

104TH CONGRESS
2D SESSION

H. R. 3088

To provide for the exchange of certain federally owned lands and mineral interests therein, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 14, 1996

Mr. BREWSTER (for himself, Mr. DICKEY, and Mr. HUTCHINSON) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for the exchange of certain federally owned lands and mineral interests therein, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS AND PURPOSE.**

4 (a) FINDINGS.—Congress finds that:

5 (1) The Weyerhaeuser Company has offered to
6 the United States Government an exchange of lands
7 under which Weyerhaeuser would receive approxi-
8 mately 50,000 acres of Federal land in Arkansas
9 and Oklahoma in return for conveying to the United

1 States lands owned by Weyerhaeuser consisting of
2 approximately 165,000 acres of forested wetlands
3 and other forest land of public interest in Arkansas
4 and Oklahoma, consisting of—

5 (A) certain Arkansas Ouachita lands lo-
6 cated near Lake Ouachita, Little Missouri Wild
7 and Scenic River, Flatside Wilderness and the
8 Ouachita National Forest;

9 (B) certain lands in Oklahoma located
10 near the McCurtain County Wilderness, the
11 Broken Bow Reservoir, the Glover River, and
12 the Ouachita National Forest; and

13 (C) certain Arkansas Cossatot lands lo-
14 cated on the Little and Cossatot Rivers and
15 identified as the “Pond Creek Bottoms” in the
16 Lower Mississippi River Delta section of the
17 North American Waterfowl Management Plan.

18 (2) Acquisition of the Arkansas Cossatot lands
19 by the United States will remove the lands in the
20 heart of a critical wetland ecosystem from sustained
21 timber production and other development.

22 (3) The acquisition of the Arkansas Ouachita
23 lands and the Oklahoma lands by the United States
24 for administration by the Forest Service will provide
25 an opportunity for enhancement of ecosystem man-

1 agement of the National Forest System lands and
2 resources.

3 (4) The Arkansas Ouachita lands and the Okla-
4 homa lands have outstanding wildlife habitat and
5 important recreational values and should continue to
6 be made available for activities such as public hunt-
7 ing, fishing, trapping, nature observation, enjoy-
8 ment, education, and timber management.

9 (5) Private use of the lands the United States
10 will convey to Weyerhaeuser will not conflict with es-
11 tablished management objectives on adjacent Fed-
12 eral lands.

13 (6) The lands the United States will convey to
14 Weyerhaeuser as part of the exchange described in
15 paragraph (1) do not contain comparable fish, wild-
16 life, or wetland values.

17 (7) The United States will convey all mineral
18 interests and oil and gas interests to Weyerhaeuser
19 on or under all surface acres designated to be ex-
20 changed pursuant to the exchange described in para-
21 graph (1) in which the Federal Government owns
22 such interests.

23 (8) Pursuant to such exchange, Weyerhaeuser
24 will convey to the United States all mineral interests
25 and equivalent oil and gas interests on or under all

1 surface acres designated to be exchanged pursuant
2 to the exchange described in paragraph (1) in which
3 Weyerhaeuser owns such interests.

4 (9) The United States and Weyerhaeuser have
5 agreed to the values and boundaries of all lands,
6 mineral interests, and oil and gas interests to be
7 conveyed in the exchange and concur that the lands,
8 mineral interests, and oil and gas interests to be
9 conveyed by Weyerhaeuser and the lands, mineral
10 interests, and oil and gas interests to be conveyed by
11 the United States area approximately equal in value.

12 (10) The exchange of lands, mineral interests,
13 and oil and gas interests between Weyerhaeuser and
14 the United States is in the public interest.

15 (b) PURPOSE.—The purpose of this Act is to author-
16 ize and direct the Secretary of the Interior and the Sec-
17 retary of Agriculture to enter into an exchange of lands,
18 mineral interests, and oil and gas interests that will pro-
19 vide environmental, land management, recreational, and
20 economic benefits to the States of Arkansas and Okla-
21 homa and to the United States.

22 **SEC. 2. DEFINITIONS.**

23 As used in this Act:

1 (1) LAND.—The terms “land” or “lands” mean
2 the surface estate and any other interests therein ex-
3 cept for mineral interests and oil and gas interests.

4 (2) MINERAL INTERESTS.—The term “mineral
5 interests” means geothermal steam and heat and all
6 metals, ores, and minerals of any nature whatsoever,
7 except oil and gas interests, in or upon lands subject
8 to this Act including, but not limited to, coal, lignite,
9 peat, rock, sands, gravel, and quartz.

