

## Calendar No. 444

108TH CONGRESS  
2D SESSION**S. 1167****[Report No. 108-234]**

To resolve boundary conflicts in Barry and Stone Counties in the State  
of Missouri.

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IN THE SENATE OF THE UNITED STATES

JUNE 2, 2003

Mr. BOND (for himself and Mr. TALENT) introduced the following bill; which  
was read twice and referred to the Committee on Energy and Natural  
Resources

MARCH 9, 2004

Reported by Mr. DOMENICI, with an amendment and an amendment to the  
title

[Strike out all after the enacting clause and insert the part printed in italic]

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**A BILL**

To resolve boundary conflicts in Barry and Stone Counties  
in the State of Missouri.

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.—The Congress finds and declares~~  
5 ~~that—~~

1           (1) certain landowners in Barry and Stone  
2 Counties, Missouri, have innocently and in good  
3 faith relied on subsequent land surveys, which they  
4 believed to have been correct, and have occupied, im-  
5 proved, or claimed portions of adjoining Federal  
6 lands based on such survey information; and

7           (2) the appropriate Federal agencies should un-  
8 dertake actions to reestablish the corners of the  
9 Public Land Survey system, and to rectify boundary  
10 conflicts and landownership claims against Federal  
11 lands resulting from subsequent Federal and private  
12 land surveys, and do so in a manner which imposes  
13 the least cost and inconvenience to affected private  
14 landowners.

15       (b) PURPOSES.—Within Barry and Stone Counties,  
16 Missouri, the purposes of this Act are—

17           (1) to resolve any boundary disputes arising  
18 from these subsequent land surveys; and

19           (2) to minimize costs and inconvenience to the  
20 affected private property owners in Barry and Stone  
21 County, Missouri.

22 **SEC. 2. DEFINITIONS.**

23 For the purposes of this Act, the term—

1           (1) “appropriate Secretary” means either the  
2 Secretary of the Army or the Secretary of Agri-  
3 culture;

4           (2) “boundary conflict” means the situation  
5 where the private claim of ownership for non-Fed-  
6 eral lands, based on subsequent land surveys, over-  
7 laps or conflicts with Federal ownership;

8           (3) “Bureau of Land Management” means the  
9 agency of that name within the United States De-  
10 partment of the Interior, the successor agency to the  
11 United States General Land Office.

12           (4) “Corps of Engineers” means the U.S. Army  
13 Corps of Engineers;

14           (5) “Federal land surveys” means any land sur-  
15 vey made by an agency or department of the Federal  
16 Government with Federal employees, or by Federal  
17 contract with State licensed private land surveyors  
18 or corporations and businesses licensed to provide  
19 professional land surveying services in the State of  
20 Missouri;

21           (6) “Forest Service” means the Forest Service,  
22 an agency of the U.S. Department of Agriculture;

23           (7) “National Forest System lands” means  
24 Federal lands within the National Forest System as  
25 such System is defined by section 10(a) of the For-

1 est and Rangeland Renewable Resources Planning  
2 Act of 1974, as amended (16 U.S.C. 1609(a));

3 (8) “original land surveys” means the land sur-  
4 veys made by the General Land Office as part of the  
5 United States Public Land Survey System in the  
6 State of Missouri, and upon which the Government  
7 land patents were issued conveying the land from  
8 the Federal Government into private ownership;

9 (9) “United States Public Land Survey Sys-  
10 tem” means the rectangular system of original Gov-  
11 ernment lands survey made by the United States  
12 General Land Office and its successor, the Bureau  
13 of Land Management, under Federal laws providing  
14 for the survey of the public lands upon which the  
15 original land patents were issued;

16 (10) “qualifying claimant” means a private  
17 owner of real property in Barry and Stone Counties,  
18 Missouri, who has boundary conflict as a result of  
19 good faith and innocent reliance on subsequent land  
20 surveys, and as a result of such reliance, has occu-  
21 pied, improved, or made ownership claims to Federal  
22 lands, and who files a claim for relief under this Act  
23 within the time period prescribed in section 4(b);  
24 and

1           (11) “subsequent land surveys” mean any land  
2           surveys made after the original land surveys.

