



SIERRA CLUB  
BULLETIN *November*  
1950

# Miscellany

COVER. Banner Peak, Dana-Minarets Primitive Area, August, 1950. By Philip Hyde.

Yosemite, November 23

Editor—The flood up here is worse than that of 1937. The damage is really impressive. The large bridges held because of strengthening after the last flood. But damage to roads, public camps, operators' installations, etc., is very great. The All-year Highway will be under control for at least a year. At the Gates of the Valley the water was *six feet* above the road! But the cliffs are all nicely washed off for rock climbers!

ANSEL ADAMS

Walter Starr, just having completed several weeks' work on the revision of the latest edition of his son's *Guide to the John Muir Trail*, is now revising the map for the book. The 1951 model of book and map should be ready by February—at the same price, \$2.

Manufacture of the bound reprints of volumes 1-5 of the *Sierra Club Bulletin* is progressing nicely, if a little more slowly than expected. Sets should arrive shortly after Christmas. Orders are still being accepted—but at \$25 per set now.

And it's deadline time again for the 1951 magazine number of the SCB. Whatever is going to be included should be in the Editorial Board's hands by New Year's Eve.

*Climbing Notes.* There was some successful climbing in the Orient this last summer. Two members of the French Expedition climbed Annapurna (26,500 ft.) in western Nepal in July. This now has supplanted Nanda Devi (22,250 ft.) as the highest summit yet climbed.

A Norwegian party climbed Tirich Mir (25,250 ft.) in Chitral, N. W. India.

A party of three Swiss and two British climbers ascended Abi Gamin (24,180 ft.) near Kamet.

In Alaska, Norman H. Read and Andre Roch made the second ascent of Mount Logan (19,850 ft.) on June 17. Three students from the University of Alaska made the ascent by the same route a few days later.

The Sierra Club group which climbed Mount Waddington by two new routes this summer, got some very fine pictures of the trip into the Coast Range. They have been shown at several educational programs, and Oscar Cook is to show them at the Annual Dinner of the American Alpine Club on December 2, in New York.

THE SIERRA CLUB, founded in 1892, has devoted itself to the study and protection of national scenic resources, particularly those of the mountain regions of the Pacific Coast. Since these resources receive best protection from those who know them well, the club has long conducted educational activities, under the committees listed below, to make them known. Participation is invited in the program to preserve wilderness, wildlife, forests, and streams.

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# Sierra Club Bulletin

VOLUME 35

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NUMBER 10

...TO EXPLORE, ENJOY, AND PROTECT THE NATURAL MOUNTAIN SCENE...

## For the November Record

### *How Much Snow?*

The season 1950-51 should again be well over average. . . . The year 1952 should bring the heaviest season and culminate the maximum, but this might occur in 1951 or 1953. . . . A remote possibility exists that one of these three seasons will receive more than 600 inches [of total snowfall at Soda Springs, near Donner Summit].—From "Sierra Snows—Past and Future," by Weldon F. Heald, SCB Annual, 1949.

Is there any chance, Mr. Heald, that it will start to snow below 10,000 feet this winter?

### *Tramway Application Denied*

On Nov. 3, 1950 Secretary of the Interior Oscar L. Chapman gladdened the hearts of conservationists by announcing in Washington, D.C. that he had denied the application of the Mt. San Jacinto Winter Park Authority for a right-of-way across the north half of Section 12 of the U.S.F.S. Wild Area which blocks the route of the tramway.

The basis of this denial was an opinion rendered by the Solicitor of the Dept. of Interior, Mastin G. White, to the effect that the act of March 3, 1899, under which the Winter Park Authority had made its application, does not authorize the Secretary of the Interior to grant a right-of-way across national forest land for an aerial tramway.

Sierra Club members may properly feel pride in their club, for it was the brief submitted at the Riverside hearing by Mr.

E. W. Cunningham, lawyer and former Chairman of the Southern California Chapter of the club, which pointed out the highly technical reasons why the Secretary of the Interior did not have power to act in this case.

It is certainly important to note, however, that the Secretary denied this application purely on the technical grounds of lack of authority, and that no permanent blocking of the tramway plans results. Since no fundamental decision as to public policy has been gained, we can expect the tramway proponents to make still further efforts to force the project through. Certainly it is wise to recognize the fact that we have antagonists who are both determined and resourceful. Although the Secretary's decision and the war demand for metals will result in serious delay for them, all conservationists and friends of Mt. San Jacinto should be alert for further moves on the part of the Winter Park Authority.

