

TONTO AND COCONINO NATIONAL FORESTS LAND
EXCHANGE ACT

SEPTEMBER 24, 2002.—Committed to the Committee of the Whole House on the
State of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 4919]

The Committee on Resources, to whom was referred the bill (H.R. 4919) to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Tonto and Coconino National Forests Land Exchange Act”.

SEC. 2. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Certain private lands adjacent to the Montezuma Castle National Monument in Yavapai County, Arizona, are desirable for Federal acquisition to protect important riparian values along Beaver Creek and the scenic backdrop for the National Monument.

(2) Certain other inholdings in the Coconino National Forest are desirable for Federal acquisition to protect important public values near Double Cabin Park.

(3) Approximately 108 acres of land within the Tonto National Forest, northeast of Payson, Arizona, are currently occupied by 45 residential cabins under special use permits from the Secretary of Agriculture, and have been so occupied since the mid-1950s, rendering such lands of limited use and enjoyment potential for the general public. Such lands are, therefore, appropriate for transfer to the cabin owners in exchange for lands that will have higher public use values.

(4) In return for the privatization of such encumbered lands the Secretary of Agriculture has been offered approximately 495 acres of non-Federal land (known as the Q Ranch) within the Tonto National Forest, east of Young, Arizona, in an area where the Secretary has completed previous land exchanges to consolidate public ownership of National Forest lands.

(5) The acquisition of the Q Ranch non-Federal lands by the Secretary will greatly increase National Forest management efficiency and promote public ac-

cess, use, and enjoyment of the area and surrounding National Forest System lands.

(b) **PURPOSE.**—The purpose of this Act is to authorize, direct, facilitate, and expedite the consummation of the land exchanges set forth herein in accordance with the terms and conditions of this Act.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) **DPSHA.**—The term “DPSHA” means the Diamond Point Summer Homes Association, a nonprofit corporation in the State of Arizona.

(2) **FEDERAL LAND.**—The term “Federal land” means land to be conveyed into non-Federal ownership under this Act.

(3) **FLPMA.**—The term “FLPMA” means the Federal Land Policy Management Act of 1976.

(4) **MCJV.**—The term “MCJV” means the Montezuma Castle Land Exchange Joint Venture Partnership, an Arizona Partnership.

(5) **NON-FEDERAL LAND.**—The term “non-Federal land” means land to be conveyed to the Secretary of Agriculture under this Act.

(6) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture, unless otherwise specified.

SEC. 4. MONTEZUMA CASTLE LAND EXCHANGE.

(a) **LAND EXCHANGE.**—Upon receipt of a binding offer from MCJV to convey title acceptable to the Secretary to the land described in subsection (b), the Secretary shall convey to MCJV all right, title, and interest of the United States in and to the Federal land described in subsection (c).

(b) **NON-FEDERAL.**—The land described in this subsection is the following:

(1) The approximately 157 acres of land adjacent to the Montezuma Castle National Monument, as generally depicted on the map entitled “Montezuma Castle Contiguous Lands”, dated May 2002.

(2) Certain private land within the Coconino National Forest, Arizona, comprising approximately 108 acres, as generally depicted on the map entitled “Double Cabin Park Lands”, dated September 2002.

(c) **FEDERAL LAND.**—The Federal land described in this subsection is the approximately 222 acres in the Tonto National Forest, Arizona, and surveyed as Lots 3, 4, 8, 9, 10, 11, 16, 17, and Tract 40 in section 32, Township 11 North, Range 10 East, Gila and Salt River Meridian, Arizona.

(d) **EQUAL VALUE EXCHANGE.**—The values of the non-Federal and Federal land directed to be exchanged under this section shall be equal or equalized as determined by the Secretary through an appraisal performed by a qualified appraiser mutually agreed to by the Secretary and MCJV and performed in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions (U.S. Department of Justice, December 2000), and section 206(d) of the FLPMA (43 U.S.C. 1716(d)). If the values are not equal, the Secretary shall delete Federal lots from the conveyance to MCJV in the following order and priority, as necessary, until the values of Federal and non-Federal land are within the 25 percent cash equalization limit of 206(b) of FLPMA:

- (1) Lot 3.
- (2) Lot 4.
- (3) Lot 9.
- (4) Lot 10.
- (5) Lot 11.
- (6) Lot 8.

