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109TH CONGRESS } HOUSE OF REPRESENTATIVES { REPT. 109–169
*1st Session* } { Part 1

# SMALL TRACTS REFORM ACT

JULY 14, 2005.—Ordered to be printed

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

# R E P O R T

together with

## ADDITIONAL VIEWS

[To accompany H.R. 1905]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 1905) to amend the Small Tracts Act to facilitate the exchange of small tracts of land, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

## PURPOSE OF THE BILL

The purpose of H.R. 1905 is to amend the Small Tracts Act to facilitate the exchange of small tracts of land, and for other purposes.

## BACKGROUND AND NEED FOR LEGISLATION

H.R. 1905 amends the Small Tracts Act and also facilitates the exchange of two tracts of land. Due to time and expense, the Forest Service generally only participates in large land transactions by either acquiring or selling land. The Small Tracts Act was passed to give the Forest Service the authority to exchange small parcels of land in an expedited manner. Small tracts would include mineral fractions, interspersed parcels, lands affected by encroachment or erroneous surveys, road rights-of-way, or other parcels of land in which the sale or exchange is not practicable under any other authority and the management of the area is inefficient. All transactions require compliance with the National Environmental Policy

Act, must be limited to 40 acres of land or less, and the value of land to be interchanged may not exceed $150,000. These limitations have made it difficult for the Forest Service to interchange lands, and H.R. 1905 seeks to alleviate such problems.

As a result of the increasing value of forested land in some areas, especially in the wildland-urban Interface or near other metropolitan areas, H.R. 1905 eliminates the cap of $150,000. This cap was set in 1983 and if adjusted for inflation would total $286,000 today. Considering the lengthy process of administrative land exchanges, which generally take over two years and many times up to a decade, H.R. 1905 also expands the acreage cap to 100 acres. Additionally, the Small Tracts Act limits some interchanges to lands transferred out of federal ownership under "the mining laws." H.R. 1905 would eliminate this restriction allowing all lands transferred out of federal ownership regardless of the authorizing statute (such as the Homestead Act, for example) to be interchanged.

Next, H.R. 1905 directs the Secretary of Agriculture to acquire two small tracts of land from two private landowners in the Tahoe National Forest. While the parcels are small enough to be exchanged under the Small Tracts Act, other antiquated limitations in the Act would prevent the exchange.

In the first interchange, a private landowner would acquire the mineral rights to three acres of the surface estate his family has owned since 1939. In exchange the Forest Service would acquire seven acres of land adjacent to Tahoe National Forest's Indian Valley Campground. The Tahoe National Forest has indicated its interest in obtaining the seven acres in correspondence to the landowner.

The second land exchange is necessitated by a boundary adjustment 1935. It would exchange a .87 acre of Forest Service land located in the landowner's back yard with a .84 acre parcel that abuts the .87 acre parcel. This would allow the Forest Service to gain access to a trailhead staging area. Additionally, the Forest Service has indicated it would be an attractive exchange in correspondence to the landowner.

Currently, there are no appraisals for the lands in question. However, any valuation of the land for the Forest Service must meet the Uniform Appraisal Standards for Federal Land Acquisitions. Additionally, any receipts received by the Forest Service must be deposited into the fund established by the Sisk Act.

## COMMITTEE ACTION

H.R. 1905 was introduced on April 27, 2005, by Congressman John Doolittle (R–CA). The bill was referred primarily to the Committee on Resources and additionally to the Committee on Agriculture. Within the Resources Committee, the bill was referred to the Subcommittee on Forests and Forest Health. On May 11, 2005, the Subcommittee held a hearing on the bill. On May 18, 2005, the Full Resources Committee met to consider the bill. The Subcommittee was discharged from further consideration of the bill by unanimous consent. No amendments were offered, and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

## COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

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

## CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

## COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in tax expenditures. According to the Congressional Budget Office, enactment of this bill could result in increased offsetting receipts, but thee would not exceed $500,000 in any year.

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

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

*H.R. 1905—Small Tracts Reform Act*

CBO estimates that enacting H.R. 1905 would not significantly affect the federal budget. The bill could affect direct spending, but we estimate that any such effects would be negligible. Enacting H.R. 1905 would not affect revenues. H.R. 1905 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would have no significant impact on the budgets of state, local, or tribal governments.

