowl winter resort (and had a mountain named after him), 200 miles to the north, he appreciated Mineral King's potential, but the problem of the poor road into the valley, and of considerations of his Disneyland amusement park, which was still under construction, forced Disney to defer any plans for Mineral King. Then in 1960, Disney worked with ski coach, Willey Schaeffer on the pagentry for the Squaw Valley Winter Olympics. Disney brought Schaeffer to Mineral King and asked him if he thought Mineral King had potential for a ski area. Schaeffer was enthusiastic, and Disney was again swept up in the idea of going into the ski business.

Thus Disney began his campaign to create a ski facility at Mineral King Valley. WDP decided that the best way to proceed was by attempting to purchase all of the 740 acres of privately owned land in the Mineral King area, thus freeing Disney from any competition. It was assumed that once the land was tied up, Disney would persuade the USFS

to lease access to the rest of the valley acreage.

This strategy was based on a lesson Disney had learned at Disneyland. Walt had underestimated the drawing power of his Anaheim park and bought only 230 acres. A huge number of motels, restaurants, and other businesses flocked to the Disneyland perimeter and were "eventually grossing five times what the park was making." So Disney set out with the intent to avoid making the same mistake at Mineral King.

To set about purchasing the private land in Mineral King, Disney hired Bob Hicks to act as an intermediary and buy the land anonymously. In 1963 Hicks began quietly negotiating for the private property at Mineral King. By 1965 he had bought up "29 acres from 18 different parties." 10 The land was in two parcels that essentially controlled access to the valley. One site was a 24 acre area at the foot of Empire Mountain, which included remains of the old Empire Mine, the stamp mill, and the present day Mineral King dump. The other parcel of land obtained was Ray Buckman's 5 acre resort complex where Walt had unwound during summer vacations.

Hicks, by 1965, was in the middle of negotiating the puchase of the 160 acre Wells-Seaborn property. Tying up this key parcel would have given WDP effective control of the prime private terrain at Mineral King. But the USFS, which had constantly maintained the idea of developing winter sports facilities at Mineral King, decided to move before Hicks could gain control of the Wells-Seaborn property.

In March 1965, the agency issued a new, 23 page prospectus inviting proposals for developing Mineral King. This prospectus called for the construction of chairlifts with the capacity of 2000 persons per hour, parking for 1200 automobiles, a resort with room for 100 individuals, and the construction of an all weather highway. The USFS estimated that the cost of such a road would most likely exceed \$5,000,000.00 and that "no public agency would be obligated to undertake the road project; the successful proponents would have to make appropriate arrangements."

Part of the push to open bidding at this point came from a rival of Disney's; a Los Angeles stockbroker named Robert Brandt had made overtures to the USFS about reopening Mineral King to development. Brandt had been a heavy contributor and supporter of the campaigns of both Lyndon Johnson and Pat Brown in their respective races for president and state governor. Thus Robert Brandt was a man who was not without substantial political backing. A few months after the USFS issued their prospectus, Governor Brown requested that the California State Senate put an amendment on the omnibus highway bill of 1965 which would open the way to a \$25 million loan for upgrading the Mineral King road into an all-weather highway, and on July 16, 1965 the California Legislature officially added the Mineral King road to the State Highway system and declared it eligible for such aid.

The USFS announcement and the sudden passage of the road bill killed Disney's dream of tying up the private

property in Mineral King. The price of the Wells-Seaborn property "tripled" 12, so Hicks and Disney dropped their real estate maneuvering and went to work putting together a bid proposal to deliver to the USFS.

Six separate companies submitted, with Disney and Brandt the prime contenders. Although some Forest Service people preferred Brandt's bid because of its careful avalanche planning, Disney finally won out with his \$35 million package. A key factor was his good name and his connections as a naturalist and Sierra Club member, which federal officials believed would help them beat the expected objections of environmentalists. On December 17, 1965 the Secretary of Agriculture, Orville Freeman declared that WDP was to construct a winter sports facility at Mineral King.

The Disney plans far exceeded the minimum required development the USFS had proposed. The Disney proposal provided for the construction of 14 chair lifts, overnight lodging with a capacity of up to 6000 persons, 10 restaurants, a chapel, ice-skating rink, theater, general store, post office, giftshops, and an underground parking structure that would house up to 2500 cars. Furthermore, the Disney plan was to be for both winter and summer use. The 14 ski lifts would be operated year round; during the warm months they would serve campers and picnickers. Disney hoped to enhance summer recreational opportunities in activities such as fishing, horseback riding, hiking, camping, and sightseeing. An equestrian center was proposed near the Faculty Flat area

that would provide for day rides as well as guided pack trips.

Over 15 miles of new hiking and riding trails, as well as

260 new campsites were to be constructed. The whole project

was estimated at \$35 million*; everyone connected with the

project was enthusiastic, and justifiably so.

In January 1966, WDP was given a three year preliminary permit to begin making snow surveys and to complete development plans. Dave Beck, a veteran mountaineer who had worked as a ski patrolman at several California resorts, was hired by WDP to head a Mineral King snow survey project. Dave, and his wife Sue moved into the old restaurant that had once served Ray Buckman's resort. During the winter of 1966-67 Beck spent his days climbing the mountains, charting snow depths and avalanche hazards.

WDP had hoped to build their alpine village at the foot of Empire Mountain on the site of the old Empire Mine.

However, this Disney-owned land was subject to frequent avalanches. A snow deflection barrier was erected up on Empire Mountain but the avalanches flew right over it.

Finally, WDP was forced to heed the advice of the Forest Service and Beck, both of whom had concluded that a village located at the foot of Empire Mountain was a call to disaster. This was a disappointment to the accountants who knew that putting the village on USFS land would cost much more in the form of concession fees.