(e) **CASH EQUALIZATION.**—Any difference in value remaining after compliance with subsection (d) shall be equalized by the payment of cash to the Secretary or MCJV, as the circumstances dictate, in accordance with section 206(b) of FLPMA (43 U.S.C. 1716(b)). Public Law 90–171 (16 U.S.C. 484a; commonly known as the “Sisk Act”) shall, without further appropriation, apply to any cash equalization payment received by the United States under this section.

SEC. 5. DIAMOND POINT—Q RANCH LAND EXCHANGE.

(a) **IN GENERAL.**—Upon receipt of a binding offer from DPSHA to convey title acceptable to the Secretary to the land described in subsection (b), the Secretary shall convey to DPSHA all right, title, and interest of the United States in and to the land described in subsection (c).

(b) **NON-FEDERAL LAND.**—The land described in this subsection is the approximately 495 acres of non-Federal land generally depicted on the map entitled “Diamond Point Exchange—Q Ranch Non-Federal Lands”, dated May 2002.

(c) **FEDERAL LAND.**—The Federal land described in this subsection is the approximately 108 acres northeast of Payson, Arizona, as generally depicted on a map entitled “Diamond Point Exchange—Federal Land”, dated May 2002.

(d) **EQUAL VALUE EXCHANGE.**—The values of the non-Federal and Federal land directed to be exchanged under this section shall be equal or equalized as determined by the Secretary through an appraisal performed by a qualified appraiser mutually agreed to by the Secretary and DPSHA and in conformance with the Uniform Appraisal Standards for Federal Land Acquisitions (U.S. Department of Justice, December 2000), and section 206(d) of FLPMA (43 U.S.C. 1716(d)). If the values are not equal, they shall be equalized by the payment of cash to the Secretary or DPSHA pursuant to section 206(b) of FLPMA (43 U.S.C. 1716(b)). Public Law 90–171 (16 U.S.C. 484a; commonly known as the “Sisk Act”) shall, without further appropriation, apply to any cash equalization payment received by the United States under this section.

(e) **SPECIAL USE PERMIT TERMINATION.**—Upon execution of the land exchange authorized by this section, all special use cabin permits on the Federal land shall be terminated.

SEC. 6. MISCELLANEOUS PROVISIONS.

(a) **EXCHANGE TIMETABLE.**—Not later than 6 months after the Secretary receives an offer under section 4 or 5, the Secretary shall execute the exchange under section 4 or 5, respectively, unless the Secretary and MCJV or DPSHA, respectively, mutually agree to extend such deadline.

(b) **EXCHANGE PROCESSING.**—Prior to executing the land exchanges authorized by this Act, the Secretary shall perform any necessary land surveys and required preexchange clearances, reviews, and approvals relating to threatened and endangered species, cultural and historic resources, wetlands and floodplains and hazardous materials. If 1 or more of the Federal land parcels or lots, or portions thereof, cannot be transferred to MCJV or DPSHA due to hazardous materials, threatened or endangered species, cultural or historic resources, or wetland and flood plain problems, the parcel or lot, or portion thereof, shall be deleted from the exchange, and the values of the lands to be exchanged adjusted in accordance with subsections (d) and (e) of section 4 or section 5(d), as appropriate. In order to save administrative costs to the United States, the costs of performing such work, including the appraisals required pursuant to this Act, shall be paid by MCJV or DPSHA for the relevant property, except for the costs of any such work (including appraisal reviews and approvals) that the Secretary is required or elects to have performed by employees of the Department of Agriculture.

(c) **FEDERAL LAND RESERVATIONS AND ENCUMBRANCES.**—The Secretary shall convey the Federal land under this Act subject to valid existing rights, including easements, rights-of-way, utility lines and any other valid encumbrances on the Federal land as of the date of the conveyance under this Act. If applicable to the land conveyed, the Secretary shall also retain any right of access as may be required by section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9620(h)) for remedial or corrective action relating to hazardous substances as may be necessary in the future.

