

108TH CONGRESS  
1ST SESSION

# H. R. 3433

To transfer Federal lands between the Secretary of Agriculture and the Secretary of the Interior.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 4, 2003

Mrs. EMERSON introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on Agriculture, and Education and the Workforce, 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

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## A BILL

To transfer Federal lands between the Secretary of Agriculture and the Secretary of the Interior.

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. PURPOSES AND DEFINITIONS.**

4 (a) PURPOSES.—The purposes of this Act are—

5 (1) to transfer administrative jurisdiction of  
6 certain Federal lands in Missouri from the Secretary  
7 of the Interior to the Secretary of Agriculture for  
8 continued Federal operation of the Mingo Job Corps  
9 Civilian Conservation Center; and

1           (2) to not change the Secretary of Labor’s role  
2 or authority regarding this Job Corps Center.

3           (b) DEFINITIONS.—For the purposes of this Act—

4           (1) “Center” means the Mingo Job Corps Civil-  
5 ian Conservation Center in Stoddard County, Mis-  
6 souri, referenced in section 2(a) of this Act;

7           (2) “eligible employee” means a person who, as  
8 of the date of enactment of this Act, is a full-time,  
9 part-time, or intermittent annual or per hour perma-  
10 nent Federal Government employee of the Fish and  
11 Wildlife Service at the Mingo Job Corps Civilian  
12 Conservation Center, including the two fully funded  
13 Washington Office Job Corps support staff;

14           (3) “Environmental Authorities” mean all ap-  
15 plicable Federal, State and local laws (including reg-  
16 ulations) and requirements related to protection of  
17 human health, natural resources, or the environ-  
18 ment, including but not limited to: the Comprehen-  
19 sive Environmental Response, Compensation and Li-  
20 ability Act of 1980 (42 U.S.C. 9601, et seq.); the  
21 Solid Waste Disposal Act (42 U.S.C. 6901, et seq.);  
22 the Federal Water Pollution Control Act (33 U.S.C.  
23 1251, et seq.); the Clean Air Act (42 U.S.C. 7401,  
24 et seq.); the Federal Insecticide, Fungicide, and  
25 Rodenticide Act (7 U.S.C. 136, et seq.); the Toxic

1 Substances Control Act (15 U.S.C. 2601, et seq.);  
2 the Safe Drinking Water Act (42 U.S.C. 300f, et  
3 seq.); and the National Environmental Policy Act of  
4 1969 (42 U.S.C. 4321, et seq.);

5 (4) “U.S. Fish and Wildlife Service” means the  
6 United States Fish and Wildlife Service as ref-  
7 erenced at title 16, United States Code, section  
8 742b(b);

9 (5) “Forest Service” means the Department of  
10 Agriculture Forest Service as established by the Sec-  
11 retary of Agriculture pursuant to the authority of  
12 title 16, United States Code, section 551;

13 (6) “Job Corps” means the national Job Corps  
14 program established within the Department of  
15 Labor, as set forth in the Workforce Investment Act  
16 of 1998, Public Law No. 105–220, §§ 141–161, 112  
17 Stat. 1006–1021 (1998) (codified at 29 U.S.C.  
18 2881–2901);

19 (7) “National Forest System” means that term  
20 as defined at title 16, United States Code, section  
21 1609(a); and

22 (8) “National Wildlife Refuge System” means  
23 that term as defined at title 16, United States Code,  
24 section 668dd.

1 **SEC. 2. TRANSFER OF ADMINISTRATION.**

2 (a) TRANSFER OF CENTER.—Administrative jurisdic-  
3 tion over the Mingo Job Corps Civilian Conservation Cen-  
4 ter, comprising approximately 87 acres in Stoddard Coun-  
5 ty, Missouri, as generally depicted on a map entitled  
6 “Mingo National Wildlife Refuge”, dated September 17,  
7 2002, to be precisely identified in accordance with sub-  
8 section (c) of this section, is hereby transferred, without  
9 consideration, from the Secretary of the Interior to the  
10 Secretary of Agriculture.

11 (b) MAPS AND LEGAL DESCRIPTIONS.—

12 (1) The map referenced in this section shall be  
13 on file and available for public inspection in the Of-  
14 fice of the Chief, Forest Service, Washington, DC,  
15 and in the office of the Chief of Realty, U.S. Fish  
16 and Wildlife Service, Arlington, Virginia.