3 **SEC. 3. RESOLUTION OF BOUNDARY CONFLICTS.**

4           (a) **AUTHORITIES.**—Notwithstanding any other pro-  
5 vision of law, including the Federal Property Administra-  
6 tion Services Act of 1949, and without requirements for  
7 further administrative or environmental analyses or exam-  
8 ination, the appropriate Secretary is authorized discretion  
9 to take any of the following actions, or combinations of  
10 actions, in order to resolve boundary conflicts with quali-  
11 fying claimants on lands under their respective adminis-  
12 trative jurisdiction—

13           (1) to convey and quitclaim all right, title, and  
14           interest of the United States in land for which there  
15           is a boundary conflict; or

16           (2) to confirm Federal title to and retain in  
17           Federal management any land for which there is a  
18           boundary conflict where there are Federal interests  
19           which may include improvements, authorized uses,  
20           easements, hazardous materials, historical and cul-  
21           tural resources; and

22           (3) to compensate the qualifying claimant for  
23           the value of the overlapping property for which title  
24           is confirmed and retained in Federal management  
25           pursuant to paragraph (2) of this subsection.

1       (b) **CONSIDERATION AND COSTS.**— The Appropriate  
2 Secretary shall—

3           (1) waive consideration for the value of the  
4 Federal land conveyed and quitclaimed pursuant to  
5 subsection (a)(1) upon a finding that the boundary  
6 conflict was the result of the innocent detrimental  
7 reliance by the qualifying claimant on a subsequent  
8 land survey;

9           (2) pay administrative, personnel and any other  
10 costs associated with the implementation of this Act,  
11 including the costs of survey, marking and  
12 monumenting property lines and corners; and

13           (3) reimburse the qualifying claimant for rea-  
14 sonable out-of-pocket survey costs necessary to es-  
15 tablish a claim under this Act.

16       (c) **VALUATION.**—Compensation paid to qualifying  
17 claimants for land retained in Federal ownership pursuant  
18 to subsection (a)(2) shall be valued on the basis of the  
19 contributory value of the tract of land to the larger adjoin-  
20 ing private parcel and not on the basis of the land being  
21 a separate tract, and shall not include the value of Federal  
22 improvements to the land.

23       (d) **PREEXISTING CONDITION.**—

24           (1) The United States shall not compensate a  
25 qualifying claimant or any other person for any pre-

1 existing condition or reduction in value of any land  
 2 which is the subject of a boundary conflict because  
 3 of any existing or outstanding permits, use author-  
 4 izations, reservations, timber removal, or other land  
 5 use or condition.

6       (2) The requirements of section 120(h) of the  
 7 Comprehensive Environmental Response, Compensa-  
 8 tion, and Liability Act (42 U.S.C. 9620(h)) shall not  
 9 apply to conveyances or transfers of jurisdiction  
 10 under this Act, but the United States shall continue  
 11 to be liable for the cleanup costs of any hazardous  
 12 substances on the lands so conveyed or transferred  
 13 if the contamination by hazardous substances is  
 14 caused by actions of the United States or its agents.

15       (c) RESERVATIONS, VALID EXISTING RIGHTS AND  
 16 USES.—

17       (1) Any conveyance pursuant to subsection  
 18 (a)(1) shall be subject to—

19               (A) reservations for existing public uses for  
 20 roads, utilities, and facilities; and

21               (B) permits, rights-of-way, contracts and  
 22 any other authorization to use the property;  
 23 and

24       (2) For any land subject to a special use au-  
 25 thorization or permit for access or utilities, the ap-

1 appropriate Secretary may, at the request of the hold-  
2 er, convert such authorization to a permanent ease-  
3 ment prior to any conveyance pursuant to subsection  
4 (a)(1); and

5 (3) The appropriate Secretary may reserve  
6 rights for future public uses in conveyances made  
7 pursuant to subsection (a)(1) of this section if the  
8 qualifying claimant is paid for the reservation in  
9 cash or in land of equal value.

10 (f) RESPONSIBILITIES OF CLAIMANTS.—The quali-  
11 fying claimant shall have the responsibility for establishing  
12 that they qualify for the remedies allowed under this Act.

