

Calendar No. 405

109TH CONGRESS }
2d Session }

SENATE

{ REPORT
{ 109-243

SIERRA NATIONAL FOREST LAND EXCHANGE ACT OF 2006

APRIL 20, 2006.—Ordered to be printed

Filed, under authority of the order of the Senate of April 7, 2006

Mr. DOMENICI, from the Committee on Energy and Natural
Resources, submitted the following

R E P O R T

[To accompany H.R. 409]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 409) to provide for the exchange of land within the Sierra National Forest, California, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the Act, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Sierra National Forest Land Exchange Act of 2006”.

SEC. 2. DEFINITIONS.

In this Act:

(1) COUNCIL.—The term “Council” means the Sequoia Council of the Boy Scouts of America.

(2) FEDERAL LAND.—The term “Federal land” means the parcel of land comprising 160 acres and located in E½SW¼ and W½SE¼, sec. 30, T. 9 S., R. 25 E., Mt. Diablo Meridian, California.

(3) NON-FEDERAL LAND.—The term “non-Federal land” means a parcel of land comprising approximately 80 acres and located in N½NW¼, sec. 29, T. 8 S., R. 26 E., Mt. Diablo Meridian, California.

(4) PROJECT NO. 67.—The term “Project No. 67” means the hydroelectric project licensed pursuant to the Federal Power Act (16 U.S.C. 791a et seq.) as Project No. 67.

(5) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

SEC. 3. LAND EXCHANGE, SIERRA NATIONAL FOREST, CALIFORNIA.

(a) EXCHANGE AUTHORIZED.—

(1) IN GENERAL.—If, during the 1-year period beginning on the date of enactment of this Act, the owner of the non-Federal land offers to convey to the United States title to the non-Federal land and to make a cash equalization

payment of \$50,000 to the United States, the Secretary shall convey to the owner of the non-Federal land, all right, title, and interest of the United States in and to the Federal land, except as provided in subsection (d), subject to valid existing rights, and under such terms and conditions as the Secretary may require.

(2) CORRECTION AND MODIFICATION OF LEGAL DESCRIPTIONS.—

(A) IN GENERAL.—The Secretary, in consultation with the owner of the non-Federal land, may agree to make corrections to the legal descriptions of the Federal land and non-Federal land.

(B) MODIFICATIONS.—The Secretary and the owner of the non-Federal land may agree to make minor modifications to the legal descriptions if the modifications do not affect the overall value of the exchange by more than 5 percent.

(b) VALUATION OF LAND TO BE CONVEYED.—For purposes of this section, during the period referred to in subsection (a)(1)—

- (1) the value of the non-Federal land shall be considered to be \$200,000; and
- (2) the value of the Federal land shall be considered to be \$250,000.

(c) ADMINISTRATION OF LAND ACQUIRED BY UNITED STATES.—On acquisition by the Secretary, the Secretary shall manage the non-Federal land in accordance with—

- (1) the Act of March 1, 1911 (commonly known as the “Weeks Act”) (16 U.S.C. 480 et seq.); and
- (2) any other laws (including regulations) applicable to the National Forest System.

(d) CONDITIONS ON CONVEYANCE OF FEDERAL LAND.—The conveyance by the Secretary under subsection (a) shall be subject to the conditions that—

- (1) the recipient of the Federal land convey all 160 acres of the Federal land to the Council not later than 120 days after the date on which the recipient receives title to the Federal land;
- (2) in accordance with section 4(a), the Secretary grant to the owner of Project No. 67 an easement; and
- (3) in accordance with section 4(b), the owner of Project No. 67 has the right of first refusal regarding any reconveyance of the Federal land by the Council.

(e) DISPOSITION AND USE OF CASH EQUALIZATION FUNDS.—

(1) IN GENERAL.—The Secretary shall deposit the cash equalization payment received under subsection (a)(1) in the fund established by Public Law 90–171 (commonly known as the “Sisk Act”) (16 U.S.C. 484a).

(2) USE.—Amounts deposited under paragraph (1) shall be available to the Secretary until expended, without further appropriation, for the acquisition of land and any interests in land for the National Forest System in the State of California.

(f) COST COLLECTION FUNDS.—

(1) IN GENERAL.—The owner of the non-Federal land shall pay to the Secretary all direct costs associated with processing the land exchange under this section.

(2) COST COLLECTION ACCOUNT.—

(A) IN GENERAL.—Any amounts received by the Secretary under paragraph (1) shall be deposited in a cost collection account.

(B) USE.—Amounts deposited under subparagraph (A) shall be available to the Secretary until expended, without further appropriation, for the costs associated with the land exchange.

(C) REFUND.—The Secretary shall provide to the owner of the non-Federal land a refund of any amounts remaining in the cost collection account after completion of the land exchange that are not needed to cover expenses of the land exchange.