17 (2) Not later than 180 days after the date of  
18 enactment of this Act, the Secretary of the Interior,  
19 in consultation with the Secretary of Agriculture,  
20 shall file a legal description and map of all of the  
21 lands comprising the Center and being transferred  
22 by section 2(a) of this Act with the Committee on  
23 Resources of the United States House of Represent-  
24 atives and the Committee on Environment and Pub-  
25 lic Works of the United States Senate, and such de-  
26 scription and map shall have the same force and ef-

1       fect as if included in this Act, except that the Sec-  
2       retary of the Interior may make typographical cor-  
3       rections as necessary.

4       (c) APPLICABLE LAWS.—

5           (1) Subject to section 3, the Center transferred  
6       pursuant to subsection (a) shall be administered by  
7       the Secretary of Agriculture and shall be subject to  
8       the laws and regulations applicable to the National  
9       Forest System.

10          (2) This transfer shall not conflict or interfere  
11       with any laws and regulations applicable to Job  
12       Corps.

13 **SEC. 3. IMPLEMENTATION OF TRANSFER.**

14       (a) REVERSION REQUIREMENT.—

15           (1) In the event that the Center is no longer  
16       used or administered for Job Corps purposes, as  
17       concurrent to by the Secretary of Labor, the Sec-  
18       retary of Agriculture shall so notify the Secretary of  
19       the Interior, and the Secretary of the Interior shall  
20       have 180 days from the date of such notice to exer-  
21       cise discretion to reassume jurisdiction over such  
22       lands.

23           (2) The reversionary provisions of subsection  
24       (a) shall be effected, without further action by the  
25       Congress, through a Letter of Transfer executed by

1 the Chief, Forest Service, and the Director, United  
2 States Fish and Wildlife Service, and with notice  
3 thereof published in the Federal Register within 60  
4 days of the date of the Letter of Transfer.

5 (b) AUTHORIZATIONS.—

6 (1) IN GENERAL.—A permit or other authoriza-  
7 tion granted by the U.S. Fish and Wildlife Service  
8 on the Center that is in effect on the date of enact-  
9 ment of this Act will continue with the concurrence  
10 of the Forest Service.

11 (2) REISSUANCE.—A permit or authorization  
12 described in paragraph (1) may be reissued or termi-  
13 nated under terms and conditions prescribed by the  
14 Forest Service.

15 (3) EXERCISE OF RIGHTS.—The Forest Service  
16 may exercise any of the rights of the U.S. Fish and  
17 Wildlife Service contained in any permit or other au-  
18 thorization, including any right to amend, modify,  
19 and revoke the permit or authorization.

20 (c) CONTRACTS.—

21 (1) EXISTING CONTRACTS.—The Forest Service  
22 is authorized to undertake all rights and obligations  
23 of the U.S. Fish and Wildlife Service under con-  
24 tracts entered into by the U.S. Fish and Wildlife

1 Service on the Center that is in effect on the date  
2 of enactment of this Act.

3 (2) NOTICE OF NOVATION.—The Forest Service  
4 shall promptly notify all contractors that it is as-  
5 suming the obligations of the U.S. Fish and Wildlife  
6 Service under such contracts.

7 (3) DISPUTES.—Any contract disputes under  
8 the Contracts Disputes Act (41 U.S.C. 601, et seq.)  
9 regarding the administration of the Center and aris-  
10 ing prior to the date of enactment of this Act shall  
11 be the responsibility of the U.S. Fish and Wildlife  
12 Service.

13 (d) MEMORANDUM OF AGREEMENT.—

14 (1) IN GENERAL.—The Chief, Forest Service,  
15 and the Director, U.S. Fish and Wildlife Service, are  
16 authorized to enter into a memorandum of agree-  
17 ment concerning implementation of this Act, includ-  
18 ing procedures for—

19 (A) the orderly transfer of employees of  
20 the U.S. Fish and Wildlife Service to the Forest  
21 Service;

22 (B) the transfer of property, fixtures, and  
23 facilities;

24 (C) the transfer of records;

1 (D) the maintenance and use of roads and  
2 trails; and

3 (E) other transfer issues.

4 (e) AGREEMENTS WITH THE SECRETARY OF  
5 LABOR.—In the operation of the Center, the Forest Serv-  
6 ice will undertake the rights and obligations of the U.S.  
7 Fish and Wildlife Service with respect to existing agree-  
8 ments with the Secretary of Labor pursuant to Public Law  
9 105–220 (29 U.S.C. 2887, et seq.), and the Forest Service  
10 will be the responsible agency for any subsequent agree-  
11 ments or amendments to existing agreements.

12 (f) RECORDS.—

13 (1) AREA MANAGEMENT RECORDS.—The Forest  
14 Service shall have access to all records of the U.S.  
15 Fish and Wildlife Service pertaining to the manage-  
16 ment of the Center.