By the winter of 1968-69, Beck's snow survey was

^{*} All figures from U.S. Dept. Agr. Draft Envir. Statement 1974 (p. 22-28)

along well. Wally Ballenger, a former ski patrol
leader at Squaw Valley, and two other ski mountaineers,
Randy Kletka and Gary Kirk, joined the Disney snow surveyance
team. Throughout the winter the Disney crew and Forest Service
avalanche specialist, Pete Wyckoff, studied the snowfall
pattern and avalanche conditions in Mineral King Valley.
Wyckoff had brought a 75mm recoiless rifle with him which
he used to shoot down avalanches with on Empire Mountain.
The target practice spawned rumors that the "Forest Service
had declared war on the (Sequoia) national park because
some of the shells had landed close to the boundary of Sequoia
National Park." 13 (Upset by these rumors, Wyckoff climbed
Empire Mountain and recovered his spent shells and made
doubly sure that none of his shots had travelled over the
park boundary).

The winter of 1968-69 was an especially rainy one for California, and the snows in the Mineral King Valley mounted steadily. On February 23, 1969 disaster struck when a series of avalanches were triggered by heavy snowfall. On Empire Mountain, a slide hurtled over Disney's snow deflection barrier and buried the original Mineral King village site in "over 30 feet of snow" 14. Directly across from Empire Mountain a slide on Miner's Ridge knocked down scores of trees and buried the valley in 14 feet of snow. Among the casualties in this slide was Wyckoff's 75cm cannon, which was swept off its platform into the Kaweah River. (Not until the following October, when the river finally

went down, was Wyckoff able to spot his rusty gun and salvage it from the riverbed). It was the third avalanche which brought fatality. A slide buried Ray Buckman's old resort; wally Ballenger, who had been staying in one of the resort's cabins managed to kick his way out of the attic and tunnel out. But Randy Kletka was not so fortunate. He had been staying at the Beck's quarters, (fortunately for the Becks, Sue had complained of a toothache earlier in the week, and on Friday 21 the Becks had travelled down to Visalia to visit the dentist and spend the weekend there), where the snow toppled the wood-burning stove, setting the house on fire and smothering Kletka.

Unable to make phone contact with Ballenger or Kletka on Monday, Beck rented a plane and flew over Mineral King.

The cabins were completely buried so, after he landed at Three Rivers, Beck notified the Tulare County sheriff.

A search party was organized and went in by helicopter.

When word came through that Kletka was dead, Hicks and WDP decided that they shouldn't acknowledge that they knew who Randy Kletka was. Whatever the reasons for making such a decision is impossible to say, but either way WDP's decision was to prove to be a big mistake. WDP made no attempt to notify Kletka's family about the death. Instead, Hicks kept busy telling local reporters that they didn't know who Kletka was, and news stories about the death did not identify Kletka as a mountaineer who had been working for Disney.

Instead he came off as an "itinerant hippie" who just happened

to be caught in an avalanche at Mineral King. (After information was uncovered which proved that Kletka had been information payroll, the Kletka family filed a lawsuit on the Disney payroll, the Kletka family filed a lawsuit against WDP and a compromise settlement was reached out of court).

After the fatal accident, Beck was "persona non grata"

in the Disney organization. The mountaineer who had climbed
the Mineral King peaks for three winters was treated "as if
he were personally responsible for the slide." Disgusted
by the experience, Beck quit. The Disney Corporation refused
to reimburse him for personal possessions destroyed in the
avalanche. When the snow melted that spring, Hicks elected
to have the damaged buildings burned down; Beck had to "race
in just ahead of the torches to save possessions left behind." 16

As a final ending to this whole debacle, the Disney men boasted that the 1969 avalanches had borne out the careful predictions of their snow survey team. During the summer of 1969, when Pete Wyckoff's 75mm cannon still lay at the bottom of the Kaweah River, one company spokesman told the "New York Times": "We know how to move snow. We can make it move when we want it to, not when it wants to."17

Natural phenomena of nature were not the only problems which had beset the Disney plan to develop recreational facilities at Mineral King. The huge problem of constructing an all-weather highway into Mineral King, and the cost of such a road, still presented a major and expensive obstacle to Disney's plans.

In early 1966, the California State Division of Highways started making aerial surveys of the area. Early indications on cost pointed to a figure of approximately "\$15 million" to construct an all-weather highway. First bids for construction might be let as early as January 1969. But the cost of an upgraded road into Mineral King had jumped from the estimates of \$2 million in 1949 to \$5 million in 1965; it would go higher. In August 1966, the California Division of Highways announced that preliminary studies were completed on the proposed road into Mineral King. The cost of the road was now tabulated to go as high as \$20 to \$30 million. As long as there was no hitch in obtaining construction funds from the federal government to help finance road costs, highway officials estimated that it would take until January 1969 to complete engineering for the road. It was stated that if all the money could be available at once, construction would take only 2-3 years.

On September 17, 1966 California Governor Brown announced that the Federal government and the State of California would work together building a \$25 million road into Mineral King.

Brown stated that he had asked the Federal government for a \$3 million grant from the Federal Economic Development Agency and that he was also requesting a subsequent \$9 million loan. A month later, Brown disclosed that the Economic Development Agency had approved the \$3 million grant. He further stated that as soon as the \$9 million loan was approved, and the State Legislature's approval of the remaining

balance was obtained, work would begin on a new road into

In the meantime, a considerable amount of opposition
to the proposed road construction had been growing and
even to the whole idea of developing Mineral King at all.
California highway engineer J. C. Womack said that the Mineral
ling road could only be built "at the expense of other
critical (road-building) projects." He added that the use
of funds set aside for other road-building projects would be
"very disruptive to previously approved planning and scheduling
of projects in the southern counties of California." 19

There was also dissention in the ranks of the Federal government. Secretary of Interior, Stuart Udall balked at the Forest Service plan to put the road across Sequoia National Park, noting that construction of the highway would scar and erode steep hillsides, with the subsequent runoff possibly undermining the root structure of the giant Sequoia trees in the park.