10 (3) OIL AND GAS INTERESTS.—The term “oil
11 and gas interests” means all oil and gas of any na-
12 ture whatsoever including carbon dioxide, helium,
13 and gas taken from coal seams (collectively “oil and
14 gas”) together with the right to enter lands for the
15 purpose of exploring the lands for oil and gas and
16 drilling, opening, developing, and working wells on
17 such lands and taking out and removing from such
18 lands all such oil and gas together with the right to
19 occupy and make use of as much of the surface of
20 said lands as may reasonably be necessary for these
21 purposes subject to the Secretary of Agriculture’s
22 rules and regulations set forth in section 251.15 of
23 title 36, Code of Federal Regulations.

1 (4) SECRETARIES.—The term “Secretaries”
2 means the Secretary of the Interior and the Sec-
3 retary of Agriculture.

4 (5) WEYERHAEUSER.—The term “Weyer-
5 haeuser” means Weyerhaeuser Company, a company
6 incorporated in the State of Washington.

7 **SEC. 3. EXCHANGE.**

8 (a) EXCHANGE OF LANDS AND MINERAL INTER-
9 ESTS.—

10 (1) IN GENERAL.—Subject to paragraph (2),
11 within 120 days after the date of the enactment of
12 this Act, the Secretary of Agriculture shall convey to
13 Weyerhaeuser, subject to any valid existing rights,
14 approximately 20,000 acres of Federal lands and
15 mineral interests in the State of Arkansas and ap-
16 proximately 30,000 acres of Federal lands and min-
17 eral interests in the State of Oklahoma as depicted
18 for exchange on maps entitled “Arkansas-Oklahoma
19 Land Exchange—Federal Arkansas and Oklahoma
20 Lands”, dated _____ 1996 and available for
21 public inspection in appropriate offices of the Sec-
22 retaries.

23 (2) OFFER AND ACCEPTANCE OF LANDS.—The
24 Secretary of Agriculture shall make the conveyance
25 to Weyerhaeuser if Weyerhaeuser offers deeds of

1 title, subject to limitations and the reservation de-
2 scribed in subsection (b), acceptable to the Secretary
3 of Agriculture that convey to the United States the
4 following:

5 (A) Approximately 110,000 acres of lands
6 and mineral interests owned by Weyerhaeuser
7 in the State of Oklahoma, as depicted for trans-
8 fer to the United States upon a map entitled
9 “Arkansas-Oklahoma Land Exchange—
10 Weyerhaeuser Oklahoma Lands”, dated
11 _____ 1996 and available for public in-
12 spection in appropriate offices of the Secretar-
13 ies.

14 (B) Approximately 30,000 acres of lands
15 and mineral interests owned by Weyerhaeuser
16 in the State of Arkansas, as depicted for trans-
17 fer to the United States upon a map entitled
18 “Arkansas-Oklahoma Land Exchange—
19 Weyerhaeuser Arkansas Ouachita Lands”,
20 dated _____ 1996 and available for
21 public inspection in appropriate offices of the
22 Secretaries.

23 (C) Approximately 25,000 acres of lands
24 and mineral interests owned by Weyerhaeuser
25 in the State of Arkansas, as depicted for trans-

1 fer to the United States upon a map entitled
2 “Arkansas-Oklahoma Land Exchange—
3 Weyerhaeuser Arkansas Cossatot Lands”, dated
4 _____ 1996 and available for public in-
5 spection in appropriate offices of the Secretar-
6 ies.

7 (b) EXCHANGE OF OIL AND GAS INTERESTS.—

8 (1) IN GENERAL.—Subject to paragraph (2), at
9 the same time as the land and mineral interests ex-
10 change is carried out pursuant to this section, the
11 Secretary of Agriculture shall exchange all Federal
12 oil and gas interests, including existing leases and
13 other agreements, in the lands described in sub-
14 section (a)(1) for equivalent oil and gas interests, in-
15 cluding existing leases and other agreements, owned
16 by Weyerhaeuser in the lands described in sub-
17 section (a)(2). Any exchange of oil and gas interests
18 pursuant to this Act may be made without regard to
19 the limitations requiring that exchanges be made
20 within the same State under section 206 of the Fed-
21 eral Lands Policy and Management Act of 1976 (43
22 U.S.C. 1716).