17 (2) PERSONNEL RECORDS.—The personnel  
18 records of eligible employees transferred pursuant to  
19 this Act, including the Official Personnel Folder,  
20 Employee Performance File, and other related files,  
21 shall be transferred to the Forest Service.

22 (3) LAND TITLE RECORDS.—The U.S. Fish and  
23 Wildlife Service shall provide to the Forest Service  
24 records pertaining to land titles, surveys, and other

1 records pertaining to transferred real property and  
2 facilities.

3 (g) TRANSFER OF PERSONAL PROPERTY.—

4 (1) IN GENERAL.—All federally owned personal  
5 property present at the Center is hereby transferred  
6 without consideration to the jurisdiction of the For-  
7 est Service, except that with regard to personal  
8 property acquired by the Fish and Wildlife Service  
9 using funds provided by the Department of Labor  
10 under the Job Corps program, the Forest Service  
11 shall dispose of any such property in accordance  
12 with the procedures stated in section 7(e) of the  
13 1989 Interagency Agreement for Administration of  
14 Job Corps Civilian Conservation Center Program, as  
15 amended, between the Department of Labor and the  
16 Department of the Interior.

17 (2) INVENTORY.—Not later than 60 days after  
18 the date of enactment of this Act, the U.S. Fish and  
19 Wildlife Service shall provide the Forest Service with  
20 an inventory of all property and facilities at the Cen-  
21 ter.

22 (3) PROPERTY INCLUDED.—Property under  
23 this subsection includes, but is not limited to, build-  
24 ings, office furniture and supplies, computers, office

1 equipment, vehicles, tools, equipment, maintenance  
2 supplies, and publications.

3 (4) EXCLUSION OF PROPERTY.—At the request  
4 of the authorized representative of the U.S. Fish  
5 and Wildlife Service, the Forest Service may exclude  
6 movable property from transfer based on a showing  
7 by the U.S. Fish and Wildlife Service that the prop-  
8 erty is needed for the mission of the U.S. Fish and  
9 Wildlife Service, cannot be replaced in a cost-effec-  
10 tive manner, and is not needed for management of  
11 the Center.

12 **SEC. 4. COMPLIANCE WITH ENVIRONMENTAL AUTHORI-**  
13 **TIES.**

14 (a) DOCUMENTATION OF EXISTING CONDITIONS.—

15 (1) IN GENERAL.—Within 60 days after the  
16 date of enactment of this Act, the U.S. Fish and  
17 Wildlife Service shall provide the Forest Service and  
18 the Office of Job Corps, Employment and Training  
19 Administration, Department of Labor, all reasonably  
20 ascertainable documentation and information that  
21 exists on the environmental condition of the land  
22 comprising the Center.

23 (2) ADDITIONAL DOCUMENTATION.—The U.S.  
24 Fish and Wildlife Service shall provide the Forest  
25 Service and the Office of Job Corps, Employment

1 and Training Administration, Department of Labor,  
2 with any additional documentation and information  
3 regarding the environmental condition of the Center  
4 as such documentation and information becomes  
5 available.

6 (b) ACTIONS REQUIRED.—

7 (1) ASSESSMENT.—Within 120 days after the  
8 date of enactment of this Act, the U.S. Fish and  
9 Wildlife Service shall provide the Forest Service and  
10 the Office of Job Corps, Employment and Training  
11 Administration, Department of Labor, an assess-  
12 ment, consistent with ASTM Standard E1527, indi-  
13 cating what action, if any, is required on the Center  
14 under any Environmental Authorities.

15 (2) MEMORANDUM OF AGREEMENT.—If the  
16 findings of the environmental assessment indicate  
17 that action is required under applicable Environ-  
18 mental Authorities with respect to any portion of the  
19 Center, the Forest Service and the U.S. Fish and  
20 Wildlife Service shall enter into a memorandum of  
21 agreement that—

22 (A) provides for the performance by the  
23 U.S. Fish and Wildlife Service of the required  
24 actions identified in the environmental assess-  
25 ment; and

1           (B) includes a schedule for the timely com-  
2           pletion of the required actions to be taken as  
3           agreed to by U.S. Fish and Wildlife Service and  
4           Forest Service.

5           (c) DOCUMENTATION OF ACTIONS.—After a mutually  
6           agreeable amount of time following completion of the envi-  
7           ronmental assessment, but not exceeding 180 days from  
8           such completion, the U.S. Fish and Wildlife Service shall  
9           provide the Forest Service and the Office of Job Corps,  
10          Employment and Training Administration, Department of  
11          Labor, with documentation demonstrating that all actions  
12          required under applicable Environmental Authorities have  
13          been taken that are necessary to protect human health and  
14          the environment with respect to any hazardous substance,  
15          pollutant, contaminant, hazardous waste, hazardous mate-  
16          rial, or petroleum product or derivative of a petroleum  
17          product on the Center.