(g) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundaries of the Sierra National Forest shall be considered to be the boundaries of the Sierra National Forest as of January 1, 1965.

SEC. 4. GRANT OF EASEMENT AND RIGHT OF FIRST REFUSAL.

(a) EASEMENT REQUIRED.—

(1) IN GENERAL.—As part of the exchange authorized by this Act, the Secretary shall, without consideration, grant to the owner of Project No. 67 an easement for the right to enter, occupy, and use for hydroelectric power purposes the Federal land currently within the licensed boundary for Project No. 67.

(2) REQUIRED TERMS AND CONDITIONS.—The easement granted under paragraph (1) shall contain such terms and conditions as are agreed to by the Secretary, the Council, and the owner of Project No. 67.

(b) RIGHT OF FIRST REFUSAL.—As a condition of the conveyance of the Federal land under section 3(a)(1) and the reconveyance of the Federal land to the Council, the Council shall provide to the owner of Project No. 67, under such terms and conditions as are agreed to by the Council and the owner of Project No. 67, a right of first refusal to obtain the Federal land, or portion of the Federal land, that the Council proposes to sell, transfer, or otherwise convey.

SEC. 5. EXERCISE OF DISCRETION.

In exercising any discretion necessary to carry out this Act, the Secretary shall ensure that the public interest is well served.

PURPOSE OF THE MEASURE

The purpose of H.R. 409 is to provide for the exchange of land within the Sierra National Forest, California, to benefit the Boy Scouts of America.

BACKGROUND AND NEED

The Sequoia Council Boy Scouts currently has a Special Use Permit that allows them to operate a summer camp on approximately $2\frac{2}{3}$ acres of the Sierra National Forest, California. The Boy Scouts would like to acquire a 160 acre parcel of National Forest land that is surrounded by private land and includes the $2\frac{2}{3}$ acres permitted to the Boy Scouts. Only about 13 acres of the 160-acre parcel is above water; the remaining 147 acres are submerged under Shaver Lake, a reservoir operated by Southern California Edison Corporation under a Federal permit to produce hydroelectricity.

A private citizen currently owns an 80-acre inholding in the Sierra National Forest. H.R. 409 would direct the exchange of the 80-acre private inholding in the National Forest for the 160-acre parcel of Forest Service land on the shores of and underneath Shaver Lake. The private citizen would then convey the 160 acres to the Boy Scouts.

In 1998, the Forest Service and the private landowner signed an agreement to initiate the exchange. However, the appraised values of the land were a point of contention. In 2003, the Forest Service and the private inholder came to an agreement where the Forest Service's 160-acre parcel is valued at \$250,000 and the 80-acre inholding is valued at \$200,000. The private inholder has agreed to pay the difference of \$50,000 to the Forest Service to finalize the land exchange.

LEGISLATIVE HISTORY

H.R. 409 was introduced by Representative George Radanovich on January 26, 2005. H.R. 409 was passed by the House of Representatives under suspension of the rules on September 20, 2005. On September 21, 2005, H.R. 409 was received in the Senate and referred to the Committee on Energy and Natural Resources. A companion bill, S. 179, was introduced by Senator Feinstein on January 26, 2005. The Subcommittee on Public Lands and Forests held a hearing on S. 179 on March 8, 2005 (S. Hrg. 109–19). On March 8, 2006, the Committee on Energy and Natural Resources ordered H.R. 409 favorably reported, with an amendment in the nature of substitute, by voice vote.

A similar bill (H.R. 1651) was introduced by Representative Radanovich in the 108th Congress. The Subcommittee on Forests and Forest Health held a hearing on July 19, 2003, and favorably reported the bill, with an amendment (H. Rept. 108-256). The House passed H.R. 1651, as amended, on a voice vote on November 18, 2003. The Subcommittee on Public Lands and Forests held a hearing on September 29, 2004 (S. Hrg. 108-748). No further action was taken in the 108th Congress.

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on March 8, 2006, by voice vote of a quorum present recommends that the Senate pass H.R. 409, if amended as described herein.

COMMITTEE AMENDMENT

The Committee adopted an amendment in the nature of a substitute, which made technical corrections and deleted specific direction on the granting of an easement to the Southern California Edison Corporation by the Sequoia Council of the Boy Scouts of America. Instead, the amendment directs the Secretary, the Boy Scouts, and Southern California Edison Corporation to agree to an easement before the exchange may be implemented. Additionally, the amendment added language that directs the Secretary to ensure that the public interest is well served in exercising any discretion necessary to carry out this Act.

SECTION-BY-SECTION ANALYSIS

Sections 1 and 2—provide the short title and definitions for the bill.

Section 3—directs the Secretary of Agriculture to convey, under such terms and conditions as the Secretary may require, the Federal lands to the private landowner if the private landowner offers the private lands and a cash equalization payment of \$50,000 within one year after the Act is signed into law.

