

S. HRG. 108-196

**ALTERNATIVE TREATMENTS FOR TIMBER; LAND EXCHANGE IN
ARIZONA; PAYMENT IN LIEU OF TAXES PROGRAM; AND
VALLES CALDERA PRESERVATION ACT**

HEARING
BEFORE THE
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS
OF THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

ON

S. 432

TO AUTHORIZE THE SECRETARY OF THE INTERIOR AND THE SECRETARY OF AGRICULTURE TO
CONDUCT AND SUPPORT RESEARCH INTO ALTERNATIVE TREATMENTS FOR TIMBER PRODUCED
FROM PUBLIC LANDS AND LANDS WITHDRAWN FROM THE PUBLIC DOMAIN FOR THE NATIONAL
FOREST SYSTEM, AND FOR OTHER PURPOSES

S. 511

TO PROVIDE PERMANENT FUNDING FOR THE PAYMENT IN LIEU OF TAXES PROGRAM,
AND FOR OTHER PURPOSES

S. 849

TO PROVIDE FOR A LAND EXCHANGE IN THE STATE OF ARIZONA BETWEEN THE SECRETARY
OF AGRICULTURE AND YAVAPAI RANCH LIMITED PARTNERSHIP

S. 1582

TO AMEND THE VALLES CALDERA PRESERVATION ACT TO IMPROVE THE PRESERVATION OF THE
VALLES CALDERA, AND FOR OTHER PURPOSES

SEPTEMBER 11, 2003

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**ALTERNATIVE TREATMENTS FOR TIMBER;
LAND EXCHANGE IN ARIZONA; PAYMENT IN
LIEU OF TAXES PROGRAM; AND VALLES
CALDERA PRESERVATION ACT**

THURSDAY, SEPTEMBER 11, 2003

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 2:30 p.m. in room SD-366, Dirksen Senate Office Building, Hon. Larry Craig presiding.

**OPENING STATEMENT OF HON. LARRY E. CRAIG,
U.S. SENATOR FROM IDAHO**

Senator CRAIG. Good afternoon, everyone. The Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources will be convened.

We've got some time-sensitivity this afternoon. The two Senators from Arizona—the Senator from Wyoming, are needing to catch aircraft, and so we're going to adjust the agenda a little bit. To do so, I'll withhold my opening statement until Senator Kyl and Senator McCain have made their opening statements, and then I would ask Under Secretary Mark Rey to come forward with Dennis Wells and Tony Gioia to discuss with us the primary issue that the Arizonans are focused on at this hearing, S. 849, which would provide a land exchange in the State of Arizona between the Secretary of Agriculture and the Yavapai Ranch Limited Partnership.

So, with that, let me turn first to my colleague from Arizona, Jon Kyl, for his comments, and then we'll move on.

STATEMENT OF HON. JON KYL, U.S. SENATOR FROM ARIZONA

Senator KYL. Thank you very much, Mr. Chairman. What I'm going to do is submit my statement for the record and simply give about 60 seconds of background.

And then I'd like to yield to Senator McCain, who will have a statement that I'm sure expresses our views with respect to the Yavapai land exchange, simply to say that this is a very large land exchange and would be very difficult to accomplish administratively. That's why folks came to both Senator McCain and me asking for help in getting it done legislatively. There are about 35,000 acres of private land, a lot of it checkerboarded. You've got some

ponderosa pines of, I think, over 200 or 300 years, and juniper over 500 years old. The land wraps around a juniper wilderness area, and, therefore, would be a sound thing for us to do, both from a management perspective of the Prescott National Forest, as well as environmentally sound. And, of course, the Forest Service has land that it would like to exchange that would help the city of Williams, that would help the city of Flagstaff, and then some additional land that has some commercially develop-able potential.

So all the elements are there for a good exchange. I want to thank Mark Rey and the Forest Service people for being very cooperative and trying to work out a lot of problems. The bill is probably not perfect. There are a few things that still need to be looked at. Senator McCain, I know, wants to hold some meetings in Arizona with people who are affected, and then hopefully come back to the committee and take whatever action is appropriate at that time.

When we get to the witnesses, I would like to also say a word or two about at least one of the witnesses from Arizona who is here.

But I hope that the committee will be able to eventually act positively on this land exchange proposal.

[The prepared statement of Senator Kyl follows:]

PREPARED STATEMENT OF HON. JON KYL, U.S. SENATOR FROM ARIZONA

Mr. Chairman, thank you for holding this hearing on S. 849, the Northern Arizona National Forest Land Exchange Act of 2003. This bill, which I introduced with Senator McCain, facilitates a large and very complex land exchange in Arizona. This work is the product of months of discussions between the Forest Service, community groups, local officials, and other stakeholders. It will allow communities to accommodate growth and improve the management of our forests; it will also yield many environmental benefits to the public.

This bill will protect some of Arizona's most beautiful ponderosa pine forests from future development by placing approximately 35,000 acres of private land into public use: It consolidates a 110 square mile area in the Prescott National Forest near the existing Juniper Mesa Wilderness under Forest Service ownership, to preserve the area in its natural state and prevent its subdivision. This land has old growth ponderosa pine that is at least 250 years old and juniper that is 500 years old or older. Consolidation will preserve the area for watershed management, wildlife habitat, and outdoor recreation. Without consolidation, these tracts would be open to future development. I am pleased that this bill will preserve them for future generations.

This bill significantly improves management of the Prescott National Forest. The existing checkerboard ownership pattern in the Prescott makes management and access difficult. The exchange improves management of the forest by consolidating this land, and allowing the Forest Service to effectively apply forest-restoration treatments designed to improve forest health and reduce hazardous fuels. In turn, better management will help decrease the fire risk in Arizona's forests. The importance of improved management and efficient restoration treatments cannot be overstated given last year's devastating Rodeo-Chediski fire.

In addition to protecting Arizona's natural resources, this bill allows several Northern Arizona communities to accommodate future growth and economic development, and to meet other municipal needs. The exchange will allow the cities of Williams and Flagstaff to expand their airports and water-treatment facilities, and develop town parks and recreation areas. The town of Camp Verde will have the opportunity to acquire lands for view shed protection. Several youth organizations throughout northern Arizona will be able to acquire land for their camps.

This land exchange is supported and endorsed by many municipalities, religious institution's, environmental groups, and other non-governmental organizations in Arizona. Experts from the Arizona Game and Fish Department have reviewed the lands to be exchanged and strongly support the proposal. I have received hundreds of letters and petitions from residents expressing support for it. This exchange is extremely important to the residents of Arizona.

Mr. Chairman, this land exchange is a unique opportunity to protect Arizona's natural resources while accommodating the tremendous growth that my state is experiencing. This bill is good for the state of Arizona and I plan to work with my colleagues to ensure that we pass this important legislation.

Senator CRAIG. Thank you very much, Jon.

Senator Thomas, you are time sensitive? You're okay for a few moments, okay?

Well, then let us turn to the senior Senator from Arizona, John McCain for his testimony.

Senator MCCAIN. Thank you, Mr. Chairman.

I had an hour-long opening statement, if that——

[Laughter.]

Senator CRAIG. Well, for the sake of everyone——

[Laughter.]

Senator CRAIG [continuing]. And I'm primarily referring to their backsides—how about cutting that a few minutes?

[Laughter.]

Senator CRAIG. Please proceed.

STATEMENT OF HON. JOHN MCCAIN, U.S. SENATOR FROM ARIZONA

Senator MCCAIN. Thank you very much, Mr. Chairman. I appreciate the opportunity, and I will be brief, although this is a very complex—as my colleague, Senator Kyl, said, this is a very complex and perhaps the most challenging land issue that I have ever been involved in, and I've been involved in numerous wilderness bills and other acts of legislation that affected my State. But this is probably the most complex; and, frankly, still with issues unresolved, issue that I've been involved in.

And, as Senator Kyl mentioned, it's 170 square miles of private and Federal forest lands in Arizona. It's of significance, not only because of its size, but because of the diverse nature of the lands involved, from literally all over the northern part of the State, the range of environmental and economic interests represented, and the associated benefits for Arizona's citizens and the American public, including the cities of Flagstaff and Williams, who very badly need additional lands in order to account for their growth and expansion.

There are serious water issues that have been raised. There are serious land issues that have been raised by the State, and land conservation issues, as well.

Senator Kyl and I have spent far more time and effort than I had ever anticipated examining this complex land exchange procedures and the issues associated with it. My support to facilitate the land exchange is contingent on the knowledge that the transaction represents a fair and equal value exchange which represents the interests of Arizona citizens and taxpayers. And obviously, Mr. Chairman, it must conform to standard appraisal practice in established Federal land exchange procedures, secure fair market value for the Federal land, and allow consideration of the views of Arizona citizens affected by the exchange.

According to extensive documented communication with the Forest Service, the bill conforms to standard land exchange practices and established procedures. I believe the exchange will yield appre-

cial benefits to the public through the consolidation of national forest land to the communities of Flagstaff and Williams, in terms of economic and other opportunities, to a number of private camps, and to the communities of Clarkdale and Camp Verde. In particular, the public will benefit from the increased protection of the juniper wilderness area and the streamlined management of consolidated forest and range lands. The communities of Flagstaff and Williams and the private camps have expressed their strong desire to acquire lands involved, for various beneficial purposes.

Benefits that will accrue to the Verde Valley Communities are less certain, particularly concerns regarding the availability of adequate water supplies to sustain new development of the 3,000 acres included in the Verde Valley. This bill restricts water usage on the two Verde Valley parcels to 850-acre feet per year as a responsible and necessary measure in a water-scarce area. However, current information indicates that groundwater supplies may be more limited than we originally understood. In addition, the Arizona Department of Water Resources has recently indicated that there are problems with the State enforcement of the conservation easements restricting water use.

I'm very grateful to have the involvement and background and knowledge of Senator Kyl on this water aspect of it. As the chairman is probably aware, he once was heavily involved in all the water issues affecting our State.

The information to be presented today on the range of benefits and effects of the land exchange warrants careful examination. As Senator Kyl mentioned, we intend, as this process moves forward, to be in consultation with the people, especially in the Verde Valley, where the controversy concerning this bill.

I look forward to reading the testimony from the Forest Service and the Arizona witnesses, Mr. Dennis Wells, an old friend, and Mr. Tony Gioia.

So, Mr. Chairman, I thank you. As I mentioned, this is very, very complex. There are still some issues that need to be ironed out, but I do think it's appropriate to move this process forward with this hearing at this time.

I thank you, Mr. Chairman.

Senator CRAIG. Senator, thank you very much for that testimony.

Are there any questions of any of our colleagues to Senator McCain or Kyl, for that matter?

[No response.]

Senator CRAIG. Well, if not, we thank you very much. We will stay on this issue so that we don't conflict the record, and we'll ask Under Secretary of Natural Resources and the Environment for U.S. Department of Agriculture, Mark Rey, to come forward. We'll also ask Dennis Wells, city manager of Williams, Arizona, and Tony Gioia, council member from Camp Verde, Arizona, to come forward and be seated at the table.

Senator MCCAIN. Thank you, Mr. Chairman. I want to assure you, on the part of Senator Kyl and myself, this land will all be cleared for forest fire protection in case of passage.

Senator CRAIG. Yes.

Senator MCCAIN. We thank you, Mr. Chairman.

Senator CRAIG. Thank you.

While these folks are being seated, why don't I turn to the ranking member of the full committee, Senator Bingaman, of New Mexico, for any opening comments he would wish to make on this or any other issue.

**STATEMENT OF HON. JEFF BINGAMAN, U.S. SENATOR
FROM NEW MEXICO**

Senator BINGAMAN. Thank you very much, Mr. Chairman.

Let me talk about two of the bills. First, thank you for having the hearing today. I think it's very timely. I wanted to speak very briefly about S. 511, which is a bill to ensure that the fully authorized amount of the Payment in Lieu of Taxes program is made available to the States each year, removing that program from the appropriations process, where it's been now forever. As you know and as all of us from the West know, this is an extremely important program for the States that have a great deal of Federal land. Our local government entities there, particularly counties, are very dependent upon these PILT payments. They represent only a partial compensation for the loss of the tax base that's involved when the Federal Government owns a substantial amount of land in the county, but it's a very important source of funds for the local government entities.

The PILT program has never been funded at its fully authorized level. This bill would ensure that it is funded at that level. I hope very much we can move ahead on that legislation successfully.

Let me just point out that our witness today on S. 511 is county commissioner Harry Mendoza, from McKinley County, New Mexico, in our State. We're very proud of the work he's done. He's here representing the National Association of Counties. He's one of two county commissioners in the country who were recognized by the National Association of Counties with their 2003 Caucus Courthouse Award for the good work he's done in bringing about an expansion of the courthouse in McKinley County. I've had the good fortune to work with him on many issues, and can attest to his great public service. I'm very pleased that he is here.

The second bill I just wanted to say a word about is S. 1582. This simply makes some technical changes to the Valles Caldera National Preserve legislation that we passed a few years ago. Senator Domenici and I were both strongly in support of that, and I think we both strongly support these clarifying and technical amendments. Those are also on your list of bills to be considered today.

I appreciate you allowing this hearing on both of those pieces of legislation. Thank you.

Senator CRAIG. Senator Bingaman, thank you very much.

Now let me turn to my colleague from Wyoming, Senator Craig Thomas. He has a time-sensitive schedule today, also.

**STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR
FROM WYOMING**

Senator THOMAS. Thank you, Mr. Chairman, I appreciate it. Thank you for having this hearing.

I'm specifically here to comment on the Payment in Lieu of Taxes program. Certainly, we've been very supportive of that. We helped increase the authorization when I was in the House. I've spear-

headed efforts now to keep it up through the fiscal year 2004. So, obviously, the support in counties and so on for this money is legitimate and is very necessary.

However, I think it's important to take a look at the costs and the implications of this becoming an entitlement. As we're going through appropriations, it points out the fact that entitlements are fairly easy to set. You don't have to balance the rest of the budget and these other kinds of things. So it would cost nearly \$4 billion over the next 12 years, in addition. So I think we have to really take a look at that, particularly. It would require us to find some additional sources of funding, take it away from something else or else raise taxes. So we need to take a long look at it.

The point I wanted to make, however, is that I think there's another aspect of it that we ought to look at. Fifty percent of Wyoming belongs to the Federal Government. And they were concerned about adding more Federal land in our State. Over the past 8 years, there's been 130-million-acre increase in the number of acres that qualify for PILT payments, representing a 25 percent growth in land eligible. Currently, 614 million acres are eligible for PILT payments, and the Federal Government continues to acquire land. The State of Montana legislature, interestingly enough, passed a law to prohibit the sale of State lands to the Federal Government.

So I think we need to take a look at that and put a little sense in it. I've had a bill, as some of you are aware, for a good long time that says No Net Loss of Private Lands Act, which would limit Federal land acquisition in States where the Federal Government owns more than 25 percent of the land. When the Government purchased a hundred acres, it would be required to dispose of a similar amount so that there's no net gain. This would not inhibit, of course, acquiring pristine or special areas. But I do think that as we see this PILT demand go up, we not only need to look at the funding, but we also need to look at the amount of acres that are continuing to go in there.

And it works. We just did a thing in the Big Horn National Forest, where we provided Federal protection to a unique area and released planned Federal land to the private sector in another side. So we can do this.

So, Mr. Chairman, I hope as we go forward with this, we not only take a look at the funding available for PILT, but also the requirements of funding, in terms of additional Federal land, most of which—much of which, particularly BLM land, does not have any particular significance, and it could well be traded off for some of the other kinds of things.

So, thank you very much, sir.

[The prepared statement of Senator Thomas follows:]

PREPARED STATEMENT OF HON. CRAIG THOMAS, U.S. SENATOR FROM WYOMING

Thank you, Mr. Chairman. I appreciate you having this hearing and I wanted to be here to specifically discuss S. 511, which would provide permanent funding for the Payment in Lieu of Taxes (PILT) program.

As you know, I am a supporter of PILT and have spear-headed efforts to increase PILT funding, including for Fiscal Year 2004. This program helps fund county governments for lost property taxes due to the presence of federal lands. In states like Wyoming, PILT funding is vital, as roughly half our land is owned by the federal government. However, it is important to look at the costs and implications of creating a new entitlement.

Estimates indicate that creating a PILT entitlement would cost nearly \$4 billion over a 12 year period. As a fiscally conservative member, I am concerned about the budget and our current spending, particularly with ongoing focus on defense and homeland security. Clearly, S. 511 will require us to find possible funding sources, which include increasing taxes or making cuts to other programs. Before such actions are taken, I strongly believe we have to look at our entire public lands system and address other concerns before moving forward.