The Small Tracts Act authorizes the Forest Service to sell or exchange small parcels of federal land that meet certain criteria. H.R. 1905 would expand those criteria to allow the agency to sell or exchange larger, more valuable parcels under certain circumstances. By allowing the agency to sell more valuable land, H.R. 1905 could result in an increase in offsetting receipts from the sale of such land. However, based on information from the Forest Service, CBO expects that most transactions under H.R. 1905 would be completed through exchanges of equally valued land rather than sales. Therefore, we estimate that any change in offsetting receipts (a

credit against direct spending) would not exceed $500,000 in any year.

The CBO staff contact for this estimate is Megan Carroll. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

## PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

## COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
*Washington, DC, June 22, 2005.*

Hon. BOB GOODLATTE,
*Chairman, Committee on Agriculture,*
*Longworth HOB, Washington, DC.*

DEAR MR. CHAIRMAN: I ask your help in scheduling H.R. 1905, the Small Tracts Reform Act, for consideration by the House of Representatives as soon as possible. Authored by John Doolittle, H.R. 1905 was referred primarily to the Committee on Resources and additionally to your Committee. The purpose of H.R. 1905 is to amend the Small Tracts Act to facilitate the exchange of small tracts of National Forest Service land. With your help, a similar bill was passed by the House of Representatives last Congress. The Committee on Resources ordered the bill reported without amendment on May 18, 2005, and I hope to file the report on the bill before Congress adjourns for the July 4th District work period. I have forwarded a copy of the draft bill report to your staff for review.

In hopes that the Senate will be able to act on this bill this Congress, I ask that you allow the Committee on Agriculture to be discharged from further consideration of the bill. This action would not be considered as precedent for any future referrals of similar measures or seen as affecting your Committee's jurisdiction over the subject matter of the bill. Moreover, if the bill is conferenced with the Senate, I would support naming Agriculture Committee members to the conference committee.

I look forward to your response and would be pleased to include it and this letter in the report on H.R. 1905.

Sincerely,

RICHARD POMBO,
*Chairman.*

HOUSE OF REPRESENTATIVES,
COMMITTEE ON AGRICULTURE,
*Washington, DC, July 13, 2005.*

Hon. RICHARD W. POMBO,
*Chairman, Committee on Resources,*
*Longworth HOB, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for sending me a draft copy of the bill report for H.R. 1905, the Small Tracts Reform Act. As you are aware, the Committee on Agriculture was granted an additional referral for those provisions falling within its jurisdiction.

Recognizing your interest in moving this legislation forward, I agree to discharge the Committee on Agriculture from further consideration of this bill. I appreciate your understanding that this discharge does not affect future referrals to the Committee or its jurisdiction over the subject matter of the bill. The Committee reserves the right to seek conferees to the conference committee, should it be necessary, and I thank you for your support in that regard.

Once again, I am pleased with the cooperation between our two committees and hope we continue to work together in this spirit in the future.

Sincerely,

BOB GOODLATTE,
*Chairman.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

## SECTION 3 OF PUBLIC LAW 97–465

(Commonly known as "Small Tracts Act")

SEC. 3. The National Forest System lands which may be sold, exchanged, or interchanged under this Act are those the sale or exchange of which is [not practicable] *either not practicable or not expedient* under any other authority of the Secretary[, which have a value as determined by the Secretary of not more than $150,000,] and which are—

(1) [parcels of forty acres] *parcels or portions of parcels of 100 acres* or less which are interspersed with or adjacent to lands which have been transferred out of Federal ownership [under the mining laws] and which are determined by the Secretary, because of location or size, not to be subject to efficient administration;

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## ADDITIONAL VIEWS

While we do not object to the specific goals of this legislation—to authorize two land exchanges between private landowners and the U.S. Forest Service involving lands in the Tahoe National Forest in California—we do object to its methods of generically amending the Small Tracts Act and bypassing the Federal Land Policy Management Act.

In the 108th Congress, a bill to authorize the two California land exchanges, H.R. 4617, was reported by the Committee with an amendment to strike the changes to the Small Tracts Act. In addition, H.R. 4617, as reported, required that the exchanges comply with the Federal Land Policy Management Act. See: H. Rept. 108–866, Part 1.

H.R. 1905, by contrast, differs in those key respects from the amended bill which passed by the House on September 29, 2004 with bipartisan support.

Specifically, H.R. 1905 would amend the Small Tracts Act to remove the tract value limitation of $150,000 as well as to increase the parcel size of a tract from 40 acres or less to 100 acres or less. Such changes to the Small Tracts Act are not necessary to achieve the desired results of authorizing the two land exchanges in California and could have unintended consequences if applied nationwide. Moreover, H.R. 1905 fails to require that the exchanges comply with the Federal Land Policy Management Act, further reducing safeguards intended to protect against giveaways of public lands.

NICK RAHALL.
TOM UDALL.

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