To the many members of the Riverside Chapter who wrote letters or helped in other ways in this effort to protect the State Park and Wild Area, sincere thanks are due. It is suggested, however, in order to meet the remaining potential threat, that our Chapter members remain vigilant, and that any ideas or information which might assist in the protection of these fine areas be promptly given to Ken Buck, Conservation Chairman, or to members of the Executive Committee.

JOE R. MOMYER

in *Palm and Pine*, Dec. 1, 1950

*Two letters which are an important part  
of the San Jacinto campaign*

## San Jacinto Documents

Department of the Interior  
Washington 25, D.C.  
October 27, 1950

Memorandum to: The Secretary of the Interior

Subject: Authority to grant right-of-way in a national forest for an aerial tramway.

The Mt. San Jacinto Winter Park Authority, established by the legislature of California,<sup>1</sup> has filed with this Department an application for a right-of-way for an aerial tramway across the south half of sec. 12, T. 4 S., R. 3 E., San Bernardino Meridian, California, which is within the San Bernardino National Forest.

In its application (Los Angeles 079957), the Authority states, among other things, as follows:

"The right-of-way requested is 400 feet wide, upon which will be constructed a portion of the aerial tramway authorized by the above referred to legislation. The tramway will originate in Sec. 7, Township 4 S., Range 4 E., S. B. B. & M. on private land which the Authority will acquire; thence across the southeasterly portion of Sec. 12 within the designated wild area of the San Bernardino National Forest, thence across secs. 13, 14, and 23, Township 4 S., Range 3 E., being within the Mount San Jacinto State Park, and terminating in said Sec. 23, the last named said sections belonging to the State of California \* \* \*. The portion in the National Forest is approximately three-fourths of a mile in length or about one-third of the total length of the tramway.

"There will be nine (9) steel towers along the whole length of the tramway. Two of these towers, namely, No. 2 and No. 3, will be within said Sec. 12, No. 2 being 232 feet in height and No. 3 being 92 feet in height. The cars, carrying 54 passengers each, will be suspended from the overhead track cable, supported by the towers and drawn by traction cables motivated by electric power."

Under the Constitution, Congress has the power "\* \* \* to dispose of and make all needed Rules and Regulations respecting \* \* \* Property belonging to the United States \* \* \*." (Art. IV, sec. 3, cl. 2.) The only statute claimed by the applicant to authorize the granting of the application is that portion of the act of March 3, 1899 (30 Stat. 1214, 1233; 16 U. S. C., 1946 ed., sec. 525), which provides as follows:

"That in the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right-of-way for a wagon road, railroad, or other highway over and across any forest reservation or reservoir site when in his judgment the public interests will not be injuriously affected thereby."

The question of law presented by the application is whether an aerial tramway is a "wagon road, railroad, or other highway," within the meaning of the statutory language set out above.

It is important to note at the outset that the words "aerial" and "tramway" do not appear in the provision of the 1899 statute quoted above. This is in contrast with the earlier act of May 14, 1898 (30 Stat. 409, 411; 48 U. S. C., 1946 ed., secs. 411, 416), which is applicable to Alaska. The latter statute, in addition to providing for railroad rights-of-way in sections 2-5, authorizes the Secretary of the Interior in section 6 to issue a permit for a right-of-way over the public domain "\* \* \* to construct \* \* \* wire rope, aerial, or other tramways \* \* \*." It may be assumed, therefore, that the omission of similar language from the right-of-way provision of the 1899 act some ten months later was intentional upon the part of the Congress.

It is my opinion that the words "wagon road, railroad, or other highway," as used in the 1899 act, cannot reasonably be construed to include an aerial tramway. Obviously, an aerial tramway is not a road prepared for the use of wagons. Moreover, it is not a railroad, because the word "railroad" means, according to the dictionaries and ordinary usage, a graded road having parallel rails for the wheels of railroad cars to run upon.<sup>2</sup> An aerial tramway is plainly not of that character. Somewhat tenuously, but conceivably, an aerial tramway might be regarded as a "highway" in the sense of the generic meaning of that word.<sup>3</sup> However, under

the ejusdem generis rule of statutory construction, the general term "other highway," as used in the 1899 act, can reasonably be regarded as referring only to highways of the same type as those specifically enumerated, namely, wagon roads and railroads.<sup>4</sup> Wagon roads and railroads are highways of a type which involve use by vehicles whose wheels actually move on them. An aerial tramway is not of that type. Hence, I conclude that the general term "other highway" cannot properly be construed as including an aerial tramway.