As I mentioned, since 50 percent of Wyoming is already owned by the government, I am generally not in favor of adding more federally-owned land to our state. Over past 8 years, there has been a 130 million acre increase in the number of acres that qualify for PILT payments, which represented a 25 percent growth in lands eligible for PILT payments. Currently, 614 million acres are eligible for the PILT program, and the federal government continues to acquire land. For those of us in the West, we know all too well that the federal government isn't always the best neighbor. In fact, the State of Montana recently passed a law to prohibit the sale of state lands to the federal government. Congress must instill some common sense and restraint in federal land acquisitions before creating an entitlement based on an ever-growing federal estate.

Earlier this year, I introduced the "No-Net-Loss of Private Lands Act" which would limit additional federal land acquisitions in states where the federal government owns 25 percent or more of land. When the government purchases 100 acres or more, this bill would require the government to relinquish land of equal value it back into private ownership in the same state where the acquisition occurs. I want to emphasize that the bill would do nothing to limit ability to acquire pristine and special areas in the future. Through land exchanges, I have seen how well the concept of "No Net Loss of Private Lands" actually works. For example, in an area near the Big Horn National Forest, I worked closely with county commissioners to successfully provide protection for a unique area through federal acquisition, while releasing planned federal land relinquishments for the benefit of the neighboring county. Land exchanges can promote cooperation between the federal, state, and local levels of government.

I hope this Committee will consider concepts included in the "No Net Loss of Private Lands" bill when discussing the PILT program, particularly before any action is created to provide permanent funding to compensate for federal government's insatiable appetite for additional land.

Thank you Mr. Chairman. I look forward to hearing from our witnesses.

Senator CRAIG. Senator, thank you very much. Obviously, PILT, for all us in public-land States, is a very valuable and important resource and form of revenue for our local counties. And I appreciate all of our efforts in that area.

Now we're going to turn to our panelists. I am going to turn to our two citizens of Arizona first, because Secretary Rey will remain at the table for other issues that he's here to testify on. So we'll move in that direction. I think if we were to do this as a contest of who had traveled the furthest, gentlemen, you would be the winner and should ultimately be the first in line.

So, with that, let me turn first to Dennis Wells, the city manager from Williams, Arizona, for your testimony.

Dennis.

**STATEMENT OF DENNIS WELLS, MANAGER,
CITY OF WILLIAMS, AZ**

Mr. WELLS. Thank you, Mr. Chairman.

Good afternoon, Mr. Chairman and members of the sub-committee. My name is Dennis Wells. I am the city manager for the city of Williams, which is located 30 miles west of Flagstaff, north-central Arizona.

My previous public service includes 18 years as a member of the Coconino County Board of Supervisors, Flagstaff, nearly 5 years with the Arizona State Land Department, first as deputy State

land commissioner and then as land commissioner, and, most recently, as town manager for the city of Williams.

I'm here today representing five cities and towns: Flagstaff, Camp Verde, Clarkdale, Cottonwood, and Williams, all of which have land parcels involved in the Yavapai Ranch land exchange.

What I would like to do, and in the interest of time, is simply to speak from personal experience. The first hat I would like to put on is my hat as the city manager.

Williams is in a water crisis. I am fortunate in that I'm able to follow through on some of the things my granddad started back in 1913, when he first came to Williams, and all through the years he and my father fought to assure water adequacy and water development for the Williams area.

Williams has been dependent upon surface water throughout its history. Just recently, we began to drill deep water wells, some of them approaching 4,000 feet deep into our aquifer red limestone. My reason for stating this is that I believe, as a city manager, that not only Williams, but the other cities involved, have some immediate and very pressing needs which this land exchange will help to address. Williams is in a water crisis. We need water wells. We need some additional water wells to assure the water future of the Williams area. Williams is one of the last untouched or relatively sleeper communities, if you will, on the Mogollon Rim, and we know that growth is coming, the growth demand is there, and we need water to accommodate those needs, not only for the town, but for the country residents in the area, as well.

Williams also has a wastewater plant we need to build. We're not in ADEQ standards currently. We have an airport expansion which this land exchange will help us to accommodate. And we have a new water filtration plant, which we need to actually double the water capacity of. So, you know, we have some very immediate and pressing needs; the water crisis, of course, being the number-one.

City of Flagstaff, some very needy transportation needs. They need to expand their airport. They need additional runway length, and they need a second runway. Flagstaff has been basically saddled with an inadequate airport for a number of years. Any of you who have flown in and out of Flagstaff understand what I'm talking about. It's difficult and very costly to get in and out of Flagstaff by airplane. It is the capital of northern Arizona.

These infrastructure choices and options for all five cities and towns, I believe are very important. I think there's an immediate need. If this exchange, for instance, were to go to an administrative process, I believe it would not happen. And certainly these immediate and pressing needs would not be addressed.

Switching hats, I'd like to talk a little bit as a former State land commissioner. The checkerboard pattern, which I believe is somewhat—we used to call it “smallpox” at the Land Department, because it is really—it's a pox on the land. The checkerboard pattern is negative in a number of ways. And here we have an opportunity to consolidate a large piece of checkerboard land in North Arizona some 110-plus square miles in size. You can imagine a city planned and developed in a checkerboard pattern, where every other section was developed and then undeveloped. Can you imagine a park that was in a checkerboard pattern? You know, there are many, many

negative factors involved with trying to manage a checkerboard pattern of land.

This is another reason that we need to get this exchange going. The Yavapai Ranch, of which I've been familiar with for about 20 years now and visited many times, is a very unique and beautiful location. It does not need to be developed as a wildcat-style development on this checkerboard pattern, which will certainly have a very deleterious and negative impact on it into the future. So for that reason, I would say, in looking from the State perspective and from my experience as State land commissioner, we need this trade.

Hat number three, which I would like to don, is really from the longest period of time in my public career, my 23 years in public life, and that is 18 years as a Coconino County supervisor working out of Flagstaff.

You know, Congress has some enormous issues to deal with here. You're dealing with billions of dollars, you're dealing with a war on terrorism, how do you rebuild Iraq, \$80-plus-billion, enormous issues. Local government, on the other hand, deals with on-the-ground issues that are closest to the citizens and the people that are in on the countryside. And, you know, that's my love. Local government is my love. And I can tell you that the Yavapai Ranch land exchange will give these local communities the opportunity and the options to do what they need to do to supply the infrastructure they need to address water needs, transportation needs, schools, hospitals, many, many different impacts into the future. So, in my eyes, the Yavapai Ranch land exchange is certainly going to go down as a big piece of Arizona history and a very positive move by this congressional body.

And, with that, Mr. Chairman, I believe I'd like to conclude my statements.

Thank you.

[The prepared statement of Mr. Wells follows:]

PREPARED STATEMENT OF DENNIS WELLS, MANAGER, CITY OF WILLIAMS, AZ

Good afternoon, Mr. Chairman and Members of the Subcommittee. My name is Dennis Wells, and I am the City Manager for the City of Williams, which is located on historic Route 66 in north central Arizona. My previous public service includes 18 years as a member of the Coconino County Board of Supervisors and nearly 5 years with the Arizona State Land Department as the Deputy Commissioner, and then State Land Commissioner.

I am a third-generation native of Williams, Arizona. My great-grandfather first traveled to Northern Arizona in the late 1800's as a surveyor with the Atchison Topeka and Santa Fe railway for a rail line along the 35th parallel. My grandfather, Frank Wells, settled in Williams in 1913, one year after statehood. He acquired the Williams Grand Canyon News; the local newspaper is still owned and managed by a member of the Wells family.

I am here today as a representative of five Cities and Towns: Flagstaff, Camp Verde, Clarkdale, Cottonwood, and Williams; all of which have land parcels involved in the Yavapai Ranch land exchange exchange, and all of which have strongly endorsed the land exchange proposal. I also bring letters of support from the elected officials of Prescott, Prescott Valley, Chino Valley, and the Coconino County Board of Supervisors, all of which are interested in seeing the land exchange move forward due to the very significant land and watershed protections it will achieve by consolidating National Forest ownership on the Yavapai Ranch.

Until recently, the City of Williams relied completely on surface water supplies to service the community. Water crises came and went, yet the community was always able to survive through conservation and very wise use of the water which was available. However, the current drought cycle, which some have called the worst

drought in the past 300-500 years, has severely challenged Williams and its northern Arizona neighbors. Surface water reservoirs in Williams are currently at a minimal 8% of capacity, I repeat, only 8% of capacity, and were as low as 4% as recently as the summer of 2002.

The City of Flagstaff is facing similar water challenges.

I begin my testimony with this emphasis on water to share with you the profound awareness of the importance of wise water management by the elected officials and managers of the five cities and towns involved in S. 849. All five of these cities and towns strongly support the passage and early implementation of the legislation because they believe that this trade will have a net-positive impact on our future water resources and municipal water programs.

For the City of Williams, this land exchange will provide new land for important deep well drilling sites which are currently on Forest Service land. We need to acquire the Forest Service land because it is extremely complicated and time consuming to secure permits and other authorizations to drill and administer wells for municipal use on public land. And frankly, we hear from the Forest Service that they would prefer to get out of these types of permitting and administrative functions. The future of Williams and surrounding environs depends on the privatization of these parcels so we can expeditiously begin these efforts to augment our water supplies. Williams will also benefit by acquiring the land for our water filtration plant and a wastewater treatment plant expansion. Similarly, in Flagstaff, one of the parcels that will be conveyed to the City is the current site of their municipal water treatment plant.

The Cities and Towns of Camp Verde, Cottonwood and Clarkdale support this land exchange because it preserves a 50,000 acre area in the upper Verde River watershed from future development. Rather than threatening the Verde Valley's scarce water resources, consolidating these pristine lands on the Yavapai Ranch into Forest Service ownership shields a possible recharge area of the upper Verde River. In addition, residential and commercial development on the exchange parcels in or near these cities and towns will be subject to new water conservation and land use restrictions, and local community planning standards. Water from current sources has already been identified for the parcels in this trade that would eventually be developed.

I have stressed the benefits of this land exchange in terms of watershed management, water supply, and water conservation, but there are other conservation, economic and growth management benefits for our citizens and municipalities.

This land exchange will create a block of more than 70,000 acres of unfragmented wildlife habitat. As the Arizona Department of Game and Fish has indicated, these Yavapai Ranch lands are prime big game habitat for populations of pronghorn antelope, elk, deer, turkey and mountain lion. The Yavapai Ranch lands also include the largest stand of privately owned Ponderosa Pine in Arizona, as well as Alligator Juniper trees that are more than 850 years old. Consolidation of these checkerboard lands will preserve thousands of acres for open space, recreation, hunting, and other wilderness activities. As a former State Land Commissioner, I can attest that preserving large blocks of pristine land is important to our way of life, and to our tourism based economies.

Mr. Chairman, I would be remiss if I did not emphasize the significant economic benefits from this land exchange.

The Cities and Towns of Flagstaff, Williams, Camp Verde, Cottonwood and Clarkdale also value the tax impacts and economic development benefits of the Northern Arizona Land Exchange Act of 2003. Through this exchange, lands adjacent to the Flagstaff and Williams airports will be passed through to these cities for future runway extensions and other airport improvements. Airport improvements are vital to northern Arizona's tourism-based economies as well as for business attraction, retention and expansion. Acquiring ownership of these lands will enable the cities to use federal matching grants for airport improvements and minimize general fund expenditures.

Business park and commercial development are planned for some of the Flagstaff, Williams and Camp Verde parcels. The business park expansion at Flagstaff's Pulliam Airport will provide a new land base for a future high-tech employment center. In addition, this trade will privatize land along Interstate 17 for commercial development in Camp Verde. The new tax revenues from this commercial development are critically needed in Camp Verde, a rapidly growing bedroom community. The exchange parcels in Camp Verde will also accommodate an emergency response facility with fire, hazmat, and emergency medical services, essential for rapid response along rural stretches of Interstate 17. The Camp Verde parcel is already-impacted land along the interstate and highway 260, land that is located far above and away from the scenic and fragile lands along the Verde River bottom making

it a logical place to accommodate future growth. And I note that the Yavapai Ranch partnership has committed in writing to keeping the land it acquires east of I-17 as open space. This view shed preservation is another reason the City strongly supports the exchange.

Mr. Chairman, Flagstaff, Williams and the cities and towns of the Verde Valley are among the fastest growing communities in Arizona. The parcels included in S. 849 were carefully determined through negotiations between the Yavapai Ranch Partnership and each of the Cities, Towns, and Youth Camps involved. The parcels and land uses outlined in this exchange have been incorporated into community plans and ratified by our citizens. For example: this land exchange will allow Flagstaff to fulfill components of its Regional Land Use and Transportation Plan. Williams will have access to land to fulfill its comprehensive water program. Development near Clarkdale will be aligned with the Town's General Plan, and all real estate developments on the land acquired near Camp Verde and Clarkdale will be subject to new Water Declarations for water use restrictions, limitations, and conservation measures.

In summary, Mr. Chairman, the land exchange embodied in S. 849 will advance and improve the quality of life for northern Arizona citizens, while at the same time protecting rare natural resources and consolidating a 110 square mile block of the type of pristine land that makes Arizona such a special place to live, work and vacation. I believe this land exchange is a "win-win" for all concerned.

This concludes my testimony. Thank you for inviting me to speak today. I would be happy to answer any questions the Subcommittee might have.

Senator CRAIG. Thank you very much, Dennis. We'll now turn to Tony Gioia, council member, Camp Verde.

Welcome.

STATEMENT OF TONY GIOIA, COUNCIL MEMBER, CAMP VERDE, AZ

Mr. GIOIA. Thank you. Thank you very much, Mr. Chairman and members of the committee. Thank you for the opportunity to testify on S. 849.

I am a council member of the town of Camp Verde, and here today with me is David Leibforth, council member of the town of Clarkdale, the two parcels most impacted in the Verde Valley by this exchange.

I speak as a private citizen representing thousands of concerned residents and many elected officials in the Verde Valley who have funded our trip.

I carry thousands of signatures in opposition to the inclusion of the Camp Verde and Clarkdale parcels in this trade. The decision to legislate the trade has deprived the people who own the public lands of full participation. The proponent, Mr. Ruskin, would be given over 21,000 acres, including 3,020 acres of public lands in the Verde Valley for development. Over 47,800 acres of private lands are already available for our growth in the Verde Valley. We certainly do not lack private land. What we do lack, as others do, are the water rights and resources to support and sustain our growth. Camp Verde and Clarkdale are at only 20 percent buildout. We must find the water before more public lands are privatized, not after.

My involvement with water issues includes co-chairman of Yavapai County Water Advisory Board and chairman of the Middle Verde River Planning Committee formed to implement Arizona Department of Water Resources Rural Watershed Initiative. This was conceived to protect and enhance watersheds. I also actively participate in numerous other regional local planning entities.

Records of dried-up wells and declining groundwater levels are included in my submittal, along with the Department of the Interior's map of potential water-supply crises of 2025. The Verde Valley is identified as an area where, quote, "existing supplies are not adequate to meet water demands for people, for farms, and for the environment."

The Verde Valley water supply is also threatened by litigation with the Salt River Project over subsurface water rights. Because water quantity and water quality are closely linked, we face such issues as arsenic concentration, e-coli contamination, and other threats to a safe water supply. Due to unacceptable arsenic levels, Camp Verde Water Company has closed eight of twelve wells in the town side. They now concentrate operations 7 miles outside of the town center. Like much of the arid West, our cities are having to look far afield just to find water to sustain present development. We would even consider projects to bring Colorado River water by pipeline from perhaps hundreds of miles away, were it feasible. The Verde Valley so-called "conservation easements" in this bill will actually allow, as you've heard, 850 acre feet per year—that is well over a quarter-billion gallons—to be drawn from lands which currently function as part of our watershed.

Watershed protection has always been a major goal of the National Forests, since its inception in 1891. These easements will result in an additional water burden in our area to supply 10,200 persons. To put it in perspective, that's more than the entire current population of Camp Verde.

Of particular concern is a gaping loophole in the bill, which apparently exempts municipal and private water companies from any water-use restrictions.

A recent U.S. Geological Survey fact sheet states that the present and future water situation in our valley is largely unknown. It poses fundamental questions concerning our hydrologic system relative to recharge, flow boundaries, sources of base flow, and the effects of current and future human water use.

There is a major opposition to circumvention of the National Environmental Protection Policy Act. Surely the largest and most complex trade proposal in Arizona history merits impact analysis. There is substantial controversy over many provisions of this proposal. The granting of extensive in-holdings, 5 square miles abutting the Juniper Mesa Wilderness, and the granting of water rights on the public lands, along with three 40-acre easements, to the proponent are obviously inconsistent with U.S. Forest Service land trade guidelines. There is an additional 6 square miles of private property that will be left in that checkerboard State abutting the Juniper Mesa Wilderness.

The land values in the checkerboard area were established in 1999 at \$1,925 per acre. In contrast, a .64 acre parcel adjacent to the Camp Verde trade parcel sold for \$750,000 in 2002. This begs the question of how equity can be reached.