Also at this time, numerous conservation organizations—with the Sierra Club speaking as the prominent voice—began to attack the proposed construction of Mineral King.

In 1949, the Sierra Club had supported the idea of a ski development at Mineral King, but by the time of the 1965

USFS prospectus, the Sierra Club was not so amiable to development of Mineral King. In the May 1965 issue of the "Sierra Club Bulletin" it announced: "Mineral King is a magnificent place and, although not wilderness, except in

parts, is a jumping off place for wilderness about it; that ski development and other facilities would in large large destroy these values; that the improved road necessary bring people into the area would do serious damage to to bring people into the area would do serious damage to to the eleven miles of Sequoia National Park that it would cross and that the entire basin should be kept in its present character to keep alive the possibility of its inclusion in Sequoia National Park."20

In the August issue of the "Bulletin" a writer commented in the letters to the editor column: "Thank God that it is pisney who will administer the area and not some strictly commercial entrepreneur who would rape Mineral King with no attempt to blend its recreational facilities with its natural beauty." The editor answered: "if Disney had been willing to forego the opportunity for profit at Mineral King, he could have played a direct role in saving de facto wilderness. Were Disney to add his considerable influence to that of others who are trying to keep Mineral King wild and free, there would be a very good chance that Mineral King would not be developed at all, by anybody." 22

The Forest Service and many others wondered why
the Sierra Club had made a complete about-face on the question
of developing ski facilities at Mineral King. They thought
that the Sierra Club should be bound by its 1949 resolution;
the Forest Service and others had relied on this being the
Position of the Club. The Sierra Club argued that on the
basis of a reappraisal of all factors involved, Mineral King

should not be developed. They pointed to the shrinking of should not be developed. They pointed to the shrinking of should not be developed. They pointed to the shrinking of the need to preserve as much wilderness type areas as and the need to preserve as much wilderness type areas as send the need to preserve as a send the need to p

The 1950s were heady times for the Sierra Club. Its membership had been swelling annually, from about 7000 members in the late 1940s to 67,000 in 1965. The Club was also going through a period of re-evaluating just what its function was to be. In 1952, the Club hired David Brower as its first paid executive director. Brower and the Sierra Club increasingly assumed a no-compromise attitude toward development of wilderness areas. The club had reached national proportions with its successful battle to halt the construction of a dam at Echo Canyon. As Brower became more and more of a globalist, and tied up more and more of the Sierra Club's funds and efforts with his battles to keep dams out of the Colorado river basin and the Grand Canyon, it is conceivable that the Sierra Club's scope of attention was maybe a bit too narrow in focus, and that they were too caught up in Other issues to take the time and effort needed to stringently oppose development at Mineral King. But whatever the final

reasons were for switching their stance on Mineral King, the Sierra Club soon made it clear that there was to be no idle protest.

The first showdown came in late 1966, when the National Park Service, acting under the Wilderness Act of 1964, held public hearings to consider recommendations that certain parts of the Sequoia National Park be included in the National Wilderness Preservation System. These hearings, which were held in Fresno, soon became a hearing on the desirability of developing Mineral King, especially on that part of the access road through the Sequoia National Park which was necessary to the development at Mineral King. The Forest Service was particularly upset with the proceedings because when previously they had issued their prospectus in 1965, local Forest Service and Park Service officials had agreed that a corridor was to be left between two recommended Wilderness units to accommodate that part of the planned Mineral King road which would have to go through the Sequoia National Park. But apparently now the Park Service was reconsidering that decision, and the Forest Service feared that all their hopes toward developing Mineral King would be lost.

At the public hearings the voice of the Sierra Club was added to those who opposed the Forest Service plans.

The Sierra Club asked that wilderness boundaries be mapped to come right down to the edges of the existing right-of-way through the Park land. This would prohibit the building of an all-weather road through that eleven miles of Park land.

Anthony Smith, president of the National Parks

Association, sided with the Sierra Club, stating that there
was no justification for the development of Mineral King.

He too wanted the wilderness boundaries to touch the edges
of the existing right-of-way through the Park. He also
added that the Park Service had made their own estimates of
the cost of constructing an all-weather highway from Hammond
to Mineral King. These estimates stated that the cost would
most likely exceed "\$3 million a mile, and probably as much
as \$125 million all together!"23

WDP sent their own experts to the hearings to answer the criticisms of the conservationists. WDP stated that the road would not endanger any redwoods in the National Park, and that the road estimates of \$25 million were accurate. WDP also stated that the development would be a shot in the arm for the San Joaquin Valley's economy, that over "2500 new jobs would be created, that annual new tax revenues by 1976 would amount to \$2.1 million to the State, and \$1.7 million to Tulare County." Disney further stated that "year round recreation for the entire family is the only goal of the Disney plans." 25

These 1966hearings were unable to reconcile the interests of the opposing views. The Sierra Club and other conservationists stood adamant; they rejected the idea of any development of Mineral King and repeatedly stated that they wished the entire Mineral King enclave would be turned over to the National Park Services, and incorporated into

Sequoia National Park. It was finally decided to let the Secretary of the Interior, Stuart Udall decide the issue of whether or not a road should be built across Sequoia National Park.

Initially, Udall had been firm in his position that a road should not be constructed across the National Park.