Subsection (b)—establishes the value of the non-Federal land to be \$200,000 and the value of the Federal land to be \$250,000.

Subsections (c) and (d)—direct the management of the lands acquired by the Federal government and provides for the conditions on the conveyance of the Federal land, including that the private landowner subsequently convey the Federal land to the Boy Scouts and that an easement and right of first refusal be granted to Southern California Edison.

Subsection (e)—directs that the cash equalization payment be deposited into a Sisk Act account to be expended in the State of California for the acquisition of Federal lands.

Subsection (f)—requires the non-Federal land owner to pay for the direct costs of carrying out the land exchange.

Subsection (g)—incorporates the lands to be acquired by the Sierra National Forest in to its boundaries for the purposes of the Land and Water Conservation Fund Act of 1965.

Section 4(a)—directs the Secretary of Agriculture to provide Southern California Edison Corporation an easement over the Federal lands within the hydroelectric project's boundaries, without

consideration, to enter, occupy, and use those lands for hydroelectric power purposes, under such terms and conditions as are mutually agreeable to the Secretary, the Boy Scouts, and Southern California Edison Corporation.

Section 4(b)—directs the Boy Scouts to grant Southern California Edison Corporation a right of first refusal.

Section 5—directs the Secretary to ensure that the public interest is well served in exercising any discretion necessary to carry out the Act.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

H.R. 409—Sierra National Forest Land Exchange Act of 2006

CBO estimates that H.R. 409 would increase offsetting receipts and direct spending by less than \$100,000 in 2007. Enacting the legislation would not affect revenues. H.R. 409 contains no inter-governmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

H.R. 409 would authorize the Secretary of Agriculture to exchange 160 acres of federal land in California for 80 acres of privately owned land in that state. According to the Forest Service, the affected federal land currently generates no significant receipts and is not expected to do so over the next 10 years. Therefore, CBO estimates that conveying the property would not affect offsetting receipts from programs to develop natural resources.

Under the legislation, the private landowner would pay to the Secretary an amount sufficient to cover all direct costs for administering the exchange. Based on information from the Forest Service, CBO estimates such payments would not exceed \$50,000. The private landowner also would pay to the Secretary \$50,000 to equalize the value of lands involved in the exchange. Under the legislation, the Secretary could spend, without further appropriation, all amounts received from the private landowner to complete the exchange and to acquire other nonfederal land and interests in California. CBO estimates that any resulting net change in direct spending would be negligible.

As part of the authorized exchange, the Secretary would grant, without consideration, to the owner of a hydroelectric project an easement for the right to enter, occupy, and use a portion of the federal land that would be conveyed. H.R. 409 also specifies that the owner of that project would have the right of first refusal to obtain the affected land if it is subsequently sold. CBO estimates that those provisions would not affect federal spending.

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

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 409.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 409.

EXECUTIVE COMMUNICATIONS

The Administration has not testified on H.R. 409, but it did testify on S. 179 a companion bill at a Public Lands and Forests Subcommittee held on March 8, 2005, as follows:

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

Mr. Chairman and Members of the Subcommittee, thank you for giving me the opportunity to present the views of the U.S. Department of Agriculture on S. 179, the Sierra National Forest Land Exchange.

The Department supports S. 179. Evaluation of the properties was previously conducted. Based on this valuation and resource analysis, the Administration believes the public is receiving above market value for the Federal property. S. 179 authorizes the exchange of 160 acres of Federal land on the Sierra National Forest in California for 80 acres of non-Federal land within one year of the date of enactment. The bill would provide for the exchange of a private in-holding for two isolated parcels of federal land, thus improving management efficiency for the Sierra National Forest.

An existing Federal hydropower project is located on a portion of the Federal parcel. The Federal parcel is adjacent to and also partially inundated by Shaver Lake. The lake is part of the Big Creek System that produces up to 1,056 megawatts of electricity. The Boy Scouts of America operate a scout camp on land adjacent to the Federal parcel and conduct some of their activities on the Sierra National Forest for which they have a special use permit.

S. 179 specifies that the value of Federal land is \$250,000 and the value of the non-Federal land is \$200,000. The bill gives the Secretary the authority to accept a cash equalization payment equal to 20 percent of the value of the Federal land or 25 percent of the value of the non-Federal land. The conveyance would be subject to a condition that the recipient of the Federal land would agree to convey the land, within four months to the Sequoia Council of the Boy Scouts of America. Under section 3(a)(1) of the bill, the conveyance would also be made subject to valid existing rights. These valid existing rights would include the terms of the easement required under section 4(b).

Mr. Chairman, this concludes my statement. I would be happy to answer any questions you may have for me at this time.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the Act H.R. 409 as ordered reported.