We ask that the exchange go forward only with public input and appropriate impact studies. In pursuance of the public interest above all else, we implore you to remove all Verde Valley lands from this proposal. Please review the materials we have submitted

before you would act on this, and we thank you very much. And I welcome any questions.

[The prepared statement of Mr. Gioia follows:]

PREPARED STATEMENT OF TONY GIOIA, COUNCIL MEMBER, CAMP VERDE, AZ

Mr. Chairman and members of the committee. Thank you for providing us the opportunity to testify on Senate bill 849, the "Northern AZ National Forest Land Exchange Act of 2003".

My name is Tony Gioia. I am a Councilmember of the town of Camp Verde, Arizona. I am here today with David Leibforth, Councilmember of the Town of Clarkdale. Today, I speak as a private citizen, representing thousands of concerned residents and many elected officials in the Verde Valley. They have funded our trip here to testify on their behalf before this body. This five minutes is one of the few opportunities provided to have their voices heard on this issue.

Through letters and petitions, thousands of our region's citizens, including many public officials, have expressed strong opposition to the inclusion of the Clarkdale and Camp Verde parcels in this trade proposal. In 1998, citizens in the Verde Valley heard about a land exchange proposal to privatize national forest land near the towns of Camp Verde, Clarkdale, and Cottonwood. We learned that the exchange would not go through the normal agency process, but through legislation. The bill has been drafted by the proponent (Fred Ruskin) and his lobbyists. Negotiations with the Forest Service and Legislators followed. It amazes us that the public, who own these lands, have not been invited to participate in drafting the proposal. The local public's voice should be among the strongest.

Among the over 21,000 acres of land Mr. Ruskin would be given in the trade, he would receive more than 3,000 acres of public land in the Camp Verde and Clarkdale area for residential and commercial development. Over 47,800 acres of private lands are already available for growth in the Verde Valley. We certainly do not lack private lands for potential development. What we do lack are the water rights and resources to support and sustain growth. Camp Verde and Clarkdale are at only 20% build-out! We must find the water before more public lands are privatized, not after! My involvement with water resource issues includes Co-chairman of the Yavapai County Water Advisory Board, a letter from which is enclosed in your packet.* Chair of the Middle Verde River Planning Committee, formed to implement the Arizona Department of Water Resources "Rural Watershed Initiative", conceived to protect and enhance watersheds. I also actively participate in numerous other regional and local planning entities.

Some records of dried-up wells and ground water supplies are included in my submittal along with the Department of the Interior's map of "Potential Water Supply Crises by 2025". The map depicts the Verde Valley as an area where "existing supplies are not adequate to meet water demands for people, for farms and for the environment." The Verde Valley is also engaged in litigation with the Salt River Project over subsurface water rights. Because water quantity and water quality are closely linked, we face such issues as arsenic concentration, e-coli contamination, and other threats to a safe water supply. In the recent past, Camp Verde Water Company has had to close 8 of its 12 wells due to arsenic levels. Like much of the arid West, our towns are having to look far afield just to find water to sustain present development—and we would even consider projects to bring Colorado River water by pipeline from perhaps hundreds of miles away were it feasible.

The Verde Valley "water restrictions" in this bill will allow 850 acre feet per year (well over 1/4 billion gallons). Allowing the common planned area development standard of four families per acre foot, with an average family of three, these restrictions would impose an additional water burden to supply 10,200 persons on the newly privatized public lands which presently contribute to our watershed. This number of people is equivalent to the entire current population of Camp Verde. Of particular concern is a gaping loophole in the bill which exempts municipal or private water companies from any water use restrictions.

The U.S. Geological Survey recently released a fact sheet on the hydrogeology of the Verde River watershed as part of an investigation under the Rural Watershed Initiative. This paper, submitted to the record along with other materials on water, acknowledges that the present and future water situation in our valley is largely unknown. The USGS poses seven fundamental questions that must be answered concerning our hydrogeologic system, including questions regarding recharge, flow

*All attachments have been retained in subcommittee files.

boundaries, sources of base flow, and the effects of human water use now and in the future.

The Verde Valley Public Land parcels that would transfer to Mr. Ruskin sit on the Verde Fault, from which water is already being drawn by Camp Verde Water Company and the Cottonwood Waterworks. The Verde Fault apparently acts as a groundwater dam in some areas and as a pipeline in others. There is strong evidence that groundwater recharge is insufficient to meet existing needs in the area.

A major basis for so much strong public opposition to this proposal has been the circumvention of the National Environmental Policy Act. This, the largest land trade proposal in Arizona's history, must include the environmental analysis that comes with NEPA to understand the potential impacts on water supplies and the other potential consequences to the vast area this exchange would effect.

The aspect of NEPA that would be especially worthwhile in this case is the requirement that alternatives for a project be considered. Perhaps there are benefits to consolidating public ownership in the checkerboard lands of the Prescott National Forest and to the protection of the Juniper Mesa wilderness, but there is substantial controversy over many other provisions of this proposal. The granting of extensive inholdings (5 square miles) abutting the Juniper Mesa Wilderness and the granting of water rights and 40 acre easements to the proponent are obviously inconsistent with U.S. Forest Service land trade guidelines.

Surely, there are alternatives that could benefit the public and the proponent. Instead, we are offered an all-or-nothing proposition with potentially devastating impacts to our communities.

In conclusion, we ask, as we have for four years, that the exchange go forward only through the public process with appropriate impact studies and in pursuance of the public interest above all else. Should the legislation proceed, we implore you to remove from this proposal inclusion of all U.S. National Forest lands in the Verde Valley. I thank you and welcome any questions.

Senator CRAIG. Mr. Gioia, thank you very much for your testimony.

And before we ask questions of you, let me turn to our Under Secretary of Natural Resources and the Environment, Mark Rey.

STATEMENT OF MARK REY, UNDER SECRETARY, NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY TINA TERRELL, FOREST SERVICE

Mr. REY. Thank you, Mr. Chairman. Good afternoon, Senator Kyl.

Appearing with me, on my left, is Tina Terrell of the Forest Service, who has worked on this exchange and on the legislation and may assist me in responding to your questions.

The Department supports the exchange of land between the Yavapai Ranch Limited Partnership and Northern Yavapai, LLC, and the Forest Service. We view the exchanged, looked at in its entirety, to be in the public interest. The benefits of the exchange and the legislation are outlined in my testimony, which I'll submit for the record.

The exchange would consolidate the largest remaining checkerboard ownership in Arizona and simplify significantly the management of Federal lands. We do have a few concerns related to the partial deletion order and enforcement provisions associated with the conservation easements, and would be happy to work with the committee and the bill's authors to make what I think will amount to technical adjustments to the language in the bill, as introduced.

With that, I would be happy to respond to any of your questions.
[The prepared statement of Mr. Rey follows:]

PREPARED STATEMENT OF MARK REY, UNDER SECRETARY, NATURAL RESOURCES AND ENVIRONMENT, DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the subcommittee: Thank you for the opportunity to present the Administration's views on S. 432—the Public Lands Production Research Act of 2002, S. 849—the Northern Arizona National Forest Land Exchange Act of 2003, and S. 1582—the Valles Caldera Preservation Trust Act. The Department does not oppose S. 432 and supports the concept of the land exchange embodied within S. 849. The Administration would have no objection to S. 1582, if amended, to address concerns regarding the Federal competitive service, firefighting expenditures and the permanent Judgment Fund.

S. 432—THE PUBLIC LANDS PRODUCTION RESEARCH ACT OF 2003

S. 432 requires the Secretaries of Agriculture and the Interior to conduct and develop a research program into alternative wood preservative treatments for timber produced from public lands and lands withdrawn from the public domain for the National Forest System. This research program would include the use of silver-based biocides using silver produced from patented and unpatented mining claims. S. 432 provides that the research program may be implemented through contracts with public or private laboratories or research institutes with experience in the treatment of such products. The Department does not oppose S. 432.

The Forest Service has the largest forestry research organization in the world and is a national and international leader in forest conservation. Research conducted at our research stations and laboratories contributes to the advancement of science, and the conservation of many of our Nation's most valuable natural resources.

Forest Service scientists carry out basic and applied research to study biological, physical, and social sciences related to very diverse forests and rangelands. We produce information and technology to help manufacturers, mills, and small business operators become more efficient and friendly to the environment. We produce information and technology that can lead to improvements in forest conditions through the use of wood and fiber resources which are more diverse in species and size classes. Increasingly, new construction utilizes wood products engineered to specified sizes, shapes, and properties, requiring new technologies and knowledge of wood and other materials. Researching the use of silver-based biocides will help us evaluate organic and non-petroleum adhesives for wood products which could provide new ways of making larger materials from smaller timber resources.

A few examples of silver compounds research conducted by Forest Service scientists include:

- Currently conducting a feasibility assessment of silver compounds as a preservative for southern pine;
- Comparing six silver compounds in laboratory tests for inhibition of fungal wood decay and Eastern subterranean termite damage;
- Testing leach to demonstrate that silver containing compounds bind to the woody substrate and can inhibit leaching of boron.

We commend the Chairman for recognizing the importance of research in this area. To our knowledge, the bill does not authorize any activity not already authorized under current law. USDA could designate this area of research as a high priority within existing authorities to address research priorities based upon resource issues across the Nation. The bill's legislative direction could require USDA to limit other high-priority programs or projects that may rely upon the same limited funding source.

S. 849—THE NORTHERN ARIZONA NATIONAL FOREST LAND EXCHANGE ACT OF 2003

The Department supports the concept of a land exchange between Yavapai Ranch Limited Partnership, the Northern Yavapai, L.L.C. and the Forest Service, which would consolidate the largest remaining checkerboard ownership in Arizona. We do however, have some concerns related to the parcel deletion order and enforcement provisions associated with the conservation easements and would like to work with the committee on some clarifications.

S. 849 would authorize the exchange of approximately 55,000 acres of Federal and non-Federal land in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership. Pass-through provisions allow for some of the Federal land acquired by Yavapai Ranch Limited Partnership and the Northern Yavapai L.L.C. to be reconveyed to the cities of Flagstaff, Williams, and Camp Verde, Arizona, or to summer organizational camps identified in the bill.

This exchange can offer substantial benefits to all parties involved. The Forest units involved would benefit from simplified boundary management, reduced admin-

istrative costs, and the acquisition of lands adjacent to the Juniper Mesa Wilderness, which has significant forest, wildlife, and recreation values. Consolidating 110 square miles into solid Forest Service ownership is a significant gain from both administrative and resource standpoints.

The Department has suggestions to improve one section in the bill. Section 4 in S. 849 establishes conservation easements on the Camp Verde and Cottonwood parcels. These parcels are located on the Prescott National Forest. S. 849 needs greater detail concerning: (1) how a memorandum of understanding with the State of Arizona will be developed to enforce the conservation easements; (2) when the memorandum will take effect and for how long; and (3) how the Federal Government will be removed from liability. We would be happy to work with the committee and the bill authors to provide additional details.

In addition, the Department is concerned that the evaluation of the Federal parcels due to the conservation easements could result in the transfer of far more Federal land to the owners of the Yavapai Ranch and its related limited liability corporation than would otherwise occur if the market value of the Federal estate were fully and fairly valued, but the Federal government will hold these conservation easements in perpetuity.

S. 1582—VALLES CALDERA PRESERVATION ACT OF 2003

S. 1582, introduced by Senators Domenici and Bingaman, would make modifications to Public Law 106-248, the Valles Caldera Preservation Act. The Administration would have no objection to S. 1582, if amended, to address concerns regarding the Federal competitive service, firefighting expenditures and the permanent Judgment Fund.

The Valles Caldera National Preserve located in central New Mexico is a unique landmass, with nationally important scientific, cultural, historic, recreational, ecological, wildlife, and fisheries values. In passing the Valles Caldera Preservation Act in 2000, Congress recognized those values and established the National Preserve as an experiment in public land administration that incorporates elements of public and private administration so as to promote long-term financial stability consistent with the protection of the natural resources and the sustained yield for timber production, and domesticated livestock grazing. Under the terms and conditions of the 2000 Act, Secretary of Agriculture Ann Veneman authorized the Valles Caldera Trust to assume management of the National Preserve in August 2002. The Trust, comprised of 9 members appointed by the President, now oversees the management of the Preserve.

S. 1582 would:

- direct Federal agencies to classify rates of compensation and classification of Trust employees so that these employees are not precluded from consideration for Federal competitive service based on their current employment;
- allow the Board of Trustees to designate any Trust employees to solicit donations (under current law, only the Trustees may solicit donations);
- allow the Board of Trustees to set the compensation of the chair, subject to certain limitations;
- clarify that the prohibition against the disposal of real property by the Trust does not include the sale or other disposal of forage, forest products or marketable renewable resources;
- allow the Trust, subject to the laws applicable to Government corporations, to determine the character and necessity for any obligations and expenditures of the Trust and the manner in which expenditures and obligations shall be incurred, allowed, and paid;
- authorize the Trust to utilize the permanent judgment appropriation provided under section 1304 of title 31, U.S.C., for a claim, judgment, or settlement against the Trust; and
- direct the Secretary to provide, to the extent generally authorized at other units of the National Forest System, fire suppression and rehabilitation services and wildland fire severity funding for extraordinary preparedness. (The Secretary of Agriculture currently may provide pre-suppression, suppression and rehabilitation services at the request of the Trust, subject to reimbursement.)

The Administration has several concerns with S. 1582.

First, it should limit the number of Trust employees that may accept gifts in order to minimize the potential for fraud, conflicts of interest, or other ethical concerns.

Second, we have been advised that the Department of Justice opposes section 2(e) of the bill, regarding the eligibility of the Trust to pay claims, judgments, and settlements from the permanent judgment appropriation at 31 U.S.C. § 1304 (the "Judgment Fund"). In general, government corporations like the Trust should pay judg-

ments and settlements out of their own funds. Because the Trust is an autonomous corporation with its own funds and an entity whose liabilities are properly charged to corporate funds, it is appropriate for the Trust to continue to satisfy judgments and settlements against it out of Trust funds.

Third, OPM advises that Section 2 (a) of the bill would extend to excepted service employees of the Trust a preferential opportunity to apply for competitive service positions elsewhere that are not open to Federal employees generally, thereby creating an inequity between Trust employees and excepted service employees throughout Government who have no such opportunity.

Fourth, complex or large fires can require the expenditure of extensive fire fighting and emergency stabilization and rehabilitation resources. However, the bill provides no limitation, by time or amount, to the funds that could be provided to the Trust under these proposed authorities. The original act provides an expectation that the Trust should work toward the goal of financial sustainability. We assume S. 1582 continues that expectation with regard to fire suppression. The measure could be improved with the inclusion of language to establish limits of duration and funding for expenditures associated with firefighting together with appropriate levels of reimbursement.

In addition, the intent of Sec. 4(b)(2) for the Secretary to provide "rehabilitation" needs to be clarified as to whether the intent is for the Secretary to provide emergency stabilization or rehabilitation. These are two different programs. Emergency stabilization funds come from the wildland fire emergency operations account and are meant to protect persons, property and resources immediately after a large and damaging wildfire. Rehabilitation activities are longer term and are conducted through other ongoing management activities funded under different program appropriations. We believe that the bill should focus solely upon emergency stabilization activities on the Preserve, subject to the same time and amount limitations discussed earlier related to firefighting.

In addition, section 4(b)(2) would delete the current authority for the Secretary to provide the Trust presuppression activities subject to reimbursement. We believe it is appropriate for presuppression and rehabilitation activities to be provided by the Forest Service, under a cooperative agreement, with reimbursement by the Trust.

This concludes my statement. I would be pleased to answer any questions that you may have.

Senator CRAIG. Mr. Secretary, thank you very much.

Let me turn first to my colleague from Arizona, who needs to leave in a few moments, to let him do the first round of questions, and then I'll follow.

Senator KYL. Thank you very much, Mr. Chairman. I was going to introduce my old friend, Dennis Wells. I've just recently gotten to know Mr. Gioia. But since they were introduced otherwise, I'll just ask that Mr. Wells' fellowship for State and local executives at Harvard not be used against him on this Committee.

[Laughter.]

Senator CRAIG. It will be dutifully noted.

[Laughter.]

Senator KYL. Yeah. He thought it important to get a perspective from the other side, but—

Senator CRAIG. All right.

[Laughter.]

Senator KYL. He has a long history of involvement in land and water issues in Arizona, and I did want to make that point.

And I, again, want to reiterate that the Forest Service has been very, very helpful to us. As both of the other witnesses have noted, and as Senator McCain said, this is huge and there's a lot of complexity to it and just a lot of issues. And as soon as you think you have them all solved, somebody else comes forward with another question, and you work through that.