For two years, the Department of Interior under Steward Udall had denied permission for access through Sequoia National Park. The department had initially staved off the threat by declaring the park a Wilderness area and later by demanding studies of alternate routes. But the existing dirt road barred wilderness classification for the projected construction corridor, and alternate routes were declared to be financially unfeasible. Stewart Udall stated that the construction of an all-weather highway could create serious erosion problems, and might possibly endanger the root structure of some of the giant redwoods in Sequoia National Park. There was also concern over the added air pollution from exhaust emissions. The National Park Service and Udall also suggested that there were "existing new transportation alternatives on the horizon."26 The possibility of a rail-type carrier transportation system was offered; Udall saw a railroad or monorail as a much more preferrable solution because either would eliminate a crowded access highway filled with automobiles and enormous parking lots and air and water pollution, that would go hand in hand with the increased traffic. Udall stated that "the project as

it stands, conflicts with the national interest, and should to completely revised."²⁷ But serious objections were the completely revised."²⁷ But serious objections were raised against Udall's refusal to grant an access corridor through the park. Secretary of Agriculture Orville Freeman through the park. Secretary of Agriculture Orville Freeman at the strenously pressed Udall, indignantly telling him in sidsummer 1967: "The conspicuous failure of our two great departments to reach an agreement on as simple a matter as improving a few miles of existing road must be a growing source of embarrassment to the Federal Government, just as it increasingly frustrates and angers the State and local people." Despite such pressures, however, Udall had not capitulated to either Freeman's arguments or his indignation.

Udall worked closely with the National Parks Association leaned these economic to prevent approval for construction of the proposed highway. on Johason had wanted the governor's Instead they urged the creation of a wildlife observation area, which they considered more in keeping with the ideals of care and concern for animals inspired by Disney in his "True Life Adventure" films. Udall asked WDP to consider creating facilities which would provide people with the opportunity to observe, study and photograph wild animals in their natural environment. Thus it seemed, that the real question, as Udall and the NPA saw it, was not what kind of access, but rather, what kind of project in Mineral King? WDP was seen as an ideal private organization to do the job and Udall hoped to persuade WDP and the USFS to reconsider their plans for the development of Mineral King.

* 111 figures from U.S. Dept. Agr. Diait Eav. Statement, MK 1974

However, both WDP and the USFS replied negatively to these suggestions. WDP stated that they had spent 1/2 investigating the feasability of a ski resort at Nineral King and that they were still committed to their proposed project. Furthermore, the Forest Service had won allies in other quarters with its arguments that justified the project in economic terms/Tulare County would boom. pisney's initial investment alone was to be \$35 million. this sum would be added \$22 million in secondary investments for visitor facilities outside of the basin; \$104 million in secondary retail sales generated by new employment, and \$100 million in jobs, new payrolls, and land purchases, and each year millions more would be poured into the county. California's governor, Ronald Reagan, welcomed these economic forecasts. President Lyndon Johnson had wanted the governor's support for a Redwoods National Park, and Reagan could now seek a "quid pro quo" arrangement; State support of the administration's park proposal in return for a federal guarantee of highway access across Sequoia National Park. Lyndon Johnson agreed and stated: "It is in the interest of the Administration and the State that the Mineral King area be carefully developed for year-round use featuring winter sports."29 and that the "Department of the Interior has been requested to consider issuance of a permit jointly to the Department of Agriculture and the State of California for a two-lane road through the Park."30

^{*} All figures from U.S. Dept. Agr. Draft Env. Statement, MK 1974.

Johnson urged Udall to reconsider which Udall did, and pecember 1967 he agreed to permit construction. As Udall in pecember to the press, he had been overruled by pressure explained to the press, he had been overruled by pressure the "highest levels."

Udall did it with the understanding that the formal authorization would not be granted until the California pivision of Highways, working with the National Park Service and the Forest Service, had developed a way to ensure that the road could be built without in any way jeopardizing the Giant Sequoia trees in the area and without inducing erosion, sedimentation and pollution, and that the roadway would be designed so as to not impair the Park's beauty.

The Sierra Club asked Udall to reconsider and questioned the adequacy of the projected road. The group doubted that Freeman's professed goal of 2.5 million visitors annually was consistent with the carrying capacity of a two-lane highway. Would not Disney be back in two years asking for a third or fourth lane? This fear was fed by WDP's public pledge: "All of us promise that our efforts now and in the future will be dedicated to making Mineral King grow to meet the ever-increasing public need. I guess you might say that it won't every be finished." The Department of Interior lamely implored the Forest Service for assurance that a two-lane road would be adequate and no additional access required later.

With Udall's acquiescence to the project in late 1967, there were no more major bureaucratic obstacles to WDP's

plans. On January 8, 1969 WDP submitted its plan for the development of Mineral King to the of the Sequoia National Forest. By letter of January 21, 1969 the Forest Supervisor notified the company the plan was approved with the understanding that the approval was: "subject to changes and further refinements as ways were found to improve it."32 The USFS went on to say that the 30 year term (renewable) permit authorizing construction and operation to begin was to be issued as soon as the State Division of Highways issued the first contract for the improved access road and that this contract was expected to be issued within the next six months. A day later the State of California announced plans for construction of the first segment of a 20 mile access road into Mineral King. The stage was set for construction to begin! him Minoral

The Sierra Club had hoped that the Secretary of Interior would remain firm in his opposition to the project. But when Udall granted his consent, the Sierra Club began to consider other legal means of opposing and halting construction.

The Club and the San Francisco firm of Feldman, Waldman, and Kline soon established grounds to file suit to prevent construction. As soon as the USFS announced the approval of WDP's master plan in January 1969, the Sierra Club immediately announced plans to bring a taxpayers suit to block development. The Club alleged violation of statutes in several categories.