The legislative history of the 1899 act supplies no evidence of an intention that the provision under consideration here should apply to aerial tramways. In fact, there is no reference at all to aerial tramways in that history. The pertinent provision of the 1899 act was, in effect, an extension of the act of March 3, 1875 (18 Stat. 482; 43 U. S. C., 1946 ed., secs. 934-939). The 1875 act provided for the granting to railroad companies of rights-of-way through the public lands of the United States. That statute, on its face, related only to ordinary surface railroads. Section 5 provided that the act was not to apply to "lands specially reserved from sale," and so rights-of-way could not be acquired by railroads across lands in national forests under that act, they being lands so reserved. It appears that, in 1899, the development of the West was being impeded by the inability of railroads to acquire rights-of-way across national forests except by means of special acts passed by the Congress. It was primarily to obviate the necessity for the consideration and passage by Congress of such special acts for the benefit of railroads—a reason wholly unrelated to aerial tramways—that the general right-of-way provision of the 1899 act was enacted.<sup>5</sup>

It follows from the foregoing discussion that the right-of-way provision of the 1899 statute does not authorize the Secretary of the Interior to grant a right-of-way in a national forest for an aerial tramway.<sup>6</sup>

Accordingly, I recommend that the pending application be denied.

(Sgd) MASTIN G. WHITE  
*Solicitor*

<sup>1</sup> Mount San Jacinto Winter Park Authority Act; Calif. Stats., 1945, ch. 1040, p. 2007; amended by Stats. 1947, ch. 70, p. 549.

<sup>2</sup> Webster's International Dictionary, 1898 and 1899 editions; Webster's New International Dictionary, 1943 edition; Bouvier's Law Dictionary, 3d revision, 1914. See Solicitor's opinion, 58 I. D. 776 (1944).

<sup>3</sup> See Webster's International Dictionary, 1943; Bouvier's Law Dictionary, 3d revision, 1914.

<sup>4</sup> *Smith v. Davis*, 323 U. S. 111, 116, 117 (1944).

<sup>5</sup> Cong. Rec., vol. 32, Part 3, pp. 2800, 2801; *Chicago, Milwaukee & St. Paul Railway Co. v. United States*, 244 U. S. 351 (1917); 40 Op. Atty. Gen. 389, 390 (1945); 43 CFR 243.1.

<sup>6</sup> Cf. *Great Northern Ry. Co. v. United States*, 315 U. S. 262, 272 (1942); *Caldwell v. United States*, 250 U. S. 14, 20 (1919).

Washington 25, D.C.  
November 1, 1950

Mount San Jacinto Winter Park Authority  
Palm Springs, California

Gentlemen:

On September 2, 1949, you filed with this Department an application for a right-of-way for an aerial tramway crossing the south half of sec. 12, T. 4 S., R. 3 E., San Bernardino Meridian, California which is within the San Bernardino National Forest (Los Angeles 079957).

The Solicitor of this Department has rendered an opinion holding that the act of March 3, 1899 (30 Stat. 1214, 1233; 16 U. S. C., 1946 ed., sec. 525), does not authorize the Secretary of the Interior to grant a right-of-way across national forest land for an aerial tramway. A copy of the opinion is enclosed.

For that reason, apart from others, your application is denied.

Very truly yours,  
(Sgd) OSCAR L. CHAPMAN  
*Secretary of the Interior*



George Fogle, efficient can keeper, with his charges at the end of the trip. (By Joan Levy)

## What We Did About Cans

Sitting around the flaming campfire the night before our two-week trek was to begin, we twenty members of the third Burro Trip discussed many things, among them Milton Hildebrand's article in the July issue of the *Sierra Club Bulletin*, "What Can We Do About the Cans?" Many of us had already seen the high country and knew well the ugly piles of cans and the scattered trash of which he spoke. Intrigued by what our own contribution to this mess would be, we got out our food list and calculated that we were carrying nearly 200 "unburnable items"—170 cans and 23 bottles. Now this represents less than one container per person per day, a much lower ratio than most parties show when going into the mountains. Nevertheless, we felt that nearly 200 pieces of assorted hardware warranted our attention. We had intended to follow the usual procedure of flattening and burning the cans before burying them; but now we thought, why not pack the burned cans in a partly empty kyack instead of leaving them behind? All agreed that this was a fine idea and that it should be carried out. This unanimous opinion was translated into action by the appointment of a "keeper of the cans."

Here is how the plan worked in practice. The usual Sierra Club organization of rotating cook, wood, and clean-up crews was followed. The clean-up crew for the

day was responsible for cutting the bottoms from the cans, flattening them, burning them and removing the thoroughly burnt remains from the fire. The "can-keeper" then packed them neatly in a cardboard carton and slipped the carton into an empty space in a pair of kyacks which had been set aside for the purpose. When one carton was filled, it was left in its place in the kyack and forgotten, and another was started.