And I think, actually, this is not a problem with this exchange; it is an indication of how we can solve these problems. We could

have never done it without the help of the Forest Service. They've been very candid. There were certain issues that they were concerned about. We worked through some solutions with them. And I think there are a couple of things that we still have to iron out, although, hopefully, as Mark Rey said, they will be technical in nature.

The bill that's introduced here in the Senate is not a bill that is 100 percent, I think, supported by the Ruskin Family. It is supported by the Forest Service, with some caveats. And I think that is also true for other people in the region, because it is so complex. But I think that very fact, as I said, indicates a strength here, not a weakness. And in the meetings that Senator McCain and I hope to have with—and there have been many meetings so far; don't get the impression that there haven't been meetings—but in the meetings that we plan to have, we'll hope to hear additional comments, and if there are additional things we need to do to bring those suggestions to you so that the Committee won't have to do all of this work by itself. Hopefully we will have done that work for the committee.

I don't have any specific questions of either of the two witnesses, but I would like, in the interest of time—I think they both—I know Mr. Gioia has some questions that he would like to have answered. What I'd like to do is submit those questions for the record to the people who can appropriately answer them. I think that'll provide the record that we need.

And subject to that, I think I wouldn't have any additional comments, unless any of the other witnesses wanted to make a point.

Senator CRAIG. Thank you.

Let me move through some questions.

Senator KYL. Oh, can I just say one other thing?

Senator CRAIG. Yes. Please do.

Senator KYL. The word "camps" was mentioned earlier, and I wanted to explain what that is. There are a variety of camps. There's a camp for kids, for example, that is involved in this, and that's what that was referring to. There's a town called Camp Verde. But Young Life, for example—I think some of us are familiar with Young Life—and they're very strongly in support of this, because they have a camp that's involved in the land exchange.

So it's not just municipalities who will have airport needs, water needs, and so on met by this land exchange, or the benefit to the forest of being properly managed. There are some other interests who are strongly supportive because of the value to them, as well.

Senator CRAIG. Thank you very much, Jon.

Mark, how long would it take you to undertake a normal administrative exchange process on an exchange as complicated as this if it were not legislated? What would be your guessimate as to the time it would take to facilitate something of this kind by the Forest Service?

Mr. REY. Probably to get to a final exchange, somewhere in the neighborhood of 7 years. And any appeals for administrative decisions and litigation would follow that period.

Senator CRAIG. Okay.

Mr. Gioia, you've heard the testimony of Senator McCain, Under Secretary of Agriculture, and Mr. Wells. Understanding the con-

cerns you've raised in your written and oral testimony, will the people you represent be better off if this exchange falls through? And I don't know what the plans of the current owners of the Yavapai Ranch are, but if their plans were to develop into subdivisions, what would be your reaction to that now that you have the perspective you have on the land and the property surrounding your interests?

Mr. GIOIA. I don't think necessarily that the constituents in the Verde Valley would be better served if the entire proposal falls through. It does have fine points to it; however, the desire for certain entities to acquire Forest Service lands, public lands, are enabled through the Town Site Act, so it's not a total loss for Flagstaff, Williams, the Prescott area. Camps could also be part of that, and those turned over through the agencies involved in the Town Site Act.

For the Verde Valley, it is hard to convey to you the water situation. It's equally hard to convey to the public in the Verde Valley when they turn on the tap and water does come out. However, one council member, Diane Jones, wrote to the members of this committee and discussed how one morning, for a day and a half, the water didn't come out of the tap. The sand had—the water company that she subscribes to, sand had destroyed their pumps, and those pumps, of course, had to be replaced. Recharge time for those well areas had to be allowed. And it shows how fragile our water resources are.

To stick to your question about whether this proposal can follow through and assist—to convolute your question a little bit; I apologize—but assist those other persons who might benefit from this, I think it is possible. And I believe that through, for one, the checkerboard area, the original proposal that Mr. Ruskin brought to me and other representatives of the Verde Valley originally had the line that separates the upper portion which would become private property, and the lower portion which was intended to protect the wilderness was south by a good number of square miles. If the majority of this trade took place within the checkerboard area and still leaving the financial equality or equity for the trade portions to include Flagstaff, Williams, and the camps, I think it's perfectly possible. And I think the problems that the Verde Valley certainly have—and, as I said, we are working through science to solve those problems—but if there is water that has been found recently, it's not potable.

We have—each individual town has tried different things to improve their water sources. Cottonwood has gone to Cornville, which is a bit on the plateau and out of the Verde Valley to an extent, to acquire some more water, to buy land and pipe that water down to Cottonwood.

We have a severe water problem. I think it would only exacerbate that problem.

Senator CRAIG. Well, thank you very much for that testimony.

Now let me turn to you, Mr. Wells.

There's been suggestions that Congress not legislate this land exchange, but rather that it be processed through the Forest Service's administrative channels, and I think you've heard Mr. Gioia refer to other methods by which cities or communities can gain addi-

tional public lands for growth and expansion purposes. And I think you've just heard also from Secretary Rey—I understand it at a minimum of four and possibly as much as seven or eight, assuming that there would be the potential for possible appeals and litigation, which is always the character of that type of activity. How do the cities and towns you represent feel about waiting for the exchange to go through the normal administrative process?

Mr. WELLS. Yes. Mr. Chairman, I would first like to say that I believe a wait of 7 years, I believe Mr. Rey alluded to, would basically—first of all, I think it would kill the exchange. I don't believe, having looked at exchanges that have gone through in the past, the a number of moving parts on this one, the complexity and size of it, I don't believe this exchange would be able to be accomplished in an administrative fashion. I think there's simply too many moving parts.

But to answer your question, sir, I would say that the wait is simply too much—it's definitely too much for us. We have 8 percent in our water reservoirs and one producing water well. We need drilling sites that are currently on public land. We need those in private hands to where we can utilize them, get the permits quickly, and not have the burdensome and troublesome process of attempting to drill on public land.

I would like to say, there are a number of other needs that we have—the waste-water plant, the water plant. And simply to finish answering your question, I think legislative versus administrative, we all need to look at the support that this proposal has. And I don't know that that support would necessarily be willing to carry through for 7, 8, 10 years. I just don't see—I see there's too much complexity, sir.

Senator CRAIG. Well, gentlemen, thank you very much.

Both of my colleagues, Senator McCain and Senator Kyl have spoken to me about the complexity of this issue and the reality that not everyone is satisfied or pleased about it. We'll make every effort, working with our Arizona colleagues, to resolve any disputes that are there as we work our way through this legislation.

So we thank you all very much for your testimony. Any additional information you wish to supply the Committee that might be informational in helping us shape this legislation would also be appreciated.

Thank you very much.

Secretary Rey, if you will stay, we'll proceed forward.

We have obvious consideration today of several pieces of legislation—the one that you've just heard spoken to, S. 849, Senator Bingaman spoke to S. 511, which would provide permanent funding for Payment in Lieu of Taxes for other purposes. We're considering testimony on S. 432, a bill to authorize the Secretary of the Interior and the Secretary of Agriculture to conduct and support research into alternative treatments for timber produced from public lands and land withdrawals from the public domain for the national forest and other purposes. Also to review, as Senator Bingaman mentioned, S. 1582, an amendment to the Valles Caldera Preservation Act to improve the preservation of the Valles Caldera.

So, with that, we've been joined by Chris Kearney, Deputy Assistant Secretary for Policy Management and Budget, United

States Department of the Interior. Chris, we'll turn to you for your testimony on the legislation you've come to testify on, and then we'll return to Secretary Rey.

PREPARED STATEMENT OF CHRIS KEARNEY, DEPUTY ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. KEARNEY. Thank you, Mr. Chairman. And thank you for giving me the opportunity to testify today before S. 511, a bill to make the Bureau of Land Management's Payment in Lieu of Taxes program and the U.S. Fish and Wildlife Service Revenue Sharing program mandatory.

A hearing on PILT took place last year on May 9 before this subcommittee, and our position on this bill remains, as it was then, unchanged. We strongly support the PILT and RRS programs, and view them as high priorities, but we are strongly opposed to S. 511, because it would force the Federal Government to either raise taxes or cut into other programs that are integral to the President's budget and important to the American people.

We do believe that our 2004 budget request demonstrates our commitment to PILT. The administration requested \$165 million in fiscal year 2003 and \$200 million in fiscal year 2004, an increase of \$35 million. In addition, while the total amount requested for all programs by the Department for 2004 represent a 3.3 percent increase from prior years, the request for PILT is more than 21 percent over last year's request for this important program, reflecting our continued commitment and obligation to the PILT program, even in the context of other significant budget priorities.

I might also add that since fiscal year 2001, our budget requests for PILT have increased a total of 48 percent, and that request is only outstripped, in percentage terms, by the programs of the Office of the Special Trustee.

While we recognize the importance of the PILT program, though, it should not be viewed in isolation from other departmental and Federal programs that bring, or will bring, benefits to the counties in the future. Examples include funding provided for rural fire assistance and our efforts to work with gateway communities.

Let me speak just for a moment on the section of the bill that relates to the formula. Section 2 of the bill would amend the funding formula for PILT by replacing the present limitation of \$135.07 times the population with \$265.68 times the population and amending the table at the end of the section to reflect corresponding increased or decreased amounts for each population level.

The administration appreciates the bill's intent to help compensate those counties with high public land acreage and low population. Given the complexity of the PILT formula and the intent of the program to compensate counties for the inability to collect property taxes on Federal lands, we must be careful to ensure that the compensation formula compensates those counties fairly and does not result in counties actually receiving payments that are substantially different than they would otherwise receive in order to achieve tax equivalency.

Accordingly, we need to further examine this issue to determine the effect of increasing the population multiplier value over all counties, collectively. We're also concerned that this proposed change would increase the overall PILT authorization level significantly and, thereby, increase the cost of the bill even further. This council is in favor of a more systematic evaluation of how to address issues with PILT formula within the current authorization levels.

We support protections for local government against the loss of property tax revenue when private lands are acquired by a Federal agency.

Now, the administration recognizes that PILT payments are important to local governments and sometimes comprises a significant portion of their operating budget. The PILT monies have been used for critical functions, such as local search-and-rescue operations, road maintenance, law enforcement, schools, and emergency services. These expenditures often support the activities of people from around the country who visit or recreate on Federal lands.

The Department looks forward to continuing to work cooperatively with communities on these important issues.

Mr. Chairman, this concludes my statement. I'd be happy to answer any questions that you might have.

[The prepared statement of Mr. Kearney follows:]

STATEMENT OF CHRIS KEARNEY, DEPUTY ASSISTANT SECRETARY FOR POLICY AND
INTERNATIONAL AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the Committee, I am pleased to have the opportunity to testify today on S. 511, a bill to make the Bureau of Land Management's (BLM) Payment in Lieu of Taxes (PILT) Program and the U.S. Fish and Wildlife Service's (FWS) Refuge Revenue Sharing (RRS) Program mandatory. A hearing on PILT took place last year on May 9, 2002, before this Subcommittee. Our position on this bill remains unchanged. The Administration strongly supports the PILT and RRS programs and views them as high priorities, but the Administration is strongly opposed to S. 511 because it would force the Federal Government to either raise taxes or cut into other programs that are integral to the President's budget and important for the American people.

BACKGROUND

The PILT Act (P.L. 94-565) was passed by Congress in 1976 to provide payments to local governments in counties where certain Federal lands are located within their boundaries. PILT is based on the concept that these local governments incur costs associated with maintaining infrastructure on Federal lands within their boundaries but are unable to collect taxes on these lands; thus, they need to be compensated for these losses in tax revenues. The payments are made to local governments in lieu of tax revenues and to supplement other Federal land receipts shared with local governments. The amounts available for payments to local governments require annual appropriation by Congress. In the past, the BLM has allocated payments according to the formula in the PILT Act. The formula takes into account the population within an affected unit of local government, the number of acres of eligible Federal land, and the amount of certain Federal land payments received by the county in the preceding year. These payments are other Federal revenues (such as receipts from mineral leasing, livestock grazing, and timber harvesting) that the Federal Government transfers to the counties. In recognition of the fact that this program is multi-bureau in nature, beginning in FY 2004, funding and management of PILT will be administered at the Department level.

The President's FY 2004 budget request demonstrates our commitment to PILT. The Administration requested \$165 million in FY 2003 for PILT, and \$200 million in FY 2004, an increase of \$35 million. Furthermore, while the total amount requested for all programs by the Department for FY 2004 represents a 3.3 percent increase from the prior year, the request for PILT is more than 21 percent over last year's request for this important program, reflecting our continued commitment and

obligation to the PILT program even in the context of other significant budget priorities. While we recognize the importance of the PILT program, it should not be viewed in isolation from other departmental and Federal programs that bring or will bring benefits to counties in the future. Examples include funding provided for rural fire assistance and our efforts to work with Gateway Communities to increase tourism opportunities.

This year, some counties received slightly reduced PILT payments to adjust for increased revenue received during the previous fiscal year under the Secure Rural Schools and Community Self-Determination Act. This Act provides payments to compensate certain counties for declining timber receipts. The combination of PILT payments and payments under the Secure Rural Schools Act, however, will result in a higher overall payment to affected counties.

RRS (16 U.S.C. 715s), as amended, was enacted in 1935. It authorizes payments to be made to offset tax losses to counties in which the FWS fee and withdrawn public domain lands are located. The original Act provided for 25 percent of the net receipts from revenues from the sale or other disposition of products on refuge lands to be paid to counties. The Act was amended in 1964 to make it more like the PILT program. The new provisions distinguished between acquired lands that are purchased by the FWS and lands that are withdrawn from the public domain for administration by the FWS. For fee lands, the counties received 3/4 of 1 percent of the adjusted value of the land or 25 percent of the net receipts, whichever was greater, with the value of the land to be reappraised every 5 years. They continued to receive 25 percent of the net receipts collected on the withdrawn public domain lands in their county.

The RRS was amended again in 1978 in order to provide payments that better reflected market land values to counties with land administered by the FWS within their boundaries. The method used to determine the adjusted cost of the land acquired during the depression years of the 1930's (using agricultural land indices) resulted in continuing low land values compared to the land prices that existed in 1978. Also, other lands that were purchased during periods of inflated land values were found to be overvalued. The Congress decided that the payments did not adequately reflect current tax values of the property. It also recognized that national wildlife refuges are established first and foremost for the protection and enhancement of wildlife and that many produce little or no income that could be shared with the local county.

In the 1978 amendments, Congress chose to distinguish between lands acquired in fee and lands withdrawn from the public domain, by recognizing that the financial impact on counties tends to be greater when lands are directly withdrawn from the tax rolls, rather than when the refuge unit is created out of the public domain and has never been subject to a property tax. The formula adopted then, and still in effect, allows the FWS to pay counties containing lands acquired in fee the greater of 75 cents per acre, 3/4 of 1 percent of the fair market value of the land, or 25 percent of the net receipts collected from the area. If receipts are insufficient to satisfy these payments, appropriations are authorized to make up the difference.

Counties can use funds for any government purpose and pass through the funds to lesser units of local government within the county that experience a reduction of real property taxes as a result of the existence of FWS fee lands within their boundaries. Counties with FWS lands that are withdrawn from the public domain continue to receive 25 percent of the receipts collected from the area and are paid under the provisions of the PILT Act.

Section 2 would amend the funding formula for PILT found in 31 U.S.C. 6903(c)(2) by replacing the present limitation of "\$135.07 times the population" with "\$265.68 times the population" and amending the table at the end of the section to reflect corresponding increased or decreased amounts for each population level. The Administration appreciates the bill's intent to help compensate those counties with high public land acreage and low population. Given the complexity of the PILT formula and the intent of the program to compensate counties for the inability to collect property taxes on Federal lands, we must be careful to ensure that the compensation formula compensates counties fairly and does not result in counties actually receiving payments that are substantially different than they otherwise would receive in order to achieve tax equivalency. Accordingly, we need to further examine this issue to determine the effect of increasing the population multiplier value over all counties collectively. We are also concerned that this proposed change would increase overall PILT authorization levels significantly, thereby increasing the cost of the bill even further. Again, this counsel is in favor of a more systematic evaluation of how to address issues with the PILT formula within the current authorization levels.

We continue to engage in discussions with the National Association of Counties concerning issues associated with the allocation formula and we believe those issues should be addressed before considering such a significant action as converting these payments to permanent mandatory payments, or making any changes to the formula. I would like to note that many of the same concerns we have previously expressed regarding PILT funding hold true for RRS funding as well.

Although the Administration supports the purpose of S. 511, we must oppose it for the same reasons that we opposed a similar bill last year in the 107th Congress. We support protections for local governments against the loss of property tax revenue when private lands are acquired by a Federal agency. However, the Administration is strongly opposed to creating a new mandatory spending category to fund the PILT program because it would force the Federal government either to raise taxes or cut into other programs that are integral to the President's budget and important to the American public.