The Sierra Club also delivered an environmental impact assessment on the effect of the proposed development on

wildlife. At least 75 acres within the key winter range of the Mineral King deer herd would be lost. The USFS had stated that the clearing of slopes for downhill skiing would actually be beneficial to deer forage if these slopes were seeded to grasses. However, the Sierra Club pointed out that any benefits that tended to increase deer carrying capacity on the summer range would not compensate for any decreases in carrying capacity through habitat loss on the winter range. It was also noted that a substantial amount of fawning takes place at Mineral King and a potential for conflict existed with the increase in human use. Does need privacy during the fawning period and it was even agreed upon by the USFS he used that some form of access restriction for people in key fawning areas would have to be implemented.

The Sierra Club also stated that developing Mineral
King posed a danger to some rare and endangered species.

The proposed development represented a local reduction of useable habitat/range for these species. These species included the California Condor, the American Peregrine Falcon, the Wolverine, the California Bighorn Sheep and the Prime Marten.

Michael McCloskey stated in an interview with the New
York Times that both the highway and the Disney installation
were considered "heavy facilities" out of keeping with the
natural beauty of the area. McCloskey further disclosed
that the Sierra Club planned to sue and that its central
argument would probably be that the scope of the development

"Exceeded the Forest Service's administrative authority and constituted an alienation of public land that should be brought about only by action of Congress after hearings."33

On June 6, 1969 the Sierra Club filed suit in US Distrct Court in San Francisco to block construction of the Mineral King Valley. The suit which was filed on behalf of the Club's 77,000 members "and the public in general" named as principal defendants two Cabinet members, Secretary of the Interior Walter J. Hickel (Hickel, with the election of Richard Nixon, replaced Udall as Secretary of Interior), and Secretary of Agriculture Clifford M. Hardin (Hardin replaced Orville Freeman). Named as codefendants were: J.W. Deinema, the USFS regional supervisor in San Francisco, M.R. James, the supervisor of the Sequoia National Forest, and John McLaughlin, the superintendant of Sequoia National Park. (WDP was not made a party to the suit.) The Sierra Club action asserted that the two departments had exceeded their authority and had violated a number of Federal laws and regulations in granting permits for the development. The suit opposed the project on the following grounds: 1) the 30 year permit to the Disney organization violated an 80-acre statutory limitation on the National Forest leasing authority of the Secretary of Agriculture; 2) the development violated statutory limitations on the use of the Sequoia National Game Refuge which permitted only such uses as were "consistent with the purpose for which said game refuge was established,"34 and 3) the proposed access highway, across nine miles of

the lower end of Sequoia National Park violated laws and regulations governing national park lands.

The suit asked for a preliminary injunction to prevent construction, which was scheduled to start in July 1969, pending adjudication of the issue. Ultimately, the suit asked for a permanent injunction against the execution of the project.

The first round in the Mineral King battle was won by the Sierra Club. On July 26, 1969 a Federal Court ruling temporarily blocked the projected development of the Mineral King Valley. US District Judge William T. Sweigert in San Francisco issued an injunction forbidding the US Department of Agriculture and the US Department of the Interior from proceeding with its plans to develop Mineral King. Judge Sweigert said that "the court is not concerned with the controversy between so-called conservationists and so-called progressives. Our only function is to make sure that administrative action, even when taken in the name of progress, conforms to the letter and intent of the law as laid down by Congress."35 However, Sweigert stated that the legal questions raised by the Sierra Club seemed substantial enough to warrant judicial argument before any green light was given to the project. Sweigert questioned the USFS-Disney contract which would give Disney a 30 year lease on 80 acres for the nucleus of the development, with a supplementary 1,000 acres under "revocable" annual lease. Sweigert claimed

that Congress had never expressly authorized such "revocable" permits and that the "dual permit device" seemed a possible circumvention of Congress's intention to limit long term leases to 80 acres.

Sweigert also stated that the case was not altered by the fact, cited by Assistant US Attorney Paul E. Locke--that 84 National Forest ski resorts were based on similar leases the ruling thus cast some doubt over the legal validity of 84 existing ski resorts on Federal land.

Judge Sweigert also held that it was questionable whether or not the National Park Service could permit a highway to be put through the park just to serve another facility and also whether or not this highway right-of-way would include permission for running a high power voltage line to Mineral King without expressed Congressional authorization; (WDP had also proposed to construct a 66,000 volt power line to supply the Mineral King facilities with electricity.

WDP had stated that it would not be feasible to put these lines underground; they quoted the Southern California Edison Company as saying that the underground lines would cost upwards of \$100,000 a mile).

Finally, Sweigert stated that he questioned whether
the two departments had followed their own rules in holding
no public hearings about the project. (The hearings which
were held by the National Park Service in 1966 were concerned
only with recommendations on adding certain parts of the
Sequoia National Park to the National Wilderness Preservation

There was never a formal public hearing by either system. There was never a formal public hearing by either the National Park Service or the United States Forest service which concerned itself with the question, and or legality, of developing Mineral King).

Most importantly, Sweigert flatly rejected the argument that the conservationists of the Sierra Club had no legal standing in the case because they could not show a "private, substantive, legally protected interest," in the area under discussion. On this point the court invoked the successful suit brought by the Scenic Hudson Preservation Conference, a private group which had sought and had successfully prevented the despoiling of Storm King Mountain on the Hudson River with a hydro-electric power plant. In other words, the court held that within reason, any man has a claim to the natural beauty of the environment, which he may value as highly as his car, his pool, or his manicured lawn.

All in all, the Federal Court's ruling served to raise some far-reaching questions about Congressional enactments and Federal administrative procedures, while it bolstered the rights of conservationists in court.