13 **SEC. 4. ADMINISTRATIVE PROCEDURE.**

14 (a) Qualifying claimants shall notify the appropriate  
15 Secretary in writing of their claims of a boundary conflict  
16 with adjoining Federal land. Such notification shall be ac-  
17 companied by the following information provided by the  
18 qualifying claimant which, except as provided in section  
19 3(b)(3), shall be without cost to the United States—

20 (1) a land survey plat and legal description of  
21 the affected Federal lands claimed which are based  
22 upon a correctly made land survey completed and  
23 certified by a Missouri State licensed Professional  
24 Land Surveyor, and done in conformity with the  
25 United States Public Land Survey System and in



1 compliance with the applicable State and Federal  
 2 land surveying statutes and regulations; and

3 ~~(2) information relating to the claim of owner-~~  
 4 ~~ship of such Federal lands, including supporting~~  
 5 ~~documentation showing the landowner relied on a~~  
 6 ~~subsequent land survey due to actions by the Fed-~~  
 7 ~~eral Government in making or approving surveys for~~  
 8 ~~the Table Rock Reservoir; and~~

9 (b) Any qualifying claimant must file for resolution  
 10 of a boundary conflict within 15 years of the date of enact-  
 11 ment of this Act.

12 (c) Except for such additional authorities provided in  
 13 this Act, nothing herein shall affect the Quiet Title Act  
 14 (28 U.S.C. 2409a) or other applicable law, or affect the  
 15 exchange and disposal authorities of the Secretary of Agri-  
 16 culture including, but not limited to, the Small Tracts Act  
 17 (16 U.S.C. 521e), or the exchange and disposal authorities  
 18 of the Secretary of the Army.

19 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated such sums  
 21 as necessary to carry out this Act.

22 **SECTION 1. RESOLUTION OF BOUNDARY CONFLICTS, VICIN-**  
 23 **ITY OF MARK TWAIN NATIONAL FOREST,**  
 24 **BARRY AND STONE COUNTIES, MISSOURI.**

25 (a) *DEFINITIONS.—In this section:*

1           (1) *The term “appropriate Secretary” means the*  
2           *Secretary of the Army or the Secretary of Agriculture.*

3           (2) *The term “boundary conflict” means the sit-*  
4           *uation in which the private claim of ownership to*  
5           *certain lands, based on subsequent Federal land sur-*  
6           *veys, overlaps or conflicts with Federal ownership of*  
7           *the same lands.*

8           (3) *The term “Federal land surveys” means any*  
9           *land survey made by any agency or department of the*  
10          *Federal Government using Federal employees, or by*  
11          *Federal contract with State-licensed private land sur-*  
12          *veyors or corporations and businesses licensed to pro-*  
13          *vide professional land surveying services in the State*  
14          *of Missouri for Table Rock Reservoir.*

15          (4) *The term “original land surveys” means the*  
16          *land surveys made by the United States General*  
17          *Land Office as part of the Public Land Survey Sys-*  
18          *tem in the State of Missouri, and upon which Govern-*  
19          *ment land patents were issued conveying the land.*

20          (5) *The term “Public Land Survey System”*  
21          *means the rectangular system of original Government*  
22          *land surveys made by the United States General*  
23          *Land Office and its successor, the Bureau of Land*  
24          *Management, under Federal laws providing for the*

1       *survey of the public lands upon which the original*  
2       *land patents were issued.*

3           (6) *The term “qualifying claimant” means a*  
4       *private owner of real property in Barry or Stone*  
5       *County, Missouri, who has a boundary conflict as a*  
6       *result of good faith and innocent reliance on subse-*  
7       *quent Federal land surveys, and as a result of such*  
8       *reliance, has occupied or improved Federal lands ad-*  
9       *ministered by the appropriate Secretary.*

10          (7) *The term “subsequent Federal land surveys”*  
11       *means any Federal land surveys made after the origi-*  
12       *nal land surveys that are inconsistent with the Public*  
13       *Land Survey System.*