This method of can disposal was quite clean, since the cartons prevented the spread of dirt. There were no unpleasant odors, the burned cans and the bottles (which were washed by the clean-up crew) being free of food remains. The work of packing a few cans each day was indeed small when compared with that required to dig an adequate garbage pit, and the time consumed was certainly less.

The objection might be raised that 30 or 40 pounds of ironware would load down a burro that could be used to better advantage in carrying a "payload." In our experience the food disappeared at such a rate that in no time at all several burros were very nearly empty. No, there is no problem in finding the "burro power."

And the greatest advantage of all was the feeling when the trip was over that we had left the mountains as clean as we had found them; that "where we go we leave no sign."

EDWIN L. BRAUN and DAVID FORK

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STATEMENT OF THE OWNERSHIP, MANAGEMENT, AND CIRCULATION REQUIRED BY THE ACT OF CONGRESS OF AUGUST 24, 1912, AS AMENDED BY THE ACTS OF MARCH 3, 1933, AND JULY 2, 1946, of *Sierra Club Bulletin*, published monthly except August at Berkeley, California, for October, 1950. 1. The names and addresses of the publisher, editor, managing editor, and business managers are: Publisher, Sierra Club, 2061 Center St., Berkeley 4; Editor, David R. Brower, 2061 Center St., Berkeley 4; Managing editor, none; Business manager, none. 2. The owner is: Sierra Club (a corporation), 1050 Mills Tower, San Francisco 4; no stockholders; Officers: Lewis F. Clark, President; Richard M. Leonard, Secretary; Einar Nilsson, Treasurer. 3. The known bondholders, mortgagees, and other security holders owning or holding 1 per cent or more of total amount of bonds, mortgages, or other securities are: none. David R. Brower, Editor. Sworn to and subscribed before me this 31st day of October, 1950. (SEAL) J. B. Bailey, Notary Public in and for the County of Alameda, State of California. (My commission expires February 27, 1954.)

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## Clair Tappaan Lodge, 1950-51

Clair Tappaan Lodge, extensively altered, is ready for winter. Henry Cam is again manager; Bob Ruedy, chef. We expect that one of Bill Klein's instructors will live at the lodge and instruct on Signal Hill. There's a new warming room at the tow for stormy days.

Bring your own sleeping bag as usual. Ski equipment may be rented or bought near by.

The reservation office this year will be at the Sierra Club Office, 1050 Mills Tower, San Francisco 4, telephone YUkon 2-2822. Reservations may be made during office hours on week days, or by mail. An attendant to receive calls will also be on duty Thursday evening. Requests for week-end space must be in not later than 8:00 p.m. Thursday before the week end desired.

### Reservation rules:

1. Members and guests agree to enter into the coöperative spirit of the lodge, to perform nominal tasks arranged by the manager, and to abide by lodge rules.

2. Reservations are not transferable.

3. Reservation requests are not accepted earlier than 28 days in advance of the days requested.

4. Members have reservation priority over guests, who must be accompanied by their sponsors. Members may normally have only one guest at a time (a guest and his immediate family may be counted as one; a non-member spouse and child is considered a guest).

5. Requests will be processed in order received.

6. Requests must be accompanied by the full amount (see rates listed below; errors will be adjusted at the lodge). Mem-

bers may establish credit at the club office against which reservations may be charged (suggested minimum: \$20.00).

7. Cancellation charges: 50c if by 5:00 p.m. of preceding Tuesday; \$1 by Wednesday; \$2 by Thursday. No refunds for cancellations later than Thursday before the reserved week end. These charges also apply to the week days between Christmas and New Year's and between Lincoln's Birthday and Washington's Birthday.

After cancellation resumption of stay is permitted only after one night's lodging and three consecutive meals have elapsed.

8. Rates for members: breakfast, 50c; lunch, 50c; dinner, \$1; lodging (except Saturday), \$1; lodging Saturday, \$2; seven complete days, \$20. For transient meals add 25c.

For guests: Add \$1 per day for lodging; seven complete days, if available, \$29.

Children: One-third off for children under 12 during the week.

9. Registers of Rides Wanted and Transportation Available are kept at the Sierra Club office and at Jim Davis's Sporting Goods Store in Berkeley. Arrangements must be made in person.

10. *Peter Grubb Hut Rates.* — Notify Henry Cam at Clair Tappaan Lodge before going to Peter Grubb Hut. The rates are the same as for Clair Tappaan Lodge if food is obtained from the lodge or hut, but no lodging is charged.

11. *Benson Hut.* — Notify Henry Cam at Tappaan Lodge before going to the Benson Hut. No fee is charged but food for preparation can either be obtained at the lodge at the regular rates or purchased from the cache at the Hut at the rates posted there. Contributions to the Hut fund will be gratefully received.