18          (d) CONTINUATION OF RESPONSIBILITIES AND LI-  
19          ABILITIES.—

20               (1) IN GENERAL.—The transfer of the Center  
21               and the requirements of this section shall not in any  
22               way affect the responsibilities and liabilities of the  
23               U.S. Fish and Wildlife Service at the Center under  
24               any applicable Environmental Authorities.

1           (2) ACCESS.—At all times after the date of en-  
2           actment of this Act, the U.S. Fish and Wildlife  
3           Service and its agents shall be accorded any access  
4           to the Center that may be reasonably required to  
5           carry out the responsibility or satisfy the liability re-  
6           ferred to in paragraph (1).

7           (3) NO LIABILITY.—The Forest Service shall  
8           not be liable under any applicable Environmental  
9           Authorities for matters that are related directly or  
10          indirectly to activities of the U.S. Fish and Wildlife  
11          Service or the Department of Labor on the Center  
12          occurring on or before the date of enactment of this  
13          Act, including liability for—

14                 (A) costs or performance of response ac-  
15                 tions required under the Comprehensive Envi-  
16                 ronmental Response, Compensation, and Liabil-  
17                 ity Act of 1980 (42 U.S.C. 9601, et seq.) at or  
18                 related to the Center; or

19                 (B) costs, penalties, fines, or performance  
20                 of actions related to noncompliance with appli-  
21                 cable Environmental Authorities at or related to  
22                 the Center or related to the presence, release,  
23                 or threat of release of any hazardous substance,  
24                 pollutant, or contaminant, hazardous waste,  
25                 hazardous material, or petroleum product or de-

1           rivative of a petroleum product of any kind at  
2           or related to the Center, including contamina-  
3           tion resulting from migration.

4           (4) NO EFFECT ON RESPONSIBILITIES OR LI-  
5           ABILITIES.—Except as provided in paragraph (3),  
6           nothing in this title affects, modifies, amends, re-  
7           peals, alters, limits or otherwise changes, directly or  
8           indirectly, the responsibilities or liabilities under ap-  
9           plicable Environmental Authorities with respect to  
10          the Forest Service after the date of enactment of  
11          this Act.

12          (e) OTHER FEDERAL AGENCIES.—Subject to the  
13          other provisions of this section, a Federal agency that car-  
14          ried or carries out operations at the Center resulting in  
15          the violation of an environmental authority shall be re-  
16          sponsible for all costs associated with corrective actions  
17          and subsequent remediation.

18 **SEC. 5. PERSONNEL.**

19          (a) IN GENERAL.—

20                  (1) EMPLOYMENT.—Notwithstanding section  
21          3503 of title 5, United States Code, the Forest Serv-  
22          ice will accept the transfer of eligible employees at  
23          their current pay and grade levels to administer the  
24          Center as of the date of enactment of this Act.

1 (b) TRANSFER-APPOINTMENT IN THE FOREST SERV-  
2 ICE.—Eligible employees will transfer, without a break in  
3 Federal service and without competition, from the Depart-  
4 ment of the Interior, U.S. Fish and Wildlife Service, to  
5 the Department of Agriculture, Forest Service, upon an  
6 agreed date by both agencies.

7 (c) EMPLOYEE BENEFIT TRANSITION.—Employees  
8 of the U.S. Fish and Wildlife Service who transfer to the  
9 Forest Service—

10 (1) shall retain all benefits and/or eligibility for  
11 benefits of Federal employment without interruption  
12 in coverage or reduction in coverage, including those  
13 pertaining to any retirement, Thrift Savings Plan  
14 (TSP), Federal Employee Health Benefit (FEHB),  
15 Federal Employee Group Life Insurance (FEGLI),  
16 leave, or other employee benefits;

17 (2) shall retain their existing status with re-  
18 spect to the Civil Service Retirement System  
19 (CSRS) or the Federal Employees Retirement Sys-  
20 tem (FERS);

21 (3) shall be entitled to carry over any leave time  
22 accumulated during their Federal Government em-  
23 ployment;

24 (4) shall retain their existing level of competi-  
25 tive employment status and tenure; and

1           (5) shall retain their existing GM, GS, or WG  
2           grade level and pay.

3 **SEC. 6. IMPLEMENTATION COSTS AND APPROPRIATIONS.**

4           (a) The U.S. Fish and Wildlife Service and the For-  
5           est Service will cover their own costs in implementing this  
6           Act.

7           (b) There is hereby authorized to be appropriated  
8           such sums as may be necessary to carry out this Act.

○