14          (b) *RESOLUTION OF BOUNDARY CONFLICTS.—The Sec-*  
15       *retary of the Army and the Secretary of Agriculture shall*  
16       *cooperatively undertake actions to rectify boundary con-*  
17       *flicts and landownership claims against Federal lands re-*  
18       *sulting from subsequent Federal land surveys and correctly*  
19       *reestablish the corners of the Public Land Survey System*  
20       *in Barry and Stone Counties, Missouri, and shall attempt*  
21       *to do so in a manner which imposes the least cost and in-*  
22       *convenience to affected private landowners.*

23          (c) *NOTICE OF BOUNDARY CONFLICT.—*

24           (1) *SUBMISSION AND CONTENTS.—A qualifying*  
25       *claimant shall notify the appropriate Secretary in*

1 *writing of a claim that a boundary conflict exists*  
2 *with Federal land administered by the appropriate*  
3 *Secretary. The notice shall be accompanied by the fol-*  
4 *lowing information, which, except as provided in sub-*  
5 *section (e)(2)(B), shall be provided without cost to the*  
6 *United States:*

7 *(A) A land survey plat and legal descrip-*  
8 *tion of the affected Federal lands, which are*  
9 *based upon a land survey completed and cer-*  
10 *tified by a Missouri State-licensed professional*  
11 *land surveyor and done in conformity with the*  
12 *Public Land Survey System and in compliance*  
13 *with the applicable State and Federal land sur-*  
14 *veying laws.*

15 *(B) Information relating to the claim of*  
16 *ownership of the Federal lands, including sup-*  
17 *porting documentation showing that the land-*  
18 *owner relied on a subsequent Federal land sur-*  
19 *vey due to actions by the Federal Government in*  
20 *making or approving surveys for the Table Rock*  
21 *Reservoir.*

22 *(2) DEADLINE FOR SUBMISSION.—To obtain re-*  
23 *lief under this section, a qualifying claimant shall*  
24 *submit the notice and information required by para-*

1        *graph (1) within 15 years after the date of the enact-*  
2        *ment of this Act.*

3        *(d) RESOLUTION AUTHORITIES.—In addition to using*  
4        *existing authorities, the appropriate Secretary is authorized*  
5        *to take any of the following actions in order to resolve*  
6        *boundary conflicts with qualifying claimants involving*  
7        *lands under the administrative jurisdiction of the appro-*  
8        *priate Secretary:*

9                *(1) Convey by quitclaim deed right, title, and in-*  
10                *terest in land of the United States subject to a bound-*  
11                *ary conflict consistent with the rights, title, and inter-*  
12                *est associated with the privately-owned land from*  
13                *which a qualifying claimant has based a claim.*

14                *(2) Confirm Federal title to, and retain in Fed-*  
15                *eral management, any land subject to a boundary*  
16                *conflict, if the appropriate Secretary determines that*  
17                *there are Federal interests, including improvements,*  
18                *authorized uses, easements, hazardous materials, or*  
19                *historical and cultural resources, on the land that ne-*  
20                *cessitates retention of the land or interests in land.*

21                *(3) Compensate the qualifying claimant for the*  
22                *value of the overlapping property for which title is*  
23                *confirmed and retained in Federal management pur-*  
24                *suant to paragraph (2).*

25        *(e) CONSIDERATION AND COST.—*

1           (1) *CONVEYANCE WITHOUT CONSIDERATION.*—

2           *The conveyance of land under subsection (d)(1) shall*  
3           *be made without consideration.*

4           (2) *COSTS.*—*The appropriate Secretary shall—*

5                   (A) *pay administrative, personnel, and any*  
6                   *other costs associated with the implementation of*  
7                   *this section by his or her Department, including*  
8                   *the costs of survey, marking, and monumenting*  
9                   *property lines and corners; and*

10                   (B) *reimburse the qualifying claimant for*  
11                   *reasonable out-of-pocket survey costs necessary to*  
12                   *establish a claim under this section.*