23 (2) RESERVATION.—In addition to exchanging
24 oil and gas interests pursuant to paragraph (1), to
25 account for the acreage imbalance in the exchange

1 required under this Act, there is hereby reserved to
2 Weyerhaeuser, its successors, and assigns until De-
3 cember 31, 2041, and for so long thereafter that oil
4 or gas is produced therefrom (“term reservation”),
5 all oil and gas in and under the acreage imbalance
6 lands depicted for reservation by Weyerhaeuser upon
7 a map entitled “Arkansas-Oklahoma Land Ex-
8 change—Weyerhaeuser Oil and Gas Interest Res-
9 ervation Lands”, dated _____ 1996 and
10 available for public inspection in appropriate offices
11 of the Secretaries. Beginning January 1, 2042, there
12 is hereby reserved to Weyerhaeuser, its successors
13 and assigns, a proportionately reduced 6.25 percent
14 of 8/8’s overriding royalty interest in all oil and gas
15 produced from any well in any governmental section
16 adjacent to or cornering a section in which oil and
17 gas is being produced at the expiration of the term
18 reservation (“overriding royalty”). The overriding
19 royalty will continue until either the producing well
20 (a well producing on December 31, 2041) ceases
21 production or until all federally leased wells to which
22 the overriding royalty applies cease production,
23 which is later.

24 (c) GENERAL PROVISIONS.—

1 (1) VALUATION.—The lands, mineral interests,
2 and oil and gas interests exchanged pursuant to this
3 Act shall be approximately equal in value, as deter-
4 mined by the Secretaries and agreed to by
5 Weyerhaeuser. To ensure that the natural values of
6 the area are not affected by the exchange, a formal
7 appraisal based upon drilling or other surface dis-
8 turbing activities shall not be required for any min-
9 eral interests or oil and gas interests exchanged.

10 (2) MAPS CONTROLLING.—The acreage cited in
11 this Act is approximate. In the case of a discrepancy
12 between the description of lands, mineral interests,
13 and/or oil and gas interests to be exchanged pursu-
14 ant to subsection (a) and the lands, mineral inter-
15 ests, and/or oil and gas interests depicted on a map
16 referred to in such subsection, the map shall control.
17 Subject to the notification required by paragraph
18 (3), the maps referenced in this Act are subject to
19 such minor corrections as may be agreed upon by
20 the Secretaries and Weyerhaeuser.

21 (3) FINAL MAPS.—Not later than 180 days
22 after the conclusion of the exchange required by sub-
23 section (a), the Secretaries shall transmit maps ac-
24 curately depicting the lands and mineral interests
25 conveyed and transferred pursuant to this Act and

1 the acreage and boundary descriptions of such lands
2 and mineral interests to the Committees on Energy
3 and Natural Resources of the Senate and the Com-
4 mittee on Resources of the House of Representa-
5 tives.

6 (4) CANCELLATION.—If, before the exchange
7 has been carried out pursuant to subsections (a) and
8 (b), Weyerhaeuser provides written notification to
9 the Secretaries that Weyerhaeuser no longer intends
10 to complete the exchange, with respect to the lands,
11 mineral interests, and oil and gas interests that
12 would otherwise be subject to the exchange, the sta-
13 tus of such lands, mineral interests, and oil and gas
14 interests shall revert to the status of such lands,
15 mineral interests, and oil and gas interests as of the
16 day before the date of enactment of this Act and
17 shall be managed in accordance with applicable man-
18 agement plans.

19 (5) WITHDRAWAL.—Subject to valid existing
20 rights, the lands, mineral interests, and oil and gas
21 interests depicted for conveyance to Weyerhaeuser
22 for possible exchange on the maps referenced in sub-
23 sections (a) and (b) are withdrawn from all forms of
24 entry and appropriation under the public land laws
25 (including the mining laws); and from the operation

1 of mineral leasing and geothermal steam leasing
2 laws effective upon the date of the enactment of this
3 Act. Such withdrawal shall terminate 45 days after
4 completion of the exchange provided for in sub-
5 sections (a) and (b) or on the date of notification by
6 Weyerhaeuser of a decision not to complete the ex-
7 change.

8 **SEC. 4. DESIGNATION AND USE OF LANDS ACQUIRED BY**
9 **THE UNITED STATES.**

10 (a) NATIONAL FOREST SYSTEM.—

11 (1) ADDITION TO THE SYSTEM.—Upon accept-
12 ance of title by the Secretary of Agriculture, the
13 140,000 acres of land conveyed to the United States
14 pursuant to section 3(a)(2) (A) and (B) of this Act
15 shall be administered by the Secretary of Agriculture
16 in accordance with the laws and regulations pertain-
17 ing to the National Forest system.