But the Sierra Club victory was to be short lived.

The US Departments of Agriculture and Interior filed an appeal immediately after Judge Sweigert's temporary injunction was handed down. And WDP refused to be daunted. When questioned after Sweigert's decision, Donn Tatum, the president of WDP stated that "we continue to believe enthusiastically

the potentials of this project. If there is some legal issue as to whether the Federal agencies acted properly in offering Mineral King for development by private enterprise, we believe this should be settled as quickly as possible." 36

On September 17, 1970 the US Court of Appeals for the Ninth Circuit ruled, contrary to the district court, that the Sierra Club had not proved standing to sue. The three judge panel, Ozell M. Trask, John F. Kilkenny, and Frederick G. Hamely, held that in the absence of any specific damage to the organization itself, the Sierra Club lacked standing to litigate, and therefore the Club had no grounds for challenging the Federal approval of the development of Mineral King. Thus the court's reversal wasn't even based upon the merits of the case. In the judge's opinion there was "no allegation in the complaint that members of the Sierra Club would be affected by the actions of (the respondents) other than the fact that the actions are personally displeasing or distasteful to them."37 The court did accept the idea that such groups, like the Sierra Club, can have the right to sue on behalf of the general public, but that in the Mineral King case, the Sierra Club had failed to prove a sufficient direct interest to qualify for standing. The court viewed "direct interest" as something measured in dollar terms. The Sierra Club was in effect contesting the old theory of law, that you could sue if you had a "dollar interest," a theory the Club believed was wrong on abstract principles, because it again emphasized dollar

interests rather than social or environmental interests.

An article in the "Rutgers Law Review" maintained that "the Sierra Club by its own admission, had no economic interest in the outcome of the administrative action it sought to challenge."38 But this implies that the Club had no choice in its strategy, and according to former Sierra Club president, Richard Leonard, this was an erroneous assumption. Leonard stated that "it should be clearly understood that the Sierra Club had deliberately not stated its own personal harm"39 -- the fact that it had taken trips into the area and its members personally used the area--because it felt that it was more important to state the general principles that the Park Service and the Forest Service were violating acts of Congress and somebody had to have the right to protest. The Court of Appeals held that the Secretaries of Agriculture and Interior are supposed to take care of the public interest. But they weren't. So the Sierra Club felt that somebody in the public had to have the right to request corrective action when government agents, such as secretaries of Interior and Agriculture, weren't fulfilling their duties.

But there were some who felt that the Sierra Club's motives were not so pure. Bestor Robinson, who was no longer active in Club leadership (since 1959), but still a Sierra Club member, had followed the debate and participated through the Disney advisory council, stated that the standing issue was not motivated by principle; it was stalling. It was not the way a "responsible organization should behave,

wasting time and money. There is no doubt that time can be an ally; preservationists can defeat opponents with delays.

The Sierra Club refused to accept defeat. After the appellate court's decision was handed down, the Club announced its plans to file an appeal to the US Supreme Court. The Club stated that the appeal would have two functions: one was to keep the injunction on any beginning of construction in place until the Supreme Court decided to hear the case, and the other was to ultimately overthrow the appellate court's decision that the Club didn't have the legal standing to sue.

The Sierra Club's announcement to appeal their case to the Supreme Court was dismaying to its opponents. The USFS realized that an appeal by the Sierra Club could halt construction for as long as two more years; they favored starting construction at once. WDP was also very concerned over the Sierra Club's decision to seek an appeal. They claimed that a two year delay would raise construction costs and result in the overcrowding of existing ski resorts.

The Sierra Club refused to back down, even when WDP offered to scale-down their proposed project and build a much smaller facility. The Sierra Club suit came to the attention of the US Supreme Court on November 17, 1971 and a decision was handed down on April 19, 1972. The Supreme Court upheld the appellate court's decision; they stated that the Sierra Club had failed to show the standing to sue. In its decision the Supreme Court declared that the Sierra Club

failed to show that any of its members would suffer parable personal injury". However, the Court did state the necessary injury could be to the aesthetics or cology of the area. The ruling also indicated that a party could argue public interest but only after it had alleged a "personal stake in the outcome of the controversy."

The bench denied the claim "that the Club's longstanding concern with and expertise in such matters was sufficient to give standing as a 'representative of the public'". 41

The Supreme Court maintained that to have allowed a suit without injury would constitute authorization of "judicial review at the bejest of the organization or individuals who seek to do no more than vindicate their own value preferences through the judicial process."

Both the appellate court and the Supreme Court demanded personal injury. The land had no rights, and the Supreme Court majority was careful to avoid opinion on any but the narrowest legal purview, standing. Thus the Supreme Court's decision, like that of the appellate court's, was not even based upon the merits of the case.

In the eyes of the Sierra Club, nature should have rights. Supreme Court Justice, William O. Douglas expressed this philosophy in his dissenting opinion. The jurist declared that standing would be "simplified and also put neatly into focus if we fashioned a law that allowed environmental issues to be litigated before federal agencies or federal courts in the name of the inanimate object about to

be despoiled, defaced, or invaded by roads and bulldozers and where injury is the subject of public outrage."43

pouglas stated that inanimate objects are sometimes parties to litigation. Ships and corporations have legal personality; why doesn't a valley, a river, or a mountain? "The voice of the inanimate object therefore, should not be stilled. That does not mean that the judiciary takes over the managerial functions from the federal agency. It merely means that before these priceless bits of America are forever lost or are transformed as to be reduced to the eventual rubble of our urban environment, the voice of the existing beneficiaries of these environmental wonders should be heard."44