13           (3) *VALUATION.*—*Compensation paid to a quali-*  
14           *fying claimant pursuant to subsection (d)(3) for land*  
15           *retained in Federal ownership pursuant to subsection*  
16           *(d)(2) shall be valued on the basis of the contributory*  
17           *value of the tract of land to the larger adjoining pri-*  
18           *vate parcel and not on the basis of the land being a*  
19           *separate tract. The appropriate Secretary shall not*  
20           *consider the value of any Federal improvements to the*  
21           *land. The appropriate Secretary shall be responsible*  
22           *for compensation provided as a result of subsequent*  
23           *Federal land surveys conducted or commissioned by*  
24           *the appropriate Secretary's Department.*

1           (f) *PREEXISTING CONDITIONS; RESERVATIONS; EXIST-*  
2 *ING RIGHTS AND USES.*—

3                   (1) *PREEXISTING CONDITIONS.*—*The appropriate*  
4 *Secretary shall not compensate a qualifying claimant*  
5 *or any other person for any preexisting condition or*  
6 *reduction in value of any land subject to a boundary*  
7 *conflict because of any existing or outstanding per-*  
8 *mits, use authorizations, reservations, timber removal,*  
9 *or other land use or condition.*

10                   (2) *EXISTING RESERVATIONS AND RIGHTS AND*  
11 *USES.*—*Any conveyance pursuant to subsection (d)(1)*  
12 *shall be subject to—*

13                           (A) *reservations for existing public uses for*  
14 *roads, utilities, and facilities; and*

15                           (B) *permits, rights-of-way, contracts and*  
16 *any other authorization to use the property.*

17                   (3) *TREATMENT OF LAND SUBJECT TO SPECIAL*  
18 *USE AUTHORIZATION OR PERMIT.*—*For any land sub-*  
19 *ject to a special use authorization or permit for access*  
20 *or utilities, the appropriate Secretary may convert, at*  
21 *the request of the holder, such authorization to a per-*  
22 *manent easement prior to any conveyance pursuant*  
23 *to subsection (d)(1).*

24                   (4) *FUTURE RESERVATIONS.*—*The appropriate*  
25 *Secretary may reserve rights for future public uses in*

1        *a conveyance made pursuant to subsection (d)(1) if*  
2        *the qualifying claimant is compensated for the res-*  
3        *ervation in cash or in land of equal value.*

4            (5) *HAZARDOUS SUBSTANCES.—The require-*  
5        *ments of section 120(h) of the Comprehensive Envi-*  
6        *ronmental Response, Compensation, and Liability*  
7        *Act (42 U.S.C. 9620(h)) shall not apply to convey-*  
8        *ances or transfers of jurisdiction pursuant to sub-*  
9        *section (d), but the United States shall continue to be*  
10       *liable for the cleanup costs of any hazardous sub-*  
11       *stances on the lands so conveyed or transferred if the*  
12       *contamination by hazardous substances is caused by*  
13       *actions of the United States or its agents.*

14           (g) *RELATION TO OTHER CONVEYANCE AUTHORITY.—*  
15       *Nothing in this section affects the Quiet Title Act (28 U.S.C.*  
16       *2409a) or other applicable law, or affects the exchange and*  
17       *disposal authorities of the Secretary of Agriculture, includ-*  
18       *ing the Small Tracts Act (16 U.S.C. 521c), or the exchange*  
19       *and disposal authorities of the Secretary of the Army.*

20           (h) *ADDITIONAL TERMS AND CONDITIONS.—The ap-*  
21       *propriate Secretary may require such additional terms and*  
22       *conditions in connection with a conveyance under sub-*  
23       *section (d)(1) as the Secretary considers appropriate to pro-*  
24       *tect the interests of the United States.*



1       *(i) AUTHORIZATION OF APPROPRIATIONS.—There are*  
2 *authorized to be appropriated such sums as are necessary*  
3 *to carry out the purposes of this Act.*

Amend the title so as to read: “A bill to resolve boundary conflicts in Barry and Stone Counties in the State of Missouri.”.

**Calendar No. 444**

108TH CONGRESS  
2D SESSION

**S. 1167**

**[Report No. 108-234]**

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**A BILL**

To resolve boundary conflicts in Barry and Stone  
Counties in the State of Missouri.

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MARCH 9, 2004

Reported with an amendment and an amendment to the  
title