(d) **ADMINISTRATION OF ACQUIRED LAND.**—The land acquired by the Secretary pursuant to this Act shall become part of the Tonto or Coconino National Forest, as appropriate, and be administered as such in accordance with the laws, rules, and regulations generally applicable to the National Forest System. Such land may be made available for domestic livestock grazing if determined appropriate by the Secretary in accordance with the laws, rules, and regulations applicable thereto on National Forest System land.

(e) **TRANSFER OF LAND TO PARK SERVICE.**—Upon their acquisition by the United States, the “Montezuma Castle Contiguous Lands” identified in section 4(d)(1) shall be transferred to the administrative jurisdiction of the National Park Service, and shall thereafter be permanently incorporated in, and administered by the Secretary of the Interior as part of, the Montezuma Castle National Monument.

PURPOSE OF THE BILL

The purpose of H.R. 4919 is to provide for the exchange of certain lands in the Coconino and Tonto National Forests in Arizona, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

This bill directs the Secretary of Agriculture (U.S. Forest Service) to perform two land exchanges: the Montezuma Castle Land Ex-

change in the Coconino National Forest in Arizona, and the Diamond Point Land Exchange in the Tonto National Forest, also in Arizona. The bill requires that the exchanges be equal-value exchanges as required by Federal Lands Policy Management Act, with the value determined through fair market appraisal in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions.

Montezuma Castle Land Exchange: The Forest Service will acquire a 157-acre parcel of private land adjacent to Montezuma Castle National Monument, which it will re-convey to the National Park Service, and the 108-acre "Double Cabin Park" parcel, both in the Coconino National Forest. In the exchange, the Montezuma Castle Land Exchange Joint Venture, an Arizona partnership, will receive approximately 122 acres of National Forest System land adjacent to the Town of Payson Municipal Airport.

The Montezuma Castle land exchange will protect riparian areas along Beaver Creek, the view-shed for the National Monument, and it will transfer Double Cabin Park to federal ownership. On March 17, 2002, the Town of Payson adopted a resolution in support of the land exchange.

Diamond Point Land Exchange: In this land exchange, the Forest Service will receive a 495-acre parcel known as the "Q Ranch" in an area where it has completed previous acquisitions and consolidated federal holdings. In exchange, the Diamond Point Summer Homes Association will acquire 108 acres of federal land which have been occupied by the Association's 45 residential cabins since the 1950s. The Tonto National Forest Plan specifically recommends conveyance of the federal land to the cabin owners.

The Diamond Point Land Exchange will transfer public land of limited public use to the Association in exchange for private lands that will greatly increase the management efficiency and enhance the public access, use, and enjoyment of the surrounding National Forest lands.

The following groups have endorsed the proposed land exchange: Diamond Point Summer Homes Association, National Park Service, Payson Regional Economic Development Corp., Conservation Fund, Town of Payson, Gila County Board of Supervisors, and Rim County Regional Chamber of Commerce.

COMMITTEE ACTION

H.R. 4919 was introduced on June 12, 2002, by Congressman J.D. Hayworth (R-AZ). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Forests and Forest Health. On June 20, 2002, the Subcommittee held a hearing on the bill. On July 24, 2002, the Full Resources Committee met to consider the bill. The Subcommittee was discharged from further consideration by unanimous consent. On September 12, 2002, the Full Committee continued consideration of the bill. Mr. Hayworth offered amendments en bloc to clarify that if endangered species, wetlands, or hazardous materials are found on the land to be transferred, the transfer will not occur; to reduce the size of the Double Cabin Park from 143 acres to 108 acres; to transfer the 157-acre parcel adjacent to Montezuma Castle National Monument directly to the National Park Service; and to make some technical corrections. It was adopted by voice vote. The

bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 and Article IV, section 3 of the Constitution of the United States grant Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. The Committee believes that enactment of this legislation will have little impact on the federal budget, as it involves two equal-value land exchanges.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in tax expenditures. If cash equalization payments are required, then the Secretary of Agriculture can receive and spend any funds received under the Sisk Act.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of the Congressional Budget Office.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.