Was the US Supreme Court's decision a victory for WDP and the USFS? On the surface, it appeared that the Sierra Club was finally beaten and that the development would finally proceed after three long years of arbitration. But as it turned out, it was really just another short-lived victory for WDP and the USFS. Supreme Court Justice J. Stewart, in delivering the opinion of the court, stated that if the Sierra Club reworked their appeal to show that its members would suffer personal and irreparable injury from the development at Mineral King, that the Supreme Court would be willing to entertain a future bid for aggrieved status. This was a most unusual case of a Supreme Court Justice practically telling a party in a litigation suit how to restructure their appeal so as to grant them a legal basis to sue on; the Sierra Club was practically invited back to court if they could shape their appeal on an individualized basis. In its reply brief, after noting the fact that it have chosen to assert individualized injury to itself its members as a basis for standing the Sierra Club or its members as a basis for standing the Sierra Club stated that: "the government seeks to create a 'heads I win, tails you lose' situation in which either the courthouse door is barred for lack of assertion of a private, unique injury or a preliminary injunction is denied on the ground that the litigant has advanced private injury which does not warrant an injunction adverse to a competing public interest. Counsel have shaped their case to avoid this trap."45

Thus, the Sierra Club had lost this battle, but the organization was ready to resume the fight. In June 1972 Sierra Club officials joined by nine individuals and an association of cabin owners in Mineral King Valley filed a new suit in the US Supreme Court. WDP and the USFS were exasperated and hesitant. WDP in particular wondered if going through the rigors of another long court battle would be worth the effort. The project had already been delayed for three years, and another court case would ensure its delay for possibly another two to three years. Thus WDP decided to seek, if possible, a compromise with the Sierra Club. In July 1972, WDP amended its proposal to include an electrically powered cog-assisted railway as an alternate means of access from Oak Grove across Sequoia National Park to Mineral King, stating that it had become "the preferred system and would provide a spectacular and enjoyable experience the guest." 46 WDP further proposed to scale-down their the guest." 46 WDP further proposed to scale-down their the guest. But plans and create a much smaller facility, gevelopment gight end of the series and the Sierra Club series and refused any compromise. As long as the court's injunction remained in place, the Sierra Club saw little reason to compromise. Also the Club knew that, in all likelihood, their new case before the Supreme Court would grant them the legal basis of standing to sue, and the Sierra Club felt that once this legal hurdle was overcome the merits of their suit would be vindicated.

WDP must have also concluded that the Sierra Club's case in court would be too strong to buck. WDP management had become increasingly disillusioned with the Sierra Club's tenacity in opposing construction and development of Mineral King. WDP had counted on Sierra Club support, not opposition, for the proposed project, and when the Sierra Club had reversed its position in 1965 WDP had been dismayed but they had felt that it may still have been possible to create their Mineral King ski resort without Sierra Club assistance.

The final blow to WDP's plans came in 1974 when the State of California withdrew its pledge to help finance the access highway. More than 25% of the proposed WDP budget was earmarked for construction of transportation facilities and without stated assistance in financing, WDP couldn't afford to undertake construction of the transportation

In March 1975, WDP notified the USFS in a letter corridor. In March 1975, WDP notified the USFS in a letter Robert Hicks to Doug Leisz, the USFS regional supervisor from the Sequoia National Forest, that WDP was forced to dismiss their plans for the development of Mineral King Valley. The letter was prompted by a USFS proposal to scale-down the project even further, but WDP replied that: "It must be understood that, even though WDP agrees with the USFS that Mineral King can and should become the finest winter recreational site in North America, we cannot support any development concept that falls short of Disney's highest concept of public service and convenience." 47

The Sierra Club was jubilant over the news that WDP had decided to forego their plans for Mineral King, but the Club felt that the issue was still not fully resolved.

The USFS was still committed to developing Mineral King, and the Sierra Club desired to have the valley taken out of the hands of the Forest Service and placed under the authority of the National Park Service and the Department of the Interior. Using their lobbying power, the Sierra Club appealed to the Ford and Carter administrations, and to the US Senator from California, Alan Cranston, to initiate government action that would transfer Mineral King to the Department of the Interior's jurisdiction.

President Ford refused to act upon the issue, but his successor, Jimmy Carter proved much more receptive to conservationist concerns. In January 1978, the Carter administration moved to resolve the eight year old controversy.

Carter was reluctant to use his authority to incorporate Mineral King Valley as a National Monument under the Antiquities Act of 1906, but he did recommend to Congress that the dispute be resolved by annexing the Valley to Sequoia National Park. Carter commented that the existence of Mineral King in its present state was a "historic accident" and that "the area should logically have been included in the National Park." 48

In 1978 two bills were sponsored, one in the House, and one in the Senate. Rep. John Krebs, (Krebs represented California's seventeenth Congressional District within which Mineral King is located), introduced his bill, HR 1771, to the House. Krebs' bill proposed that Mineral King should be incorporated into Sequoia National Park because "as long as this area is administered under the multiple-use mission of the Forest Service, it is and always will be vulnerable to massive commercialization."

Senator Alan Cranston added his voice in Congress to the debate over what should be done with Mineral King Valley. He introduced a similar measure, S88 to Congress in 1978.

The Senate parks subcommittee held a series of hearings on the desireability of transferring Mineral King from the Secretary of Agriculture's jurisdiction to that of the Department of the Interior's. S88 was "A bill to enlarge the Sequoia National Park in the State of California by adding to such park the Mineral King Valley area." The chairman of the committee, Senator Henry Jackson recommended

that S88 be enacted, stating: "Mineral King is a superb Sierra Mountain valley. Its unique combination of high scenic value, its substantially pristine and undeveloped quality, and its relative accessibility, as well as its close geographical and ecological integration with Sequoia National Park, make it a worthy and logical addition to the park."51

Testimony was heard from a wide variety of sources, including the Sierra Club, the Tulare Chamber of Commerce, the Far West Ski Association and other qualified groups, including cabin owners in Mineral King Valley. Opponents of S88 attacked the bill on the same grounds that the USFS had used to justify building a ski resort. It was stated that skiing facilities in California were overcrowded and that a ski facility located close to Los Angeles was necessary. The Far West Ski Association, with a membership of about 100,000, (greater than that of the Sierra Club), even pointed out that the ski slopes of California were so dangerously overcrowded that California had been forced to enact skier hit and run legislation!