CONCLUSION

The Administration recognizes that PILT and RRS payments are important to local governments, sometimes compromising a significant portion of their operating budgets. The PILT and RRS monies have been used for critical functions such as local search and rescue operations, road maintenance, law enforcement, schools, and emergency services. These expenditures often support the activities of people from around the country who visit or recreate on Federal lands. The Department looks forward to continuing to work cooperatively with the communities on these important issues.

Mr. Chairman, this concludes my prepared statement. I would be pleased to answer any questions that you or the other members may have.

Senator CRAIG. Thank you very much.

Now let me turn to Mark Rey.

Mr. REY. I'll be offering testimony on S. 432 and S. 1582, and I'll be very brief and submit the entirety of my testimony on these two bills for the record.

S. 432 requires the Secretaries of Agriculture and the Interior to conduct and develop a research program into alternative wood preservative treatments for timber produced from public lands and lands withdrawn from the public domain for the national forest system. The Department has no objections to S. 432.

S. 1582, introduced by Senators Domenici and Bingaman, would make modifications to Public Law 106-248, the Valles Caldera Preservation Act. The administration has no objection to S. 1582, if amended to address concerns regarding the Federal Competitive Service, firefighting expenditures, and the use of the Permanent Judgment Fund. Our views on each of those three matters is included in my statement for the record.

I'd be happy to respond to any questions that you have.

Senator CRAIG. That is amazingly brief.

[Laughter.]

Mr. REY. I've been practicing it.

Senator CRAIG. And I was going to say, and coming from you that is even more amazing.

[Laughter.]

Senator CRAIG. No.

Mr. REY. I've found on this side of the dais, the less I say, the less trouble I get in.

[Laughter.]

Senator CRAIG. There does seem to be a corresponding relationship.

Gentlemen, thank you all for your testimony.

Chris, I see that you drew the short straw again. And I say that, because I'm told that the legislative sponsors have a new popu-

lation payment formula table—I think you’ve addressed that some—that they plan to offer as an amendment now to this bill. Apparently, the table in the bill that was introduced would significantly increase the overall cost of the program. I’ve been told that the new table is more revenue-neutral.

If my staff provides you with a new table, how long will it take you to—you and your staff—to run a program to ensure that the new table has some revenue-neutrality to it?

Mr. KEARNEY. Senator, in all candor, I don’t know precisely how long it would take, but I think it is something that we would certainly make a priority to do and respond to you just as quickly as we can, in ensuring accuracy and completeness.

Senator CRAIG. Well, we’re all sensitive to PILT, and those of us who come from large public-land States certainly agree with your testimony that in many instances, in the most rural of counties, it’s become a substantial portion of their budget. And I view it as a responsible participation on the part of our government when we do expect services, law enforcement, and a variety of other things from the local counties. And yet our presence there pays no taxes.

Would the administration be more comfortable with this legislation if we added a no-net-gain-in-Federal-lands provision for States that have more than 25 percent of their States in Federal land?

Mr. KEARNEY. Senator, in all honesty, I don’t believe it would answer—it wouldn’t address our concerns about the bill. But I do want to take a moment to make the point that, from the administration’s perspective, the concerns that underlie that question, and some points that Senator Thomas made earlier, reflect a concern on the part of members and your constituents that we understand and share in many instances. That is that impacts on Federal lands and local communities and people who come on those lands are the sort of thing that we have—we need to look at a number of ways to address that, and not only the issues of dollars, but what we do in terms of carefully selecting the lands we acquire, the reasons, the mechanisms, and all manner of tools that we may have at our disposal to address some of those impacts through things such as gateway communities, initiatives that we’re looking at, and a variety of other tools and issues and better cooperation that we, as Federal managers, can undertake in our efforts and interactions with the counties. So we recognize the concern that’s reflected there, and we’re actively trying to address it, and we agree with those concerned.

Senator CRAIG. Thank you.

Mark, if this bill is passed—and I’m speaking of S. 432—is there some work that you could have the Forest Products Laboratory, in Madison, Wisconsin, start to develop a silver biocide research program this next year?

Mr. REY. Yes. I think with this additional authorization, we could look into having the Forest Products Lab develop a research—a prospectus for some of the work that the bills calls for.

Senator CRAIG. Are there any Forest Service research programs currently examining other substitutes for the arsenic-based wood preservatives?

Mr. REY. There are. Primarily at the Forest Products Lab in Madison. I can provide for the record a synopsis of the ongoing research.

Senator CRAIG. Okay.

I know you were involved in the development of the original Caldera Trust Preservation Act, and I want to know if the administration will support legislation if we make some of the technical changes you have called for in this testimony.

Mr. REY. Yes. I think, with the changes in the areas I've identified, the administration would support the legislation.

Senator CRAIG. Well, if you could get us the specific language changes and get them to our staff here, that will facilitate for the two New Mexican legislators.

Mr. REY. We will do that. We will poll our sister agencies. Some of the concerns are registered by both the Office of Personnel Management and the Department of Justice.

Senator CRAIG. Okay.

Well, gentlemen, thank you. I believe that concludes any questions, additional questions I have. So we thank you for being here.

Mr. KEARNEY. Thank you, Senator.

Mr. REY. Thank you.

Senator CRAIG. Now I'd ask Dr. Jeffrey Ellis, consultant in chemicals and plastics technology, from Plantation, Florida, and also Harry Mendoza, commissioner of McKinley County, Gallup, New Mexico, to please come forward.

Dr. Ellis, we're having a discussion as to where Plantation, Florida, is.

Dr. ELLIS. It's right near Fort Lauderdale.

Senator CRAIG. All right. Thank you very much.

Well, Dr. Ellis, please proceed with your testimony.

**STATEMENT OF JEFFREY P. ELLIS, Ph.D., CONSULTANT IN
CHEMICALS AND PLASTICS TECHNOLOGY, PLANTATION, FL**

Dr. ELLIS. Thank you, Mr. Chairman and members of the subcommittee, for inviting me to testify today.

I'm honored to address you on S. 432, Public Lands Production Research Act of 2003, a measure that would direct the Secretaries of Agriculture and Interior to develop a program of research into alternative treatments using silver biocides for timber and timber products from public lands.

For 25 years, I've been an independent laboratory research and market research consultant in chemicals and plastics technology. I have done work in a number of applications, ranging from medical devices and medical packaging to high-performance plastic composites and, more germane, on biocide materials for architectural products.

In 2000, while doing market research in silver biocides I became interested in silver's potential application in a wide range of consumer products, including lumber for residential and commercial use. As a result, I am currently undertaking a research program at Florida International University to evaluate silver-based biocides as preservatives for wood.

The legislation you're considering today is extremely timely and offers great promise for both of America's forest product and min-

ing industries. It will offer consumers of pressure-treated wood safe and environmentally sound products.

As you're aware, the Environmental Protection Agency has reached agreement with manufacturers of wood preservative chemicals to phase out chromated copper arsenate as of the end of this year. This transition affects all consumer uses, including things used by children, especially play structures, decks, picnic tables, and other products that are used in homes, public parks, and public marinas.

Beginning January 2004, the EPA will not allow CCA products to be sold for residential use, and retailers of preserved wood are going to comply with this. Because of increased resistance to rot and infestation, preservative-treated wood has been widely used for residential applications for many years. CCA has been used, in particular, since the 1970's, and has been effective and economical. But lately, there's been concerns about leaching, in particular of arsenic, into ground and water. This technology, thus, is facing today a required replacement, and the wood industry faces the challenge of finding suitable alternative preservatives.

Silver offers that potential solution, and silver has many unique properties. Most important, it is a natural bactericide and algicide and, in some cases, a proven fungicide. Silver biocide are also effective in small quantities offered parts per million by weight. And despite the relatively high price of silver, the overall cost advantages are recognized by industrial manufacturers. It's used in steel for architectural materials. It's also going to be used, in particular, for architectural materials to prevent sick-building syndrome.

It's also—my own research indicates that, for water purification, silver is growing rapidly, and it's also going to be increasingly used, if the research proves positive, perhaps for needed infrastructure products such as railroad ties and utility poles, although those are not currently under the EPA ban.

There is enough silver capacity in the United States to meet the needs of the woods preservation. Certainly, the American Wood Preservatives Association will be having tests that I am going to look into to make sure that the preserved wood will not leach and that the wood will have resistance to fungi, insects, and other wood-destroying organisms, and that the performance in the soil, air, and freshwater marine environments will meet the public's needs. This will be a major benefit for both the domestic mining and forest-products industries should this research program prove successful.

The United States, of course, has a rich and robust history of silver mining, and there could be many benefits to consumers and industrial consumers for preserved wood.

I'd like to thank you for taking the time to listen to me today and for inviting me to appear before you to share my views on this legislation. I'd be happy to answer any questions.

[The prepared statement of Dr. Ellis follows:]

PREPARED STATEMENT OF JEFFREY R. ELLIS, PH.D., CONSULTANT IN CHEMICALS AND PLASTICS TECHNOLOGY, PLANTATION, FL

Mr. Chairman and members of the Subcommittee: I am honored to have been asked to address you today as you consider, S. 432, The Public Lands Production

Research Act of 2003, a measure which would direct the Secretaries of Agriculture and the Interior to develop a program of research into alternative treatments, including the use of silver-based biocides, for timber and timber products from public lands.

For the past 25 years, I have been an independent laboratory research and market consultant in the areas of chemicals and plastics technology. As a scientist, my work has covered a range of industries and applications, from medical devices and packaging to high performance plastic composites to evaluations of biocide materials in tile grouts and dressings.

In 2000, while doing market research on silver-based biocides, I became interested in silver's potential application in a wide-range of consumer products, including lumber for residential and commercial use. As a result, presently I am undertaking a research program to evaluate commercial silver-based biocides for wood products at Florida International University (Miami, FL), where I am an adjunct professor of chemistry and environmental sciences.

The legislation you are considering today is exceedingly timely and potentially offers great promise to America's forest product and mining industries. More importantly, it will offer consumers of pressure treated wood products a safe and environmentally sound alternative.

Last year, the Environmental Protection Agency (EPA), manufacturers of treated wood, and manufacturers of wood preservative chemicals, negotiated an agreement to phase out the use of chromated copper arsenate (CCA)-based wood preservatives in pressure-treated wood by December 31, 2003. This transition affects virtually all residential uses of wood treated with CCA, including wood used in play structures, decks, picnic tables, landscaping timbers, residential fencing, patios and walkways/boardwalks.

Beginning January 1, 2004, the EPA will not allow any CCA products in these residential uses. Retailers such as Home Depot and Lowe's have announced they would stop selling lumber treated with the CCA-based preservative in concert with the EPA announcement.

Because of its increased resistance to rot and infestation, preservative-treated wood has been widely used for many residential applications, including decks, outdoor furniture, wood foundations, and a host of other purposes. Since the 1970's, CCA, the most commonly used preservative, has been effective and economical, but it has generated concerns over possible health risks from exposure or leaching.

That technology is facing required replacement today, and the wood industry faces the challenge of finding suitable, safe, alternative wood-preserving agents. Silver offers the potential solution. Silver has many unique properties. Most important in this case, it is a natural bactericide and algicide.

Silver biocide activity is effective in small quantities, often in parts per million by weight, and despite the relatively high price of silver compared to other biocides, its efficiency and overall cost advantages are increasingly recognized by industrial manufacturers.

Silver has been a useful biocide since ancient times. Today, silver is used in an ever-increasing number of applications, including water purification systems in hospitals, swimming pools, and domestic households. For example, silver-based antibacterial toothbrushes, hairbrushes and other cosmetic accessories, are being marketed. Socks with silver-coated nylon threads that resist bacteria growth are on the market as are sandals that in the sole incorporate silver chemicals that kill bacteria that cause foot odor. Even steel companies are coating their stainless steel products with silver to prevent bacteria growth. The metal is then used in kitchen appliances and air conditioning equipment.

Increasingly, we are seeing silver's bactericidal properties being employed in amazing new uses. For example, a washing machine that uses the antibiotic properties of silver instead of hot water to disinfect clothing is on the market. Also, silver antimicrobial compounds have been incorporated into the construction of hospitals. The antimicrobial-silver coated steels will be used mainly in the hospitals air handling ductwork and may be expanded to other applications such as stainless steel door hardware, push plates and light switch plates. In addition, silver-coated medical catheters can reduce urinary-tract infections by as much as 58 percent, according to recent studies. This finding is significant, because urinary-tract infections account for more than 40 percent of all infections suffered by hospital patients, according to the Centers for Disease Control in Atlanta.

My own research indicates that for water purification, the use of silver is expected to rise from 5.3 to 8.1 million troy ounces between the years 2000-2006. Use of silver as a biocide in other products, most notably, in automotive textiles and skins, roofing tiles, sanitary coatings and consumer products such as housewares is expected to increase from 0.4 to 2.9 million troy ounces in the same time frame. Silver is also

a leading candidate for the prevention of “sick building” syndrome that is generated by toxic molds.

The use of silver to replace CCA for wood preservation is a major new opportunity for this environmentally benign metal. For North American markets (55 percent of which are in decks, fences, playground structures, and other consumer products), the use of silver for this purpose could be as much as 80 million troy ounces. European markets, which are likely to replace other environmentally suspect wood preservation chemicals such as creosote and pentachlorophenol, could add another 50 million troy ounces of silver offtake annually.

The following chart, taken from *World Silver Survey 2003*, published by the Silver Institute, a Washington, D.C.-based industry association, outlines the silver supply and demand figures for 2001 and 2002. As you will see, current mine supply is insufficient to meet the many use demands for silver, which chiefly are targeted toward jewelry, industrial applications and photography. To meet these demands, silver is drawn down from above-ground stocks and through recycling. It is important to note that 70 percent of silver production comes as a byproduct of base metal and gold mining. Notwithstanding, the United States silver mining industry is prepared to meet the demands in the event silver is approved for use in treating wood.

WORLD SILVER SUPPLY AND DEMAND

[Million ounces—totals may not add due to rounding]

Supply	2001	2002
Mine Production	589.2	585.9
Net Government Sales	87.2	71.3
Old Silver Scrap	182.7	184.9
Producer Hedging	18.9	—
Implied Net Disinvestment	—	20.9
Total Supply	878.0	863.0
Demand	2001	2002
Fabrication:		
Industrial Applications	338.1	342.4
Photography	213.9	205.3
Jewelry & Silverware	286.0	259.2
Coins and Medals	30.5	31.3
Total Fabrication	868.5	838.2
Net Government Purchases	—	—
Producer Hedging	—	24.8
Implied Net Disinvestment	9.5	—
Total Demand	878.0	863.0

In conclusion, the research contemplated in S. 432, The Public Lands Production Research Act of 2003, is urgently needed to assist the timber industry in meeting this challenge in a timely fashion. At the present, research is needed first to establish that silver will meet the performance requirements of the American Wood Preservers Association and to acquire the data that will be necessary to register the best candidate silver biocides under the Federal Insecticide, Fungicide, and Rodenticide Act. This research will include: 1) measurements of performance in air, soil and in freshwater and marine environments; 2) resistance to fungi, insects, and other wood destroying organisms; and 3) leaching and toxicology studies.

There will be major benefits achieved for both the domestic mining and forest products industries should silver based biocide research prove successful. The United States enjoys a rich and robust history of silver mining. Currently, the United States is the 4th largest silver producing country in the world. Silver is relatively abundant in this country, and our domestic industry can meet the needs of the wood preservation industries. Both consumer and industrial customers (manufacturers of needed infrastructure products such as utility poles and railroad ties especially) for preserved wood products would benefit from the continued availability of needed long-term environmentally benign preserved wood.

Again, I want to thank you, Mr. Chairman, and the entire Subcommittee for inviting me to appear before you today to share my views on this important legislation.

Senator CRAIG. Doctor, thank you very much.

Before I ask questions of you and your fellow panelists, let me turn to Harry Mendoza, commissioner of McKinley County, in Gallup, New Mexico.

**STATEMENT OF HARRY MENDOZA, COMMISSIONER,
McKINLEY COUNTY, NM**

Mr. MENDOZA. Thank you, Mr. Chairman and distinguished members of the subcommittee.

My name is Harry Mendoza, and I'm a council commissioner in McKinley County, New Mexico. I'm here today representing the National Association of Counties, the New Mexico Association of Counties, and my community in McKinley County. I thank you for holding this hearing today.

And I also wish to thank my Senator, Jeff Bingaman, for sponsoring S. 511, the PILT and Refuge Revenue Sharing Permanent Funding Act. It is landmark legislation and should be enacted without delay.

Mr. Chairman, I am confident that members of the subcommittee are all familiar with PILT. The program was conceived in 1976 to offset costs incurred by counties for services provided to Federal employees and their families and to the users of public lands. These include education, solid-waste disposal, law enforcement, search and rescue, healthcare, environmental compliance, fire-fighting, and other important community services.