18 (2) PLAN AMENDMENTS.—Within 36 months
19 after the completion of the exchange required by this
20 Act, the Secretary of Agriculture shall amend appli-
21 cable land and resource management plans and ac-
22 companying documents pursuant to section 6 of the
23 Forest and Rangeland Renewable Resources Plan-
24 ning Act of 1974, as amended by the National For-
25 est Management Act of 1976 (16 U.S.C. 1604).

1 (b) OTHER.—

2 (1) ADDITION TO THE NATIONAL WILDLIFE
3 REFUGE SYSTEM.—Once acquired by the United
4 States, the 25,000 acres of land identified in section
5 3(a)(2)(C), the Cossatot lands, shall be managed by
6 the Secretary of the Interior as a component of the
7 Cossatot National Wildlife Refuge in accordance
8 with the National Wildlife Refuge System Adminis-
9 tration Act of 1966 (16 U.S.C. 668dd–668ee).

10 (2) PLAN PREPARATION.—Within 24 months
11 after the completion of the exchange required by this
12 Act, the Secretary of the Interior shall prepare and
13 implement a single refuge management plan for the
14 Cossatot National Wildlife Refuge, as expanded by
15 this Act. Such plans shall recognize the important
16 public purposes served by the nonconsumptive activi-
17 ties, other recreational activities, and wildlife-related
18 public use, including hunting, fishing and trapping.
19 The plan shall permit, to the maximum extent prac-
20 ticable, compatible uses to the extent that they are
21 consistent with sound wildlife management and in
22 accordance with the National Wildlife Refuge Sys-
23 tem Administration Act of 1966 (16 U.S.C. 668dd–
24 668ee) and other applicable laws. Any regulations
25 promulgated by the Secretary of the Interior with

1 respect to hunting, fishing, and trapping on those
2 lands shall, to the extent practicable, be consistent
3 with State fish and wildlife laws and regulations. In
4 preparing the management plan and regulations, the
5 Secretary of the Interior shall consult with the Ar-
6 kansas Game and Fish Commission.

7 (3) INTERIM USE OF LANDS.—

8 (A) IN GENERAL.—Except as provided in
9 paragraph (2), during the period beginning on
10 the date of the completion of the exchange of
11 lands required by this Act and ending on the
12 first date of the implementation of the plan pre-
13 pared under paragraph (2), the Secretary of the
14 Interior shall administer all lands added to the
15 Cossatot National Wildlife Refuge pursuant to
16 this Act in accordance with the National Wild-
17 life Refuge System Administration Act of 1966
18 (16 U.S.C. 668dd–668ee) and other applicable
19 laws.

20 (B) HUNTING SEASONS.—During the pe-
21 riod described in subparagraph (A), the dura-
22 tion of any hunting season on the lands de-
23 scribed in paragraph (1) shall comport with the
24 applicable State law.

1 **SEC. 5. OUACHITA NATIONAL FOREST BOUNDARY ADJUST-**
2 **MENT.**

3 (a) IN GENERAL.—Upon acceptance of title by the
4 Secretary of Agriculture of the lands conveyed to the
5 United States pursuant to section 3(a)(2) (A) and (B),
6 the boundaries of the Ouachita National Forest shall be
7 adjusted to encompass those lands conveyed to the United
8 States generally depicted on the maps entitled “Arkansas-
9 Oklahoma Land Exchange—Weyerhaeuser Oklahoma
10 Lands” and “Arkansas-Oklahoma Land Exchange—
11 Weyerhaeuser Arkansas Ouachita Lands”, dated
12 _____ 1996. For the purpose of section 7 of the
13 Land and Water Conservation Fund Act of 1965 (16
14 U.S.C. 460l–9), the boundaries of the Ouachita National
15 Forest, as adjusted by this Act, shall be considered to be
16 the boundaries of the Forest as of January 1, 1965.

17 (b) MAPS AND BOUNDARY DESCRIPTIONS.—Not
18 later than 180 days after the date of enactment of this
19 Act, the Secretary of Agriculture shall prepare a boundary
20 description of the lands depicted on the maps referred to
21 in section 3(a)(2) (A) and (B). Such maps and boundary
22 description shall have the same force and effect as if in-
23 cluded in this Act, except that the Secretary of Agriculture
24 may correct clerical and typographical errors.

○