But perhaps the most telling testimony was given by
the newly formed 100,000+ member organization, Skiers to keep
Mineral King Natural. The testimony given by this group
of skiers representing five major ski organizations recommended
that S88 be enacted. This group said that Mineral King
as it stood was enjoyed by thousands of crosscountry skiers,
and that the development of downhill skiing facilities would
discriminate against them. It was stated that putting an

area such as Mineral King in Sequoia Park would not "lock it away" for the use of a few. The following chart was supplied to back-up their assertion:

Overnight	14,800	Information center 600
Hiking		Horseback Riding 1,500
Picnicking		Backpacking 24,400
Lake fishing		Stream Fishing 4,400
LINE by Manager	Shows to the sales	9.000
Camping	6,700	a ware logged by the USFS at
(In 1976 the above Mineral King) ⁵²	visitor day	s were logged by the USFS at

The impact of a group representing such a large number of skiers must have equalized and/or overturned the value of the Far West Ski Association's testimony that the development of Mineral King was being blocked by a small special interest group. And of course, added to the voice of the proponents of S88 was the testimony of the Sierra Club which stated that "either the Disney proposal or some other future high intensity use of Mineral King justifies the need for Congressional action to preserve this majestic mountain area. Acting to place Mineral King under the jurisdiction of the NPS will not only make Sequoia National Park an integral land unit, but will also provide the necessary protection and proper management for this beautiful alpine valley." 53

On November 10, 1978, as part of Public Law 95-625

(Sec. 314), the senate bill, S88, was passed into law. It stated that the Sequoia National Game Refuge was abolished and that the Secretary of Agriculture had to transfer its jurisdiction of the area into the hands of the Secretary of the Interior. All of the private property in the area

was to be either leased to the owners for the duration of their lifetimes, or be purchased by the federal government at a fair market price. It was also stated that the area was recognized as having outstanding potential for certain year-round recreational opportunities, but the development of permanent facilities for downhill skiing within the area would be "inconsistent with the preservation and enhancement of its ecological values." 54

Thus, after over eight long years of contention and controversy, the fate of Mineral King Valley was apparently settled for all time. Thanks largely to the efforts of the Sierra Club, there would be no downhill skiing facilities in Mineral King. But Public Law 95-625 had also stated that one of its provisions was to enhance public enjoyment of the area. In June of 1980, the NPS produced a document which listed four possible plans for the management of Mineral King. Alternative A--the preferred alternative--proposed to maintain the current pattern, density, character and level of public use in Mineral King by upgrading and redesigning existing development in its present locations. This alternative assumed that the activities that have developed over time are the appropriate ones for Mineral King. All the permittee cabin owners would be allowed to remain for their lifetimes on the land they were using. The road, the source of so much controversy was to be merely repaved, and it was suggested that private cars be restricted and that entry into the valley be limited to shuttle buses. Alternative B-- proposed no action other than modifying existing conditions only as to meet minimum health and safety standards. Alternative C--proposed to restore the valley to its natural conditions by removing all facilities from Mineral King. Under this plan, all of the private land in the valley would be purchased immediately by the government. Alternative C was basically the same as A, the only real difference being that under A there would have been over \$1,000,000 spent upgrading the existing backcountry trails and making new ones. In Alternative C however, there would be no improvement or creation of new trails. The final alternative, D, was to expand public use opportunities by developing Mineral King as a major year-round attraction of the Sequoia and Kings Canyon national parks. This plan called for major development of the valley for all uses, and hotels, concession shops, restaurants and other facilities would all be constructed. It also proposed to increase the carrying capacity of the road into Mineral King to handle the increased useage of visitors. The cost of implementing this alternative was projected to be \$51,322,000 and the impact to the natural environment would be extreme. Obviously, this proposed alternative wasn't that far from the grandoise development plans envisioned by WDP and the USFS.

Thus the fate of Mineral King is still unknown today.

The NPS has worked closely with the Sierra Club in trying to arrive at the best possible alternative possible. As may be expected, the Sierra Club vehemently opposed

Alternative D, while either of the other three alternatives were held by the Club to be acceptable. The NPS has not yet decided which plan to implement but in all likelihood, it is Alternative A which will be selected.

Few pieces of land have caused such controversy as the marginally wild, beautiful Mineral King Valley. The Mineral King case is important to examine because it shows the immense lobbying power and resources of the Californiabased Sierra Club. Mineral King demonstrates how environmental, conservation-minded groups can halt the development of wild areas, and preserve them for our future generations. Depending on one's point of view, the Sierra Club actions at Mineral King are either a tragedy for recreational useage of public lands under the Forest Service's multiple-use policy or an extraordinary feat accomplished by dedicated persons intent on preserving what little is left of this nation's natural beauty. But equally important is the fact that the Sierra Club could not have succeeded without the help and support of the American public. Thus, to a large degree, the Mineral King battle reflects the rise of conservation principles and ethics in the mind of Americans; Mineral King represents the vigilance and concern of the American public and the stronger emphasis people are placing upon the rights of nature and the public, and the role of organized preservationists in defending these rights. Rise at Ring. A Valo in the Eye of a

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