I'm happy to note that seven of you recently joined 50 of your Senate colleagues from across the political spectrum and across the country in signing a letter to the Interior appropriations, which shows your understanding of PILT to America's public-land counties. In that letter, you signed for moving PILT forward to its fully funding level. As you know, NACO actively promoted the effort to secure those signatures and will continue to seek enhanced funding in the course of the fiscal year 2004 appropriations process. We thank you for your strong support.

However, for the record, we view incremental appropriation increases as a short-term stopgap measure. PILT is not just another spending program in the Department of the Interior's budget. It should not have to compete for funding with worthwhile conservation programs administered by the Department. The citizens of America's public-land counties deserve to see PILT funded at its full authorization, and they deserve it on a permanent basis.

Mr. Chairman, the people of the United States own over 14 percent of McKinley County. And since the passage of the PILT Act in 1976, when the people, by an act of Congress, acknowledged their fiscal obligation to the counties that contained Federal lands, the payment has been delinquent year after year. Since 1995, no Department of the Interior budget has ever requested more than half of PILT's authorized amount, and no Congress has ever appropriated more than two thirds of its authorized amount.

Mr. Chairman, I used the word "delinquent" deliberately. Under New Mexico law, the county is responsible for collecting property taxes for itself and other taxing agencies within McKinley County. It means that if a private-property owner fails to pay the taxes due, the county treasurer must try to collect it on behalf of the county and other local government entities that depend on those

revenues. If after 3 years, the landowner still fails to pay his delinquent taxes, the State of New Mexico takes over and sells it at public auction to settle the debt. Why? Because all property owners have to pay their fair share to support the basic functions of local government.

Why should the hardworking people of McKinley County have to subsidize public services on Federal lands through higher property taxes? It's unconscionable.

I believe that passage of S. 511 is a simple matter of economic justice. It is unjust that a private landowner be stripped of his property for failing to contribute to the county treasury, when one of the county's richest and more powerful landowners does the same with impunity year after year. The Federal Government should pay the amount due in full every year, with no questions asked.

Mr. Chairman, though we may differ on specific resource-management issues, counties do not want to privatize the Federal lands. NACO recognizes that our national forests, national parks, BLM lands, and national wildlife refuges do, indeed, belong to all Americans, and that all Americans have to have a stake in their conservation for the generations to come.

The point is that with rights come responsibilities. We believe that fully funding PILT is one such responsibility.

Thank you. That concludes my testimony.

Senator CRAIG. Commissioner, thank you very much.

I did my father a real disfavor once. I, as a young person, helped him get elected county commissioner of Washington County, in Idaho, which is about 35 percent federally owned. So when I ran for Congress the first time, his first comment or instruction to me was, "Go back there and fully fund PILT. Your government is delinquent in its taxes." So I have some empathy for what you say and the reality of the PILT program and our failure over the years to meet its full authorization and formula reality.

I'm also frustrated because I'm one of those who seeks no net loss of public lands, when many of those traditional resources that were revenue-generating for large public-land counties have either been denied or gone away. And many of our Federal agencies encourage tourism and recreation today, in part, as an alternative. But what they fail to recognize, that the obligations of counties as it relates to law enforcement and health and all of those other kinds of things for the many who may come to visit, the Federal Government doesn't pay for it. It's an obligation of the county, county government, and county government responsibilities. So sometimes the burden is even shifted more greatly to the county for its funding purposes.

I understand that small and rural counties and the large highly populated counties have agreed to support a new population payment formula provided PILT is fully funded. If we do not include the new formula in the final bill, will NACO and others in the counties still be supportive of the legislation?

Mr. MENDOZA. Yes, sir, I think they will.

Senator CRAIG. The studies I've seen strongly suggest local taxes would provide sufficiently more money to counties if these Federal lands were owned by private landowners. While I hold no illusion

that the Federal lands will be turned over to the private landowners, did your organization or would your organization consider a PILT compensation plan based on tax equivalent rather than the current formula?

Mr. MENDOZA. I can't answer that question.

Senator CRAIG. That's something we have always looked at as a possible consideration. Would NACO support a no-net-gain-in-Federal-lands provision to this bill or in the form of a freestanding legislation if it were offered?

Mr. MENDOZA. I think that they would, yes, sir.

Senator CRAIG. Finally, could you give me your best estimate on the number of counties that receive PILT payments that do not belong to NACO?

Mr. MENDOZA. In McKinley County, 100 percent of the counties belong to NACO.

Senator CRAIG. In New Mexico.

Mr. MENDOZA. In New Mexico.

Senator CRAIG. You don't have that figure—

Mr. MENDOZA. And they all receive PILT.

Senator CRAIG. You don't have that figure nationwide?

Mr. MENDOZA. I have it. It's in part of the testimony. I think you have it there.

Senator CRAIG. All right. We'll leave it at that and search it out. Thank you very much.

Dr. Ellis, are there other biocides that can substitute for arsenic-based wood preservatives?

Dr. ELLIS. Yes, there are, sir. Those would be currently based largely on copper complex with ammonia or ammonia derivatives.

Senator CRAIG. How effective are they as it relates to the potential of silver?

Dr. ELLIS. Right now, I don't have enough information to answer that question. All I can tell you is that I have read, and, through telephone research, I have learned that they have to put quite a bit of copper and ammonia into the wood. It's certainly much more expensive than the old CCA. I don't have enough data on the use of silver at this time to find out if it is effective.

Senator CRAIG. Is two years really a sufficient amount of time to prove silver biocides can perform as a wood preservative?

Dr. ELLIS. Like everything else, sir, it depends on how adequately the research program is funded. I am hoping, as I speak, that the silver industry will give me some more money to get the basic initial data done, especially looking at the big unknown, which is the effectiveness of silver against insects.

Senator CRAIG. Your preliminary research indicates that silver has substantial potential?

Dr. ELLIS. Yes, it does, sir. It's being used in a number of consumer and industrial products as a biocide. It's effective in small enough amounts such that the cost of silver is amortized by that factor. There is ample precedent of silver's use against bacteria, against algae, and against fungi. We still have to prove, of course, that the silver chemicals would be effective against wood-destroying organisms of those types; in addition, of course, to the insects.

Senator CRAIG. Well, Doctor, thank you very much.

Commissioner Mendoza, thank you for your traveling here and your time, both of you.

Thank you.

The committee record will stay open for ten days for the purpose of any additional information that may need to be attached.

With that, the subcommittee will stand adjourned.

[Whereupon, at 3:40 p.m., the hearing was adjourned.]

APPENDIX
ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

CITY OF PRESCOTT,
Prescott, AZ, September 4, 2003.

Hon. JON KYL,
2200 E. Camelback Rd., Suite 120, Phoenix, AZ.

DEAR SENATOR KYL: I am writing to support you and Congressman Renzi's efforts to complete the Forest Service land trade. This trade will help protect Prescott's water resources and will help the church and private camps around our city.

I understand that the components of Congressman Renzi's legislation have some updated and favorable changes to Clarkdale and in the spirit of our support for their needs, I would request that if possible you use the wording of Renzi's legislature at your committee hearing on September 11.

As always, thanks for all your help and we are looking forward to seeing you in Prescott soon.

Sincerely,

ROWLE P. SIMMONS,
Mayor.

TOWN OF CAMP VERDE,
Camp Verde, AZ, September 5, 2003.

Hon. JOHN MCCAIN,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: You have a decision coming up on the Yavapai Ranch Exchange in Arizona (Senate Bill 849.) You will be receiving many letters of opposition to the Verde Valley portions of this trade. You will be led to believe that the common public is virtually unaware of this exchange and that there has not been local public input and review of this trade. You will be told that the issue of water use has not been adequately addressed.

I write you today, to humbly disagree and to say this is simply not correct. I am the mayor of Camp Verde and have been on town council for 4½ years. In my tenure there has been numerous meetings both publicly and privately with Mr. Ruskin, the Forest Service, elected officials, Salt River Project and the public concerning this exchange. Input has been given and received concerning all the issues. The trade boundaries, the water restrictions and the desires of the community have been properly addressed mutually between the parties.

This item was a main topic of our recent council elections. The candidate's positions on this issue were clearly defined. The voters elected three council members and myself as mayor by approximately a 70% to 30% margin. We now have both a council and a citizenry that supports this exchange.

Please understand that we, the residents of Camp Verde, many of us who go 3, 4, and 5 generations in the Verde Valley, love this valley and have great appreciation for our home lands. We have not supported this exchange without studied review and much thought given.

We need this exchange to go through to help us develop a sales tax base along Interstate I-17 and Highway 260 to sufficiently meet the need for services to our people. These lands will be traded someday to someone as they are within our town boundaries and the Forest Service has clearly stated that they do not have the federal budget backing them to maintain lands within incorporated boundaries.

Mr. Ruskin comes from a long-time ranching family and he carries the straight forward honesty and integrity that one can deeply appreciate, especially when dealing with such an important issue.

Senators Kyl and McCain have studied this exchange, and recognize that the greater good of this issue benefits the majority of people.

I urge you to support the Yavapai Land Exchange, and log this letter and have it included in the record. Thank you for your consideration of this matter and for the service you do for our country.

Sincerely,

MITCH DICKINSON,
Mayor.

CITY OF COTTONWOOD,
Cottonwood, AZ, September 5, 2003.

HON. JON KYL,
U.S. Senate, Washington, DC.

DEAR SENATOR KYL: As Mayor of Cottonwood, I am writing to confirm my commitment to the land exchange between the Forest Service and Yavapai Ranch. Cottonwood has been working in support of this exchange for a number of years, and although there has been some opposition, as Mayor of Cottonwood, I stand firmly in favor of the concept.

Cottonwood stands to benefit a great deal from this exchange. The economic development and tax revenue benefits of housing diversification and business expansion will contribute to the overall vibrancy of the Verde Valley. The newly privatized land will be subject to the water conservation measures and use restrictions of the Cottonwood Water Declaration, and will set a new standard for future development in our area. Given the current drought in Arizona and the concern for future water use, I believe this will have a significant impact on saving water resources in the Verde Valley. This exchange also represents a significant reduction in the number of homes that could potentially be built if the Yavapai Ranch lands were developed.

In reviewing your legislation and the Renzi/Hayworth bill, I believe that the modifications contained in Congressmen Renzi's and Hayworth's legislation better serve our community needs. For that reason, I am asking that you amend your legislation to include the additional language of the House bill.

Please know that the vast majority of our citizens support your efforts and authorization of this exchange. We in Cottonwood are working for a strong community that will allow for our youth to stay in our area after they finish school; for too many years they have had to move away to find work. This legislation will give us another tool to help them live and work in our community.

Thank you again for your efforts on our behalf.

Sincerely,

RUBEN JAUREGUI,
Mayor.

CITY OF WILLIAMS,
Williams, AZ, September 5, 2003.

Hon. Senators JOHN MCCAIN AND JON KYL,
U.S. Senate, Washington, DC.

DEAR SENATORS MCCAIN AND KYL: As Mayor of the City of Williams, I am writing to request the quick enactment of the Northern Arizona National Forest Land Exchange Act of 2003. This exchange will help us fulfill our municipal water program and provides significant economic development opportunities for our community.

The Yavapai Ranch Land Exchange offers a key component currently missing from the water equation in the Williams area. The exchange will privatize land for key drilling sites; drilling on public land for municipal use is very complicated and difficult due to many factors. It is critical to the future of Williams and surrounding environs that additional deep wells be drilled on what is now public land. Our surface water reservoirs are currently at a minimal 8% of capacity and were as low as 4% as recently as the summer of 2002. Williams began a deep water well drilling program 4 years ago; to date we have drilled five water wells of which only two are producing.

It is important to note the Yavapai Ranch Land Exchange benefits the Williams area in more ways than one, as it does all of the communities with land involved in the trade. The Exchange will free up land for expansion of the Williams water filtration plant, a needed waste water plant expansion planned for 2005-06, airport improvements, city parks, a cemetery expansion and ownership of the original nine

holes of the city golf course. This exchange will also facilitate the future operation of the Younglife Youth Camp, a new and important asset to northern Arizona.

Your efforts on behalf of S. 849 will provide important quality of life, economic and conservation benefits for all of Northern Arizona. The exchange will protect rare natural resources and keep intact what makes Arizona such a special place. Please accept the gratitude of our city for your efforts to authorize this exchange.

Sincerely,

KEN EDES,
Mayor.

TOWN OF CAMP VERDE,
Camp Verde, AZ, September 8, 2003.

Hon. Senators JOHN MCCAIN AND JON KYL,
U.S. Senate, Washington, DC.

DEAR SENATORS MCCAIN AND KYL: On behalf of the Town of Camp Verde, I am writing to thank you for your efforts on behalf of S. 849 and the September 11 hearing before the Senate Subcommittee on Public Lands and Forests.

Representatives of Camp Verde have been working with the Forest Service and Mr. Ruskin for five years in support of this trade. We are hopeful for, and in need of a positive outcome. We have had numerous public meetings and hearings to discuss this exchange and its benefits to Camp Verde. Our recent city election confirmed the broad-based support of our citizens for this exchange with pro-trade candidates receiving nearly 70% of the vote.

As you are aware, Camp Verde is a bedroom community spread over 46 square miles. We have embraced growth throughout our history, but much of our development has been low-density residential which does not afford us the tax base to provide the necessary infrastructure and services that our citizens require. In addition, our proximity to Interstate 17 and Highway 260 require us to provide emergency response services along these corridors. We desperately need the tax revenue from commercial development along Interstate 17 and Highway 260. This exchange will allow privatization of already impacted Forest Service lands for commercial development as well as emergency services including fire, hazmat and emergency medical. Camp Verde's economy depends on the trade—commercial development along Interstate 17 is the key to our future.

After review of both S. 849 and H.R. 2709, I am writing to request that you incorporate the additions from the House version to your legislation. In doing so, the issues that Camp Verde has with S. 849 will be resolved.

On another note, I would like to thank you, Senator McCain, for your comments at the recent League of Cities and Towns conference. You were right on target with your remarks on forest health and I especially appreciated your answer to my question about this land exchange.

Thank you again for your efforts on behalf of this legislation. I look forward to having each of you visit Camp Verde in the near future.

Sincerely,

MITCH DICKINSON,
Mayor.

LEAGUE OF WOMEN VOTERS,
Sedona, AZ, September 8, 2003.

MEMBERS, SENATE PUBLIC LANDS AND FORESTS SUBCOMMITTEE: The League of Women Voters has been following the Yavapai Ranch issue closely for several years. Water concerns in the Verde Valley have been our primary focus since 1999. Along with many other local voices, we have pressed for an administrative review of this land exchange. As the largest exchange in Arizona history, it is even more important that we examine the potential impacts of this decision before the decision is reached, including an environmental analysis under NEPA.

Because the administrative process has not occurred thus far, we have observed the following frustrations mounting in the Verde Valley: communities are bitterly divided within and between themselves; hydrologists disagree on the potential impact on groundwater in the Verde Valley; citizen groups organized around water issues cannot arrive at a consensus, and lastly, rumors and misinformation abound in the absence of a formal hearing process.

Further, there has been no resolution of contradictory issues, no opportunity for hearing public concerns, and no opportunity for addressing public concerns. As a re-

gion, we have been trying to deal collaboratively with regional issues such as transportation, land use, and water for 4 or 5 years. The region is being torn apart over this exchange, setting us back in our regional efforts.

If not this time, please do not make us go through this unnecessary anguish the next time a land exchange is proposed. The price is too high. At the very least, the administrative process could alleviate much of the frustration, and at best it could improve the conditions of the exchange for the public good.

Please log this letter and include it in the record.

Yours truly,

DOROTHY HORES,
LWV Program Chair.

RESPONSIBLE RESIDENTS OF THE RED ROCKS,
Sedona, AZ, September 8, 2003.

MEMBERS, SENATE PUBLIC LANDS AND FORESTS SUBCOMMITTEE: Our organization has become very concerned as we have followed the issues surrounding the land trade between the USFS and Yavapai Ranch, and in particular S. 849. We have three major concerns with the bill as written, two are substantive and one is procedural:

1. Delete the 2,200 acre Camp Verde and the 800 acre Clarkdale USFS land from the proposed exchange. These 2 parcels are located in a part of the Verde Valley already suffering from groundwater overdraft. Groundwater is our sole source of water in the Verde Valley. Hydrologists have estimated that Camp Verde, Cottonwood, Verde Villages and Clarkdale are withdrawing water faster than the annual natural recharge rate, even in normal years of rain fall.

2. Eliminate the 40 acre islands of land with water wells in the Big Chino area proposed to be retained as private land in the block to be traded to the USFS. If the USFS needs the private land to consolidate the checkerboard ownership adjacent to Juniper Mesa, the USFS should also get the water rights for that land.

3. Abandon the legislative process for the land exchange in favor of the administrative process which utilizes public input and the NEPA process with environmental impact analysis. The 1988 Amendment to the Federal Land Exchange Act addresses standards for appraisals and the public interest. Specifically, the Amendment requires consideration of the needs of the state and local people, and an environmental analysis under NEPA.

We are passionate about water resource management to stem the over-commitment of our water resources and to ensure long-term sustainability. We urge you to act on these recommendations and we look forward to your response.

Sincerely,

DORIS BAUMGARTNER,
Chair of Responsible Residents of the Red Rocks.

Sedona, AZ, September 8, 2003.

TO ALL MEMBERS, SENATE PUBLIC LANDS AND FOREST SUBCOMMITTEE: I am an architect living and working in the Verde Valley, one of the areas affected by the Northern Arizona (Yavapai Ranch) Land Exchange as proposed in S. 849. I am opposed to this trade for a number of reasons, and feel strongly that at a bare minimum, the Verde Valley parcels should be removed from the exchange. Contrary to much of the lobbying propaganda paid for by the proponent of this trade, there is not local, consensus that this is a good thing for the region. In reality, it will probably have detrimental effects for the area in the long run.

We live in an area experiencing growth pressure on many of our resources, the most significant of which is water. This trade will increase water use in the area, despite the so-called water restrictions or covenants attached to the trade. We are already mining water in the region, and are several years away from definitive studies that will truly show what sustainable water usage can be for our area. Existing private land in the Verde Valley can allow our population to triple, and there is no guarantee that there will be enough water for those who already own property. It is not fair to existing property owners to add 3,000 additional acres of developable land to the pool until we know that we can handle the needs of those already here.

There are many other complex planning issues tied to a trade of this magnitude, and these need to be analyzed thoroughly as would happen in a NEPA process if this trade were going through administrative channels rather than the legislative one you have in front of you. There have been no public hearings on this trade in

the area, and any at this point after the legislation has been introduced would be far too late and almost meaningless. There are no provisions for any meaningful public review of and input on the yet to be appraised values for this trade, to insure that the U.S. public would be getting a good deal if the trade were to go through. At this point, it appears that the whole package will be a real "sweetheart" deal for Mr. Ruskin, the proponent of the trade; he has been willing to spend hundreds of thousands of his own dollars lobbying to make this happen. He has hired a former Yavapai County supervisor as his lobbyist. This lobbyist also happens to be friends with some of the local elected officials who have become supportive of the trade, and who have wrongly been saying that their constituents are in agreement. There has been no public forum in which to even discuss the issue specifically.

I believe that this trade would not have a prayer of happening if it were objectively analyzed in a conscientious administrative process, and that is why the proponents have taken it out of the area to you for a "more efficient" passage. They have claimed that trades this large "need" to be legislated because of the complexity. However, that is exactly why they need a longer process and more scrutiny, to insure that they are the best deal for the American taxpayer, and do not have unintended negative planning effects for the regions in which they are consummated.

Please reject this legislation; it smacks of special interests and a whitewash of propaganda claiming a broad consensus that doesn't really exist. My livelihood depends on sensible, well-planned growth. This trade will actually hurt the regions ability to plan for and guide growth in a good way. Send it back to us at the local level for a true assessment of its merits.

Sincerely,

MAX LICHER.

SEDONA, AZ, SEPTEMBER 8, 2003.

DEAR SENATOR: I am sending this short letter to you and those on your Senate Public Lands and Forest Committee to help sited some light on a very misguided and locally detrimental issue that is about to come before you in hearing.

I am very opposed to the Senate Bill 849, the Yavapai Ranch Land Exchange, which will definitely have major adverse impacts on our immediate neighborhood, the Verde Valley. As an architect and a professional in the fields of urban design and regional planning, I would hope you can understand the importance and the hard reality of the following issues. The two most important issues are Land and Water.

Land: We have more undeveloped private land in both Camp Verde and Clarkdale than we could build out in the next 50+ years. What is our limiting build-out factor?

Water: We don't have plenty of that. Clarkdale is currently at only 20% of it's potential build-out and this past summer experienced water rationing of 50%. There are no other sources of water; our aquifer is the only one there is, and as many others will tell you in their letters, the wells are running dry, falling more than 200 feet in the last 20 years. Camp Verde has 46 square miles of land in it's coffers with 40% of that already in federal holdings, with less than 25% built out. There is no need for more federal lands being turned into private property than that already within city limits, already earmarked for development. Neither Camp Verde nor Clarkdale need more land no matter how convincing the rhetoric from uneducated town council members who believe all growth is good growth. Nothing could be further from the truth.

As a Professional in the field of architecture I am not anti-growth, I am involved with it every day, it is my livelihood. Coordinated regional planning in the Verde Valley is just beginning with controlled and planned growth being understood by all local planners as the key to continued economic growth and improved quality of life. I will not have this livelihood, and in fact will experience decreasing property values when there is no water to fill our drinking glasses. Water studies by the USGS, local Haskell springs Watershed Assoc., and the Verde River Water Users Assoc. are in progress but will not be concluded for several more years and we need to wait for those results before we add any more land to our developable land base.

I ask that the Verde Valley parcels (Camp Verde and Clarkdale) be removed from this proposed trade agreement between we the citizens of Arizona and Mr. Ruskin. They are not necessary for the "success" of this trade and in fact should be set aside as protected watershed preservation resources. If it is not possible to remove these parcels, then the entire trade should be placed into an Administrative process (with public comment) and removed from any Legislation. This would only be fair and democratic to the tens of thousands of residents that are affected by this legislation, 90% of whom have never heard of the proposed land trade. The process of land trad-

ing is not beneficial to the general public or to federally protected lands, and is certainly not going to be beneficial to the residents of the Verde Valley who have not been involved in this process at all, had no public comment.

This is not the democratic process and the democratic process seems to be rapidly eroding in our country as of late. Your help in restoring our faith in such is requested. Thank you for your time.

Sincerely,

DANIEL PADUCHOWSKI.

FAIN LAND AND CATTLE CO.,
Prescott Valley, AZ, September 9, 2003.

Hon. JON KYL,
U.S. Senate, Hart Building, Washington, DC.

Re: Northern Arizona National Forest Land Exchange Act of 2003 (Bill S. 849), also known as the Yavapai Ranch-Ruskin Land Exchange

DEAR SENATOR KYL: I am the owner of 300 acres of land that will be impacted by this exchange. The purpose of this correspondence is to express our concern about S. 849, Northern Arizona National Forest Land Exchange Act of 2003, as currently proposed. The addition of more than 3,000 acres of public lands to the existing deeded land base in the Verde Valley may result in significantly lower property values for deeded land.

Further, it is my understanding that "conservation easements" on both parcels proposed to be deeded will reduce their appraised values. Also, lack of legal access to one of the parcels, will adversely impact the appraised value of that parcel. This in turn could have a negative influence on the value of other privately-owned properties in the Verde Valley. Therefore, due to the sheer size of the proposed exchange and its potential adverse impact on the local economy, I request that both of these parcels be deleted from the proposed land exchange. Nearby property owners already have more land available for development to meet the growth demographic of the Verde Valley for decades to come and have been paying property taxes for the privilege of that ownership. Please include this letter in the official record of the Senate hearing on this bill, which is scheduled to be held on September 11, 2003 before the Senate Energy and Natural Resources Committee.

Your support of this matter will be greatly appreciated.

Yours very truly,

NORMAN W. FAIN, II "BILL FAIN",
President.

Prescott, AZ, September 9, 2003.

Senator LARRY CRAIG,
Chair, Senate Public Lands & Forests Subcommittee, Dirksen Senate Office Building, Washington, DC.

Re: S. 849

First, we apologize for the lateness of this appeal. But notification of this impending hearing arrived late, so time to respond is limited (which may have been the plan all along).

Nevertheless, on September 11 the subcommittee will hear only five minutes (bet Mr. Ruskin had more time than that to state his case) of testimony from citizens of Verde Valley's River watershed where you are about to legislate Arizona's largest land trade ever—the Ruskin Land Trade, where Fred Ruskin, owner of Yavapai Ranch, intends to create a community of 15,000 new households. In other words, a new city which will draw from the already depleted Verde Valley headwaters. This new city will also be guaranteed annual water usage beyond the current output of designated wells which are not even on Mr. Ruskin's property.

Beside the fact Mr. Ruskin has avoided federally required hearings and worked privately with Senators McCain, Renzi and Kyl to draft a special law, please consider the following: Arizona's water resources are limited even without the present 7 to 8 years of drought we are in. Thousands of Arizona residents' water is supplied by wells, and in recent years many of those wells have had to be drilled to even deeper depths because of a drop in the underground reservoir.

Senator Craig, you, representing Idaho, should be more aware than many of the serious water problems in the west.

Another point: Public input and thorough hearings were promised, yet this land trade smacks of a back-room good of boy land swap that throws public property, as well as the rights of Arizona citizens, away. Only to favor one individual, not the majority of the voters.

NEPA was established to ensure due process, not to be ignored because it takes too much time to find the truth of the matter.

We wish this letter to be logged and included in the record.

Hoping you will seriously ponder these issues,

MARVIN AND GERI E. DAVIS.

Sedona, AZ, September 9, 2003.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

DEAR SENATORS: I oppose S. 849, the Yavapai Ranch Land Trade, soon to be decided upon. The plan ignores the people of the Verde Valley and other areas of Central Arizona, while meeting the needs and requirements of certain special interest groups.

Where is the water coming from for all of this? Please research the official predictions concerning the ongoing drought and its imminent impact on us and the Glen Canyon Dam.

I can't vote for anyone who would back S. 849. It's not in our best interests.

Sincerely,

ROBERT SCHMIERER.

GROSETA RANCHES LLC,
Cottonwood, AZ, September 10, 2003.

SENATOR JON KYL,
U.S. Senate, Hart Building, Washington, DC.

Re: Northern Arizona National Forest Land Exchange Act of 2003 (S. 849), also known as the Yavapai Ranch-Ruskin Land Exchange

DEAR SENATOR KYL: I am writing this letter regarding S. 849 on behalf of my family who are fourth generation Arizona ranchers in the Camp Verde and Cottonwood areas.

As you are aware, almost the entire Camp Verde parcel (2,200 acres) is on a part of our Verde Grazing Allotment. The 820-acre parcel (Cottonwood/Clarkdale) adjoins our ranch in the Cottonwood area.

In a detailed memorandum we sent to your office in early July outlining the nature and extent of our loss based on the current proposal, we indicated the USFS calculated we will lose 47 Animal Units of carrying capacity on our ranch. This constitutes an irreplaceable loss of production capacity. The memorandum also indicates we will lose valuable water rights, grazing rights and improvements. Moreover, the value of my family's fee base property will be significantly devalued. The IRS will include the value of these items in calculating taxable gain for income tax purposes and in the gross estate for estate tax purposes. For the federal government to now take the opposite position and ignore the loss of this value by failing to compensate my family for this "taking" would be grossly unfair.

In addition, please consider that the conversion of an additional 3,020 acres (2,200 + 820 = 3,020) of public lands into private lands into the existing deeded land base in the Camp Verde and Cottonwood areas will result in significant lower property values to existing landowners who have owned their land for many years.

Also, after doing some extensive research, it is quite apparent that the U.S. taxpayer will be "fleeced" if this bill is passed in its present form. Having "conservation easements" in place (either before or immediately after conveyance of title) on both parcels will significantly reduce their appraised values. Having no legal access to the Cottonwood/Clarkdale parcel, also will adversely impact the appraised value of that parcel. With both parcels having significant encumbrances adversely affecting their values. It will definitely reduce the value of lands owned by the American people which is taken into account in the exchange process.

Therefore, we respectfully request you include a provision for just compensation to my family and look carefully at the valuation issues that will work against the American people in this land exchange.

In closing, I request that this letter be included in the official record of the Senate hearing on this bill, which is scheduled to be held on September 11, 2003 before the Senate Energy and Natural Resources Committee.

Your support of this matter will be greatly appreciated.

Sincerely,

ANDY GROSETA.

STATEMENT OF FRED RUSKIN, YAVAPAI RANCH LIMITED PARTNERSHIP

Chairman Craig and Members of the Subcommittee: My name is Fred Ruskin and my family owns the Yavapai Ranch in Yavapai County, Arizona. Ours is a family owned business, which I have personally run since my dad died in 1981. We don't own other investments, other businesses, a Keogh plan, lots of stocks—just this ranch.

As you can see from the map attached to this statement, the Yavapai Ranch contains approximately 55,000 acres of our private land, intermingled with 55,000 acres of the Prescott National Forest in a “checkerboard” ownership pattern. All the white land inside the heavy black line on the map is our land, whereas the green land (or grey if you are looking at a photocopy of the map) belongs to the Forest Service. Only the 6 sections you see in yellow are owned by outside interests. Other than these, after the exchange is completed, the Forest Service will own the land south and west of the orange line shown on the map, except for the 3 already developed parcels outlined in red, which we will keep, and one of which I live on.

As I said, the Yavapai Ranch lands represent my family's only financial asset. It has been obvious for some time that it was not feasible to tie up this increasingly valuable piece of land just to run cattle on it. The recent severe drought in Arizona has made the cattle business even less attractive, while the growth of the surrounding area has made the ranch even more desirable for development. We now have land on two sides of the ranch being subdivided, and what will be the largest development in Northern Arizona is being discussed on the third side.

We have been discussing an exchange with the Forest Service for a long time. I have been working on this exchange for seven years, and working virtually full time on it for the last four years.

We are seeking Congress' assistance in expediting this land exchange because the Forest Service has indicated that it will take a minimum of 4 years, and perhaps as much as 7-8 years, to finish an exchange by administrative means. That is extremely optimistic; it has been taking the Forest Service that long to do a fifty-acre exchange in Arizona—this is a fifty-five thousand acre exchange. My family simply cannot continue to commit time and resources to a process that might not ever happen. Virtually all of the large checkerboard or intermingled land exchanges that have been done by the Forest Service in the past have been legislated by Congress . . . even for such large landowners as Plum Creek Timber, Burlington Northern, Big Sky Lumber, Weyerhaeuser, and Potlatch. So for these reasons we need your help.

Mr. Chairman, in the exchange that is before you today in S. 849, we will trade 35,000 acres, or almost 70% of the land we own, to the Forest Service. From an ecological and recreational standpoint, that 35,000 acres is the most desirable part of the ranch because:

- It contains all the ponderosa pine forest on the ranch . . . which is the largest ponderosa pine forest still remaining in private ownership in Arizona;
- It has one of the last untouched valleys in our area providing quality antelope range, which the Arizona Department of Game and Fish strongly advocates for public ownership. This pristine antelope range is becoming more significant all the time given the very rapid development that is pushing antelope out of the Prescott area further to the south;
- It is located immediately adjacent to the existing Juniper Mesa Wilderness Area, which was established by Congress in 1984;
- It lies at higher elevation, and therefore provides better opportunities for public recreation in the hot summer months; and
- It will reduce the developable land base in the upper Verde River watershed (also known as the “Big Chino”) by roughly 25,000 acres, which would be a major protection of the watershed for this most important, free flowing river.

In return for the 35,000 acres we will convey to the Forest Service, we will receive 15,300 acres of lower elevation lands near our ranch headquarters and outlying buildings, plus approximately 5,900 acres in or near the communities of Williams, Flagstaff, Cottonwood, Clarkdale, Camp Verde and Prescott.

More than half of the acreage we receive in those communities will not be retained by us. Rather, it will be re-conveyed, either to municipal governments for airport, water, and sewer facilities, recreation, park, open space or other public uses, or to the children's summer camps that currently use these areas. All of these communities and summer camps have repeatedly stated their need for the exchange to be completed in the very near future . . . not in 7-8 years.

Both we and the Forest Service concur that the reconveyances to municipal governments and camps are an excellent way for the Forest Service to acquire as much of our family's land as possible in trade for Forest Service land that is of lesser value to the general public because it is already occupied by airports, water treatment plants, summer camps and the like. All National Forest land has value to the public, but it does not all have equal value. This is for the public the most obviously beneficial trade imaginable. The Forest is acquiring pristine forest and meadows in exchange for land around cities and camps that is already heavily impacted by use and/or location.

This exchange has been, and will continue to be, a cooperative venture with the Forest Service. Before this exchange is completed, we will perform: (1) formal appraisals in full compliance with the U.S. Department of Justice standards that were revised in 2000; (2) all required threatened and endangered species, cultural and historic resource, hazardous materials, and wetlands and floodplains analyses; and (3) traditional title reviews and analyses, which must be approved by the Forest Service. In addition, if the Forest Service determines that it cannot exchange to us a tract of federal land because it includes habitat for an endangered species, archaeological sites or another resource protected by Federal law which cannot be mitigated, the lands in question will be dropped from the exchange. So, there is no danger that the United States will lose lands with unique resources. And, as I have already mentioned, we, the Forest Service, and the Arizona Department of Fish and Game believe that the lands the Forest Service will acquire have much better environmental and recreational values than the lands the Forest Service will give up. Finally, as requested by several conservation organizations, the bill contains language in Section 7 to insure that the land acquired by the Forest Service will be permanently managed to maintain its existing natural character and values.

Mr. Chairman, while the Yavapai Ranch partnership supports the overall land exchange set forth in S. 849, we need to make it clear that we cannot and do not support the open-ended cost sharing formula set forth in subsection 6(d) of S. 849. There are two problems with this open-ended cost-sharing provision:

- First, the provisions would require our small, family-owned business to match costs expended by the federal government; and
- Second, most of the required expenses will be incurred by the Forest Service as it brings its land, not ours, to a "marketable title" condition.

We simply do not have the financial ability to agree to a cost sharing mechanism that would expose us to unknown and unquantified costs.

We note that the language of H.R. 2907 which was recently introduced into the U.S. House includes a provision that simply incorporates into it the current Forest Service regulations (36 CFR 254.7), which require each party to "bear their own costs of the exchange". These Forest Service regulations state: "Those processes and their costs which are the responsibility of the United States will be borne by the Forest Service . . ."

In closing, Mr. Chairman, a very broad coalition supports this trade. We now have the strong support of every city that is a part of the trade, all of the local chambers of commerce, the Arizona Department of Game and Fish, many hunter and sportsmen groups, and many influential environmental leaders in Northern Arizona.

Mr. Chairman, thank you for scheduling this hearing on a matter that is of utmost importance to my family, and to the people and communities of Arizona. I wish that the economics of ranching were better than they are, that Arizona had not grown as it has, and that we could have afforded to maintain the status quo . . . but that is not the reality of the situation today. So, I believe this exchange is in the best interest not only of my family but also of the land and people of Arizona.

More than twenty-five years ago, my father promised the Forest Service that he would give them an opportunity to do a land exchange before he developed the land on our ranch.

This is that opportunity.

STATEMENT OF JOSEPH C. DONALDSON, MAYOR, CITY OF FLAGSTAFF, AZ

Chairman Craig, Ranking Member Wyden, members of the Subcommittee, I am honored to testify in support of S. 849, the Northern Arizona National Forest Land Exchange Act of 2003. I am especially appreciative Senator Kyl is here today and is a lead sponsor of this important legislation along with Senator McCain. I also strongly support Congressman Renzi's legislation, H.R. 2907, which is nearly identical to the legislation that is the subject of this hearing.

The passage of the Northern Arizona National Forest Land Exchange Act of 2003 is critical to the future economic vitality of the City of Flagstaff. The proposed land exchange includes approximately 1,600 acres in the area around Flagstaff Pulliam Airport. The City, with first right of acquisition for a portion of this acreage, will have the opportunity to expand the municipal airport; protect the airport from future encroachment; address airport safety concerns; expand the existing business park; and acquire land for future regional park development.

This expanded business park will allow Flagstaff to supplement its tourist-based economy with more diversified business interests. The addition of new businesses will provide the means with which Flagstaff will attract better and higher-paying jobs to the city. Flagstaff has little land available for immediate business park expansion, deterring many companies from relocating to the area, which affects our ability to expand our employment base. The 775-acre parcel retained by the owner is also designated for business/light industrial use in the Regional Plan.

The acquisition of land for future regional park development will not only serve local and regional recreational needs but also act as a buffer for residents along Lake Mary Road and the airport. One of the many reasons people choose Flagstaff is for the recreational opportunities it provides, such as hiking, biking, and skiing. The addition of this regional park will enhance these opportunities.

I would be remiss if I didn't state that this legislation is not only critically important to the City of Flagstaff, but also the Northern Arizona region. It is my understanding the Forest Service strongly supports this legislation, as it will consolidate lands within the Prescott National Forest that are currently checkboarded. The legislation also preserves old growth ponderosa and juniper from encroachment or future development.

Mr. Chairman, this bill is the result of careful consultation with cities, counties, the Forest Service, and affected constituents from northern Arizona and is the product of years of intense negotiations. The bill is strongly supported by the Flagstaff City Council and will provide economic and environmental advantages for northern Arizona. I urge you to strongly support S. 849 and expeditiously move this legislation.

Thank you for the opportunity to testify in support of the Northern Arizona National Forest Land Exchange Act of 2003.

Cornville, AZ, September 11, 2003.

JENNIFER OWEN,
Energy and Natural Resources Committee.

Subject: S. 849

We're writing to oppose the passage of S. 849, a land exchange between the Secretary of Agriculture and Yavapai Ranch Limited Partnership, at least on the trade that affects the Verde Valley. Our number one concern is already scarce water.

According to Paul Handverger, a hydrologist who lives in the area, we might as well rename the Verde River the Ruskin Dry Wash if this land trade goes through. We're also concerned that this bill is being rushed through, bypassing the administrative process with scientific impact studies and opportunity for public input that the Forest Service normally uses for such trades. It's a sweetheart deal for Mr. Ruskin, who gets to keep the water on the land he trades to the Forest Service.

In addition, Camp Verde will get to buy land from him for 15 percent above the appraised value. It may be a good deal for Flagstaff and Williams, but it's a lousy one for the Verde Valley—just another example of greed coming to the forefront and special influences. Please vote NO on S. 849. Thank you.

Sincerely,

HELGA FREUND & JACK MORGENSTERN.

TOWN OF CLARKDALE,
Clarkdale, AZ, September 11, 2003.

Hon. PETE V. DOMENICI,
Chairman, U.S. Senate Energy and Natural Resources Committee, Washington, DC.

I testify in opposition to S. 849, the proposed land exchange between the U.S. Forest Service and a private landowner. The bill is titled "Northern Arizona National Lane Exchange Act of 2003."

I am an elected member of the Clarkdale, Arizona Town Council. Today, I speak as a private citizen representing thousands of concerned residents and a number of other elected officials in our region. It is through their financial contributions that my trip here was made possible.

This proposed land exchange, as drafted, will have profound negative impacts on Clarkdale and other parts of the Verde Valley. These alone are serious enough to compel defeat of the bill, as drafted, but there are numerous other provisions in the bill that require deletion or serious revision.

CLARKDALLE CONCERNS

The 820+ acres of forest lands listed for exchange in Clarkdale are accessible public lands available for protection of our watershed, environmental buffers, and to provide opportunities for education, recreation, and a multitude of other uses. Trading these lands for inaccessible lands hundreds of miles away will deprive the public—us—of the protection, purposes and uses for which these Clarkdale lands were set aside as public lands originally.

These lands are an important part of our area's watershed. Our area in general, and Clarkdale in particular, is critically short of water. The privatization and development of this public land will only make matters worse. We live in a desert!

The communities in our area are already mining water—that is, removing it far faster than it can ever be replaced by nature. Further development of any open land must not outpace our ability to supply and sustain it.

Our area has no surface water rights (i.e., rivers or lakes)! We are totally dependent on ground water. Well levels have been steadily dropping these past several years, and many residents have had to redrill their wells several times. The private water company that supplies much of our area has redrilled without success. There is no evidence that sufficient additional water resources exist. (See, Attachment 1, de Welles; Attachment 2, Handverger)*

We live in a very arid region—a desert. Studies are underway to determine the extent of our ground water resources. Until we have the scientific evidence that sufficient water exists to support such additional development as proposed on the Clarkdale 800 acres, we must limit new growth to the private land already in existence. Creating more private land subject to development and increasing demands on our already limited water resources is certainly not in the public interest.

Although Arizona is among the driest areas in the U.S., Arizona State water laws have not kept pace with the State's growth. Towns may not consider water availability when making development decisions. State law prohibits it. The public gets very little protection from the State on rural water issues. It is changing, but slowly. Our federal lands offer some protection as water reservoirs. (See, Attachment 3, Handverger)

The water restrictions in S. 849, as they relate to the Clarkdale parcel, are completely insufficient and toothless, because they exceed what are considered normal usage levels, and because there is no certain provision that water usage levels will be monitored or enforced. No date agency has the will or sufficient staff to do such monitoring or enforcement, even if a provision in the bill would require it. Further, S. 849's restrictions do not apply to private or municipal water companies in any case.

Clarkdale is a small town of under 4,000 people. Residential development of an additional 820 acres of newly privatized land will burden the town's resources. It is a generally accepted fact that that residential property tax revenue actually results in a net loss. The services required to support this proposed development will strain the town and is not in the public interest.

In Clarkdale's case, all of our residential property tax covers only the cost of our fire department. Funds for all of the rest of our town's expenditures must come from other sources. More residential development will only increase the disparity. (See, Attachment 4, Fact Sheet)

*The attachments have been retained in subcommittee files.

We are a growing but rural area. These public lands which remain to us are vital and essential to preserve a character which our residents highly value. Loss of these accessible public lands which serve as watershed, viewshed and as buffers between developments and towns will seriously compromise our natural and human environment.

The 820 acres defined in S. 849 are entirely within the town limits of Clarkdale. None of this land is in Cottonwood, a neighboring town, and any reference to Cottonwood should be removed from this bill.

AREA CONCERNS

All of the above points, as they relate to water and the public's valuing and use of its public land, apply to the entire region of the Verde Valley, including Camp Verde, the site of another parcel defined in S. 849. Council member, Anthony Gioia, from Camp Verde has addressed his community's concerns before this Committee.

Myth: There is enough water to supply development to these 3,000+ acres in the Verde Valley.

Fact: The area is already critically short of water. No scientist or specialist on water issues has ever suggested there is sufficient water here. Every hydrologist, geologist, etc., who has so far studied this area opposes the inclusion of the Verde Valley (Clarkdale and Camp Verde) parcels in any trade. They verify that we are already using water faster than it can recharge. We are in an arid, water-poor area. The impact of this proposed trade on the area water resources must be determined before more public lands are privatized and developed. (See Attachment 5, Hjalmarson)

Myth: The water restrictions in S. 849 protect the public from excess water use.

Fact: The water use "restrictions" are unreasonably generous. Further, there is no way to monitor, or verify, compliance on any of the parcels in this proposed trade, including the wells on the public land at Yavapai Ranch which will be retained by the proponent, Fred Ruskin. Nor is there any mechanism for enforcement. There is no State agency willing or able to monitor compliance. No monitoring will be done. The public will not be protected.

Myth: The protection of the Juniper Mesa Wilderness and the consolidation of the checkerboard lands is worth whatever it takes.

Fact: While both are worthy goals, S. 849 allows the proponent, Fred Ruskin, to retain thousands of acres of inholdings which directly abut the wilderness, and when developed will seriously impact it.

S. 849, as drafted, does not protect the Wilderness. If the purpose of this proposed trade is to consolidate the checkerboard lands, no long-term or permanent inholdings should be permitted. Inholdings of thousands of acres are against U.S. Forest Service policy and against the public interest. In addition, such inholdings are not necessary to reach equity in the trade.

Myth: The Verde Valley (Clarkdale and Camp Verde) parcels are necessary to reach equity for this proposed trade.

Fact: Equal value can be reached solely within the checkerboard lands. U.S. Forest Service parcels outside the checkerboard proposed to be traded and made available for purchase by a town or city for public use or benefit could be included if the public supports such action. The Verde Valley parcels are scheduled for private development. There is little support outside the construction and construction-related interests for their inclusion. These lands must be removed from the trade until the potential impacts of their privatization can be determined.

The goals of this proposed trade can be realized without including the Verde Valley lands and jeopardizing the area's future.

Myth: Privatization of these thousands of acres of public lands and their subsequent development will improve the area economy, provide jobs, and increase the tax base.

Fact: The jobs will be temporary, of short duration, and most likely be done primarily by contractors outside the area.

Residential property tax does not cover the town's cost of providing services to these developments.

The commercial development planned for the Camp Verde parcel may provide some minimum-wage jobs, some sales tax, and some new property tax revenue, but at what cost to the other businesses in the town and to the general public interest? What effect will the addition of large amounts of newly privatized land have on the value of the private land already available for growth?

This issue must be part of a scoping effort to study the possible impacts of adding more than 3,000 acres of additional private land to the Verde Valley area.

Myth: The development of newly-privatized public lands will provide “affordable” housing.

Fact: Using the “affordable housing” claim is disingenuous because no such housing will ever likely materialize.

From the outset, these lands have been earmarked by the proponent, Fred Ruskin, for “higher end housing”. There is no agreement as to what “affordable” housing is. Even multiple dwellings are not affordable to a large segment of our population. There is little incentive to build affordable housing because developers’ profits on such construction are less.

Myth: U.S. Forest Service lands near towns have become “urbanized” and so, have lost their value, and need too much maintenance by the understaffed Forest Service.

Fact: The lands near development serve as essential habitat watershed and environmental buffers. These lands are accessible; they are vital for the preservation of the lifestyle and amenities that public lands offer.

Since these lands are used, they do need maintenance. Citizen volunteers can aid in this task. Such programs work well. Clarkdale citizens have repeatedly offered the USFS such services, only to be ignored. Nevertheless, Clarkdale citizens routinely clean up “our” forest lands without Forest Service cooperation or involvement.

These lands matter to us, and their loss would be a great one. Their development will put the future of our groundwater resources in serious jeopardy. How can their privatization for one person’s financial gain be defended as being in the public interest? The public interest requires that our public lands be preserved for future generations. The more densely populated an area becomes, the more crucial our accessible public lands become.

Myth: The opponents of S. 849 are “tree huggers” “no growers”, and “short-sighted reactionaries.”

Fact: While the opponents are interested in preserving the integrity of the environment, most favor the multiple-use concept on our accessible public lands. We do want to preserve our rural lifestyle, but that is not incompatible with reasonable, sustainable growth on the already existing private properties.

There is enough existing private property to increase our current population over 500%. The challenge is to grow wisely, as we develop—and to protect—the resources needed to support that growth. We must think long-term. Growth-for-greed may bring short-term gains, but what will be the long-term effects on our resources, and our human and natural environments?

Why haven’t these issues been studied: why haven’t they been considered when drafting S. 849? The fast-tracking of this largest land trade in Arizona’s history cannot be defended as in the public interest. U.S. Forest trade guidelines normally involve full impact studies. At present, the potential impacts are unstudied and unknown. We should not have to gamble on our area’s future. (see Attachment 6, Janacek, Attachment 7, Joens; Attachment 8, Wiley; Attachment 9, Licher)

Myth: The public has been involved in this trade proposal and its input has been considered in S. 849.

Fact: The people—the owners of this land—have been shut out, ignored and generally treated as a nuisance from the outset. The U.S. Forest Service did not do its job in involving the public: it delayed any scoping process until the trade proposal was fast-tracked through the legislative process.

The public was promised on-site hearings by our Congressional delegation and the U.S. Forest Service, but these have never taken place. The Forest Service, and especially the Congress, have been heavily lobbied by Fred Ruskin’s hired spokespeople. We, the public, only wish we had access to the financial resources which would afford us such access. While a few legislators have made an effort to be available, we fear the decisions are in the hands of those who are not familiar with the details of the proposal or the areas involved.

The NEPA process would assure us that the bill’s provisions have been studied, along with providing possible alternatives which would better serve the public interest. Since these are public lands, shouldn’t the public and those agencies created to serve and protect us let the process unfold based on science, reason and the public good?

Decisions of this magnitude should be based on a variety of sources and a variety of information. The record of land trades between the federal government and private persons has been mixed, at best. The public has too often been seriously short-changed, as the *2000 GAO Report* revealed. (See “Land Exchanges Need to Reflect Appropriate Value and Serve the Public Interest”, June 2000, GAO/RCED-00-73)

According to the GAO, the guidelines in place for land exchanges are often ignored or circumvented. What is propelling this proposal forward without the safeguards to protect the public? Why does S. 849 have no impact study requirements? If this proposed land trade can’t stand up to the scrutiny of the NEPA process, or

some equivalent impact analysis, how can it deserve to become law? Are the protections in the NEPA process to be deemed irrelevant? These procedures to protect the public and its resources exist for sound and just reasons. They should be used, especially in our State's largest proposed land trade ever. (See Attachment 10, Leibforth)

The people of Arizona and the United States deserve to have their voices heard regarding actions affecting their property. They deserve to have full access to all information and to the decisionmakers. They deserve to have full implementation of the programs which are designed to protect their interests. (See Attachment 11, League of Women Voters)

The people of Arizona and the United States do not deserve to have their lands traded away, for expediency or as political pawns, to enrich a few at the expense of the many. Such trades should not be made for any reasons other than those defensible under the applicable guidelines which are there to protect and advance the public interest.

S. 849 does not accomplish its purported aims. It does not properly address the complex issues involved in this massive trade. It does not represent appropriate input from the owners of these public lands. In its current form, S. 849 is not worthy of passage into law because it is not in the interests of the American people.

Respectfully submitted,

DAVID W. LEIBFORTH,
Councilor, Clarkdale, AZ.

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